



# POLICE STUDENT'S GUIDE

## Introduction to the NYPD

### **CONGRATULATIONS!**

You have come far in your quest to become one of New York's Finest, and you certainly have earned our congratulations and best wishes for your success.

### **WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW THE MATERIAL IN THIS CHAPTER?**

There is an easy answer to this. In this chapter, we try to share with you some of the most important things you will have to know and do in order to succeed in the Police Academy and beyond.

This should be a time of great pride. The NYPD is the largest police agency in the United States, and the most celebrated and highly honored in the world. Everywhere, in the United States and abroad, people recognize our shield as the mark of the most competent and distinguished police officers. Although you are not there yet, you are well on your way to earning our shield. The next few months will determine whether you succeed in doing so, and your performance in the probationary period that follows will determine whether you keep it. Work hard to do so.

This should also be a time of great humility. More than 70,000 NYPD officers have been trained since the current Police Academy opened its doors in 1965. They have gone on to serve with great distinction, bravery, and brilliance. In doing so, they have joined the long blue parade of NYPD officers who have made every sacrifice to protect and serve this City and its people. Enjoy your studies and work at the Academy, and enjoy your career – but keep in mind that this is a very serious business that may put you to the ultimate test more than once. For this reason, the Academy is a very serious and special place. Every time you walk through the portals and halls of the Police Academy, you walk where heroes have walked. Make sure you treat the place and your studies here accordingly.

By now, you have heard the NYPD referred to as a big, extended family. Certainly, we care deeply about all our people. We encourage personnel at all ranks to interact cordially and respectfully, and to be concerned about each other. **But the first thing you need to know about the NYPD is that this is *not* a democracy. This is a *paramilitary* institution that is organized by rank and status.** The NYPD is highly disciplined, as it must be if it is to perform its tasks under the circumstances in which our officers frequently find themselves. The activities of members at different ranks and positions are governed not only by federal, state and constitutional law but also a set of internal rules and procedures. Recruits must follow the same set of internal procedures as other officers in regards to matters relating to deployment, proper uniform, time off, sick



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leave, and obedience to ranking personnel. At the Academy, when a supervisor or instructor asks or tells you to do something, it is not to be a matter of debate: *it is to be done* just as, once your studies here are complete, you are to follow the directives and orders of supervisors, commanders, and the Department's administration. Outside your working hours, you will find that we also demand exemplary conduct. Because you will be unarmed during your training, you will be subject to special rules regarding your responsibilities and actions when off-duty.

You already know that police officers have great powers and authority that are not available to members of the general public. You also need to know that the public grants these powers to the police, and that you will be held closely accountable for using them appropriately and in the public interest. This Department and this City do not tolerate abuse of police authority, and are internationally known for coming down hard on police officers who abuse their powers. Pay close attention to what you are taught here about the limits on police authority and about the means used to make sure that you stay within them. You are on your way to earning powers that can do great good for this City and its people and police officers. But, when misused, these same powers can do great damage. **If you succeed here at the Police Academy, the people of this City will entrust you with more power – to take their lives and liberty; to restrain them; to use force against them – than are available to anybody else in society. Begin right now to appreciate what that means, and to guarantee that you never abuse these powers.**

You also need to know about specific procedures that you will be required to follow in a variety of personal and professional situations. It is essential that you learn these procedures in order to function within the department. Intentional or accidental violations of departmental rules can be costly, resulting in the possibility of formal disciplinary action. These are explained throughout this Guide and will be addressed in your training. They also are explained in the *Patrol Guide*. But first, you need some information about this Department

### ABOUT THE NYPD

This agency is the most storied and highly regarded police department in the world. *Everybody* knows what the initials *NYPD* stand for: they represent highly sophisticated policing in the city that is the financial, intellectual, and cultural capital of the world. This department has long set the trends in policing; it has been the subject of more books – both non-fiction and fiction – than any other. More radio and television shows and more movies have been set in the NYPD than in any other police agency. Former New York cops have served as police chiefs throughout the country. They have restructured the police in post-World War II Japan; in post-war Korea; in Bosnia and Haiti and, now, in Iraq.



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They have been elected Mayor of this City and of others. They have served in Congress and in state and local legislatures. They have gone on to be prosecutors and judges; movie actors, producers, and screenwriters; singers; entrepreneurs; scholars; and best-selling authors. One – Teddy Roosevelt, who served as New York City's Police Commissioner – even became the President of the United States. New York cops have influenced policing, politics, entertainment, and culture like police no place else.

No matter where you go in the world, people will regard your membership in this Department as a signal that you are part of an elite corps. James Coan is an NYPD lieutenant who recently was activated by the U.S. Army Reserve. From Kuwait, he wrote to the Deputy Commissioner of Training:

Indications are that I will soon be displacing north to assist in the building of a National Police Force for the liberated people of Iraq. This will be a tremendous challenge. There is in this letter a note of confidence that I am sure you are already aware of and have probably experienced yourself. That being the reputation of the NYPD! When it is revealed that I am a Lieutenant in the NYPD, heads turn. Many of these heads are General Officers, not just from our nation but from the coalition. The experience and reputation that we bring to the table is astounding. This reputation is internationally recognized. We may not be the best paid for what we do; but we certainly are the best at what we do...

As always, be assured of my continued commitment to be of service to you, the NYPD, and the City of New York.

Very Respectfully,

*James P. Coan*

James P. Coan  
Major, USA



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The NYPD's reputation for excellence and competence did not come easily. It is based on nearly 160 years of leadership, valor, and continued success in serving the nation's biggest, most diverse, and most dynamic population; in confronting the most complex urban problems; in solving the most heinous crimes; in deterring and catching the most evil offenders; in making this the nation's safest big city; and, most recently, in responding to the atrocity visited on this City on September 11, 2001. Our history is a source of great pride to us, and we have very little tolerance for officers who do not treat our hard won reputation with the respect it deserves.

In the lobby of One Police Plaza is the Honor Roll of officers who have given their lives in service to this City. Take the time to read it, and you will know the great cost at which this Department's reputation has been won. But this reputation also imposes a cost on officers who are living. Because this City is so diverse, it has many competing interest groups, who monitor us very carefully. That is as it should be, and is a good part of what makes this City such an exciting place in which to live and work. But it also means that the community we serve is far more demanding of the police than is the public in other places, and is far more conscious of whether we appear to be favoring one group or interest over another. As a consequence, we must take great pains not only to do our job in a manner that *is* fair and objective, but that also avoids any *appearance* of favoritism or discrimination. This is not always easy, and is part of the skill of being a *good cop*.

Further, because the City is the Nation's media capital, it is full of reporters – from Channels 1, 2, 4, 5, 7, 9, and 11; from CBS, NBC, ABC, CNN, and Fox; from several *all-news*, *all the time* radio stations; from the *New York Times*, *Daily News*, *Post*, *Newsday*, the *Sun*, *Village Voice*, *Amsterdam News*, *El Diario/La Prensa*, and a host of other community and ethnic newspapers who take great interest in what we do. Their work and their coverage is a good thing for the City and, therefore, for the NYPD. The great majority of what they write and say about us is very favorable, and has helped to increase our effectiveness and to cement our relationship with the community. When things go right in this Department – when we succeed in reducing crime; when we make spectacular arrests; when we make dramatic rescues – our actions are described in news reports throughout the country and across the world, and our officers are treated like heroes. But, when things go wrong – when officers are caught in scandal, or when they make some tragic mistake – the same reporters and leaders who are quick to praise us are quick to condemn us. When this happens, the public often does not recognize that the problem may be limited to one or only a few officers. Instead, in the eyes of many people, *we all* become suspect, and the mistakes and sins of a few are generalized to all of us. This breeds distrust among the public, and makes it tougher for all of us to do the job the way we should.



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In short, we work under a microscope unlike that experienced by police officers anywhere else. We are watched carefully, and need to behave accordingly. As you proceed through your career in this Department, you will no doubt receive congratulations, trust, and respect from people for the actions of other cops in which you were not involved at all. But you will also receive some dirty looks and hostile comments because of what some other cop has done. Make certain that you carry yourself in a manner that brings only respect to yourself and to your brothers and sisters in this Department.

### NYPD History

The history of the NYPD is so colorful that no fiction writer could have made it up. The Department has its roots in Old Dutch and English watchman systems, and was formally established as the NYPD in May of 1845. Originally, its officers did not wear uniforms because, it is said, they did not want to be recognized. Over time, however, this changed, and the police were issued distinctive uniforms that, it was believed, made their presence a deterrent to crime and other misbehavior. The NYPD was this country's first *preventive police service*, and relied on the highly visible presence of its officers to prevent crime rather than solely to investigate it after it occurred. *Prevention* remains our major strategy: certainly, it is important to investigate and solve crime, but it is even better to do everything possible to see that it does not occur in the first place.

Importantly, however, police uniforms did not resemble those of the military. It certainly was necessary that officers be recognizable, but nobody wanted the public – or police officers themselves – to confuse the police with soldiers. At that time in our history, the military were distantly removed from the population, and accomplished their job by using as much force as possible. The police, however, were encouraged to regard themselves as *a part of the community, rather than apart from the community*, and to do their job by using no more force than was absolutely necessary.

During the early Nineteenth Century, for example, there were serious *food riots* in New York City. The rapid growth of the City combined with the lack of a decent road or rail system made it impossible to get food to all of the population. In protest, the poor rioted. Because the NYPD did not yet exist, the military was called in to suppress the riots, and did so by shooting rioters. This was unacceptable, so that a major reason for establishing the police here was to create a humane mechanism for putting down disorders. The police certainly did that and, originally, they were not armed. Over time, however, it became apparent that police officers needed guns to do their job and, with some reluctance, the NYPD's officers began carrying revolvers at work.



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But, you might ask, if nobody wanted the police to be confused with the military, why are we organized like the military? We have sergeants, lieutenants, and captains, rather than supervisors, foremen, and branch managers. You are in a company and a squad, rather than a class; and when you leave the Academy, you will work in platoons, rather than shifts; you'll salute the people you work for, and will give military courtesies to the flag and to dignitaries. Why?

The answer is simple. The first preventive police in the world were the London Metropolitan Police, organized in 1829. At the time, there was great resistance to creation of a police force because, like New Yorkers, Londoners are not all that happy about being told what to do by government officials. To win the respect of the British public, the *London Met*, or *Scotland Yard*, as it is commonly known, were organized just like the military because the British military were that country's most successful and most widely admired organization. The British military, after all, had turned that little country into the world's major colonial power.

New Yorkers took a lesson from that. If the British military were successful and widely admired, our military was even better, because we had whipped the British in both the Revolution and the War of 1812. If it worked in Britain, it would also work in New York, and our police were modeled closely on the London system developed by Sir Robert Peel, the man for whom the London *Bobbies* were named.

The Department began to distinguish itself almost immediately. Its officers were successful in preventing crime and catching crooks, and in suppressing riots. Because the Department's precinct station houses were spread all over the City, they served multiple purposes. Until the end of the Nineteenth Century, the station houses served as the City's homeless shelters and as distribution centers where the poor came to get food and coal.

**The Draft Riots.** During the Civil War, the NYPD won great praise for putting down the *Draft Riots* of 1863. At the time, the City was heavily Democratic and working class, and its young men were prime candidates for a military draft conducted by the Republican administration of Abraham Lincoln. The draft was extremely unpopular not only because many people regarded the Civil War as a Republican war, but also because the wealthy were excused from it: anybody who could pay the government \$300 was deemed to have made his contribution to the war efforts, and was exempt from the draft. In protest of the draft, young men – typically Irish immigrants – rioted, singling out for special attention black people who were deemed to be the cause of the war. This race riot result in deaths estimated as high as 3,000; many buildings including, incredibly, the Negro's Children's Orphanage – were burned to the ground; and police stations



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were stormed and destroyed. Through this, the NYPD behaved with great honor, preventing far more death and destruction than would otherwise have occurred.

**Police and Politics.** Despite their unquestioned heroism in times of crisis, many Nineteenth Century New York cops were no angels. For generations, the Department was the tool of local politicians: its *precincts* were based upon the City's political wards, and the City's ward leaders appointed precinct commanders, supervisors, and officers – usually for a price. These officers remained in office only as long as their political sponsors kept winning elections, so that the police had a major interest in seeing to it that the vote turned out their way.

Further, these officers were in a compromised position. The laws they were to enforce reflected many values shared by rural state legislators – closing businesses on Sundays; limiting the sale of alcohol; outlawing most forms of gambling – that were very unpopular with the new immigrants to the City who elected the local officials who appointed the local police. Because most of these folks saw nothing wrong with these so-called *victimless crimes*, they put great pressure on their politicians to look the other way at these offenses. The politicians, in turn, let their officers know that they should not enforce these laws and, in fact, cut them in on great amounts of graft that was being spread among lawmakers and law enforcers.

Probably the most notorious police officer of this period was Alexander "Clubber" Williams, who was the captain of the Times Square precinct, the "tenderloin," where graft was the greatest. Williams lived in a mansion on Gramercy Park, right down the street from the Police Academy. He kept a steam yacht in the 23<sup>rd</sup> Street Boat Basin, and used it on weekends to cruise out to his waterfront estate in Connecticut. At work, he extorted, stole, and used the club that gave him his nickname to beat anybody who resisted his authority. He was able to do this because, at the time, there was a great market for the gambling, illegal drinking, and prostitution he allowed to flourish in the neighborhood he supposedly policed. Indeed, he was popular enough so that, in uniform, he refereed several of World Heavyweight Champion John L. Sullivan's bouts in Madison Square Garden.

Still, in times of crisis and day in and day out, the NYPD's officers performed with unquestioned heroism whenever required, and were a major presence in every community of the City.



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**Turn of the Century Reform.** As the Nineteenth Century ended, *progressive* politicians, officials, journalists, and clergymen – like Theodore Roosevelt, Jacob Riis, and Reverend Charles Parkhurst – joined forces to expose the corruption of the City and the police, and to begin the long process of change. State Senator Clarence Lexow convened the *Lexow Committee*, which held public hearings and showed the extent to which the Department had been corrupted by its connections to crooked politicians and racketeers. Its star witness, Max Schmittberger, testified that he had paid \$300 to become an officer and \$12,000 to become a captain. The usual price, Schmittberger testified, was \$10,000, but he had to go higher because another officer was bidding against him.

Appalled at this, the City's *decent citizens* reduced the impact of corrupt politicians by creating the *civil service system*, which guaranteed that the jobs of police officers could not be given and taken away by corrupt politicians. A merit system was created to govern promotions; the Police Academy was established, and officers began to receive real training for their jobs. The Department began to apply technology to its work, creating fingerprint files and a crime laboratory, and won acclaim for fighting the *mafia*, which had come to New York and victimized the new Italian immigrant community.

In 1904, there occurred one of the greatest tragedies in the history of New York City. The *General Slocum*, an excursion steamship filled with 1,350 people from the Lower East Side on a cruise to a Lutheran Church picnic, caught fire in the East River. The wind quickly caught the flames and began incinerating passengers, most of whom were mothers with their children. Police officers raced to the scene and, diving into the water, saved many, but more than 1,000 died. Despite his dubious past, Max Schmittberger, who had been redeemed and had become a leader in the Department's reform efforts, led the rescue effort, as well.

**1910-1933.** By this time, the Department had taken its first steps toward professionalism, but they were not easy. Another corruption scandal erupted in 1912, when the *Curran Commission* exposed ties between police and racketeers, resulting in criminal indictments against eight Inspectors. In 1914, the Department hired Samuel Battle, its first black officer and, in 1917, introduced its first radio patrol cars. Things seemed to be moving along well- the end of the First World War brought many young veterans into the Department, and the Department's reputation was growing.

The Department's progress, however, changed with the advent of *Prohibition*. In 1919, the *Vollstead Amendment* to the United States Constitution was ratified and made illegal the sale, manufacture, or transportation of alcoholic beverages anywhere in the United States. This created an enormous illegal market for liquor, led to the development of the speakeasy, thousands of illegal bars and clubs sold liquor throughout the City and across the country, and helped





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to create the modern version of organized crime. It corrupted police everywhere, including here in New York, and made household names out of thugs like Al Capone, Lucky Luciano, Legs Diamond, and Dutch Schultz. In order to be visible to their customers, the City's speakeasies also had to be visible to the police. To assure that they could continue to operate and profit under the noses of the police and political leaders, they simply put the police and politicians on their payrolls.

**The Great Depression.** By the time Prohibition ended in 1933, the nation was deep in the Depression, and the NYPD was just coming out of another of its 20-year cycle of corruption scandals, this time exposed by the Seabury Commission in 1931. These three forces combined to change the NYPD forever and, in the view of many historians, are among the major factors responsible for the modern NYPD. The end of Prohibition meant that the flow of illegal liquor, and the graft that went with it, had come to stop. The Seabury Commission disclosures had many consequences, most notably the election of Mayor Fiorello LaGuardia, a great reformer who vowed to clean up City government. The advent of the Depression, and of Mayor LaGuardia and his Police Commissioner, Lewis Valentine, who had won a reputation for great integrity throughout the NYPD's worst times, meant that the police job suddenly became very attractive. Highly qualified and well-educated people, who would never in the past have considered becoming cops, now did so, and set about professionalizing the NYPD.

In June 1940, this movement hit its peak. The NYPD hired a class of just over 200 recruits, who were at the top of a civil service list that resulted from a police entrance exam taken by more than 100,000 candidates. Almost all of these people were college graduates; their ranks included many lawyers; teachers; and social workers. There were airline pilots and other accomplished people among them and, in the years to come, they changed the NYPD – and policing – forever. One, Michael Murphy, became an NYPD Police Commissioner. Another, Robert R.J. Gallatti, established the New York State information and Intelligence System. Another, Charles O'Hara, wrote the book that, for half a century, was the best and most comprehensive criminal investigation manual. Another, Sanford Garelik, who had graduated from college at 19 years of age, became the Chief of the Department and the President of the New York City Council. Another, Gertrude Schimmel, a Phi Beta Kappa graduate of Hunter College, joined with a colleague, Felicia Spritzer, and challenged the Department's policy of not permitting women to compete for promotion. Eventually they beat the City, and Schimmel went on to become the Department's first female sergeant; lieutenant; captain, deputy inspector; inspector; and deputy chief. This class of 1940 – which Mayor LaGuardia called *The Class of the Stars* – brought real professionalism to the great and unquestioned heroism that, regardless of the Department's other problems, had always been a part of its tradition.



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**Post World War II.** When World War II ended, returning veterans filled the ranks of the NYPD. Still, women were essentially locked out of the Department. They could not compete for promotion, and generally served as secretaries, youth counselors, and jail matrons. No *policewomen* worked on patrol, a job reserved for *patrolmen*, and only a few had crime-related jobs as detectives. In the 1950s, yet another corruption scandal broke when a Brooklyn gambler was found to have been bribing officers. The City also began to change very dramatically. Large numbers of whites left for the suburbs, and were replaced by Black and Latino newcomers. Crime rates remained relatively low throughout the 1940s and 1950s, and the Department's leaders came to believe that what they were doing was controlling crime.

**The 1960's.** This view began to change in the 1960s, when crime rates suddenly began to rise dramatically in New York City and across the country. The police began seriously to question whether their old strategies – which consisted largely of simply putting patrol officers on the street to deter crime and assigning detectives to investigate crimes after they occurred – were as effective as everyone had previously believed. Gradually, it began to dawn on everybody that crime rates had been low during the 1940s because most of the people in the gender and age groups that account for most crime – young men – were off fighting a war. Crime rates remained low throughout the 1950s for several reasons. First, the percentage of young people in the population was very small. To be between 16 and 24 years old during the 1950s, one would have been born during the Depression of the 1930s but in those hard years, few people were having kids. In the 1960s, however, the great wave of *Baby Boomers* born in the years immediately after World War II started to hit their teens, and drove up crime rates. This also happened in New York during the 1960s. Homicides in New York jumped from 390 in 1961 to 637 in 1964, and other crimes increased comparably.

Other things also happened in the 1960s to put the NYPD to the test. The Civil Rights Movement began in earnest, and people of color became increasingly vocal in protesting their second-class status. In 1964, the shooting of a 15-year-old black boy by an off-duty white police lieutenant started a series of disorders in Harlem and Bedford-Stuyvesant. There had been riots in Harlem in the past, in 1935 and 1943, but this one was different. It spread from Harlem to Bedford-Stuyvesant and, the following summer, it became apparent that the unrest in Harlem was only the first in a series that spread across U.S. cities every summer during the 1960s. Watts, in Los Angeles, exploded in 1965 and, in subsequent summers, riots tore apart Detroit, Newark, Cleveland, and Washington DC. Each of these riots seemed to be worse than the other. In 1964, two people were killed in the New York disorders; by the late 1960s, death tolls in the 30s were common in riots in other places.



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This all led the federal government to look closely at the riots and their causes, and many people were surprised to find that one of the major grievances of residents of the riot-torn areas was the conduct of the police. The police were seen as insensitive, unfeeling, and brutal, and they certainly did not look much like the people they policed. Indeed, the great black writer James Baldwin may have been the first to call inner-city police an *occupying army*. According to Baldwin, it would not matter whether the police of the time were smiling, friendly, and happy, and spent their time giving lollipops to kids. They would still be resented, Baldwin wrote, because they were a very visible symbol of white power in neighborhoods of color that were suffering from racial and economic discrimination.

Several federal commissions also reported that, with the exception of riots that followed the assassination of Martin Luther King (most notably in Washington DC), virtually every riot of the 1960s came as a reaction to some controversial police action – a shooting in New York; an attempt to arrest a drunk driver in Los Angeles; attempts to arrest in Detroit; raids on after-hours clubs in Newark and Cleveland. When scholars looked closely at these incidents, they found that police in many places were poorly trained and that, except for the criminal law, there were few rules to guide their decisions on the street. In other words, if what an officer did was not a crime, it had been regarded as acceptable.

New York officers have always been well trained. In the 1960s, when the President's Commission on Law Enforcement and Administration of Justice reported that the average U.S. police officer had received less than 200 hours of training, NYPD's Academy was providing recruits with about 800 hours of training. But, like police in other places, NYPD officers have not always enjoyed internal administrative policies that helped them to make decisions in the street. Instead, they were often left to decide what to do on their own, in the middle of crises and emergencies, when it was very likely that their hasty decisions would later be regarded as mistakes. This had not mattered much in the 1940s and 1950s, when rates of crime and disorder were low, when the City was not very diverse, and when few people in powerful positions paid much attention to what the police did or to complaints about them. In the 1960s, this stopped because of fears that riots, racial divisions, and distrust of government, helped by resistance to the Vietnam War, would tear apart New York and the rest of America.

NYPD and the City responded by trying to change both police operations and the way the Department was perceived. In 1964, Captain Lloyd Sealy was appointed as the first black commander of Harlem's 28<sup>th</sup> Precinct. The Department vigorously recruited in non-white communities and changed training to include components on the City's racial and cultural differences. The Youth Aid Division was created and staffed with college-educated officers whose job was to work with kids to prevent their involvement in crime. The Deputy Commissioner



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for Community Affairs worked closely with local groups and representatives to reduce tensions.

**The 1970's.** As the 1970s began, yet another corruption scandal erupted, when the *New York Times* published strong evidence developed by Officer Frank Serpico and Sergeant David Durk that officers in the Plainclothes Division – the vice squad – were involved in widespread corruption involving payoffs from gamblers. Another investigation – conducted by the Knapp Commission – confirmed this, and showed that extended corruption also existed among uniformed officers. When this had been discovered in the past, the typical reaction had been to punish officers, but to leave in place the poorly supervised system of enforcing laws against the victimless offenses – gambling, prostitution, unlicensed liquor sales, construction regulations – that had most often been associated with corruption. This time, Police Commissioner Patrick V. Murphy introduced systematic changes in the enforcement of these laws and in the way they were supervised that, to this day, seem to have made widespread corruption impossible. He also set about writing policies to guide officers' decisions in use of force, whether to pursue vehicles, handling domestic disputes and emotionally disturbed persons, and other sensitive areas that caused problems between police and the community. His policies, and great changes in the way officers were deployed, have served as models for the nation.

The NYPD changed in even more significant ways during the 1970s. A series of court decisions and civil rights laws changed the rules for hiring police officers and, in 1973, resulted in the Department's first hiring of women on the same basis as men. The old *patrolman* and *policewoman* titles were merged into the *police officer* rank, and women were assigned to patrol in the same way that men were. Former hiring standards – minimum heights, maximum ages, physical tests that required applicants to lift dumbbells and perform other activities that had little relationship to the police job also were eliminated. The result was a much more diverse police department that more closely reflected the community.

At the same time, supervision of officers' conduct was changed in ways that also have served as national models. Supervisors and commanders became accountable for formally evaluating their personnel and for assuring the integrity of the people who worked for them. For the first time, officers wore nametags to identify them to the public. The detective rank was expanded to include trainers and highly skilled specialists, as well as criminal investigators. Promotional testing was changed and training was greatly expanded among in-service officers and ranking personnel. Thousands of civilians were hired and, for the first time, freed up uniformed officers for enforcement-related duties.



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In 1975, however, the City went broke, and laid off its junior 3,000 officers. The fiscal crisis that caused this had profound effects on the City and the Department and eventually reduced the Department's strength from 32,000 officers in 1975 to 21,500 in 1979: The NYPD hired *no* officers between November 1974 and November 1979.

**The 1980's and Beyond.** The City's financial condition improved dramatically during the 1980s. Each year during that decade, thousands of officers were hired – and have been becoming eligible for retirement in this decade, creating new opportunities for you. To reflect changes in the City's population and politics, the Department's precinct boundary lines were realigned, resulting in the present 76 patrol precincts. In 1983, Benjamin Ward was appointed as the Department's first African American Police Commissioner. Prior to his appointment, Ward had served as a career NYPD officer, sergeant, and lieutenant, and as Deputy Commissioner for Community Affairs. He had also been the Corrections Commissioner for New York State and then New York City.

During the 1990's, Raymond Kelly, the current Police Commissioner, was appointed to the first of his two terms in that office. Also during that decade, the Department began a series of innovations that have had enormous effects on crime and public order. Thousands of new officers were hired, and were assigned in response to computer analyses of crime and other police problems. The COMPSTAT system of holding commanders accountable for responding to crimes in their areas of responsibility was developed, and has been emulated across the globe. To increase efficiency, the formerly independent Housing and Transit Police Departments were merged into the NYPD. Crime rates dropped dramatically and the City's statistics and the vitality of its streets showed that it had become the nation's safest big city, a position it continues to hold.

**The 21<sup>st</sup> Century.** No event has ever tested the will of this City and its police department like September 11, 2001. The atrocity of that day brought war home to all New Yorkers, and strengthened the resolve of all this Department's members to assure that nothing like it will ever happen again. It has put all of us – including you – on the cutting edge of a new kind of policing that is responsible not only for providing traditional police services and dealing with traditional crime and disorder, but also for becoming a real and vital part of the nation's defense against enemies from abroad. You deserve special recognition for joining the Department at this point in history, and should be reminded that the work you will do over your career will be as historic as anything ever done in policing, here or anywhere else in the world. In years to come, you will look back at your decision to join this Department with great pride and satisfaction that you did the right thing when you could instead have done the easy thing. Your commitment is outstanding – hang on to it. This is a special time in a very special agency.



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### NYPD's RANK STRUCTURE

As noted above, the NYPD is a paramilitary organization. This means that responsibilities are differentially distributed according to a person's rank, and that the best way to know who's who is to understand our rank system. **The Chain of Command** refers to the hierarchical order of authority and responsibility within the Department. It defines who gives you orders and whom you see for matters such as transfers, obtaining equipment, and directions for ambiguous or difficult job related situations.

*Chain of Command* is based on the management principle that, in normal conditions, each worker should have only one immediate supervisor. It is for this reason that, once you graduate from the Academy, one person in the rank above you will be designated to assess and prepare a formal, written, annual evaluation of your work performance. Obviously, when you are working on patrol, that same supervisor may not be on-duty or may be elsewhere, so that you will then be subject to orders and directions given by other supervisors. But, except under particular circumstances, such as the unavailability of your immediate supervisor, it is essential that you follow the Chain of Command. When you need to speak to a supervisor about work-related matters, it should be the person who is assigned to evaluate your performance. In the Academy, this person will be your official class instructor.

#### **The Police Commissioner (★★★★★)**

The Police Commissioner of the City of New York is the chief executive officer of the New York City Police Department and its only five-star official. Although many Police Commissioners come from a law enforcement background, the Commissioner's job is a civilian position. He is known as a Civilian Member of the Service. The Police Commissioner is appointed by the Mayor and, in turn, has the authority to appoint a top staff of civilian assistants and deputy commissioners, who generally are in command of various key functions.

#### **The Deputy Commissioners (★★★★ or ★★★)**

The *First Deputy Commissioner* holds a four-star position and is the Department's second highest-ranking civilian Member of the Service. The other deputy commissioners hold three-star rank. They include:



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Deputy Commissioner, Administration  
Deputy Commissioner, Community Affairs  
Deputy Commissioner, Counter Terrorism  
Deputy Commissioner, Employee Relations  
Deputy Commissioner, Equal Employment Opportunity  
Deputy Commissioner, Intelligence  
Deputy Commissioner, Legal Matters  
Deputy Commissioner, Management and Budget  
Deputy Commissioner, Operations  
Deputy Commissioner, Public Information  
Deputy Commissioner, Strategic Initiatives  
Deputy Commissioner, Technological Development  
Deputy Commissioner, Training  
Deputy Commissioner, Trials

Except for the *First Deputy Commissioner*, each of the deputy commissioners holds a three-star civilian rank, and is responsible for an important area of activity. The *Chief of Staff* also holds three-star rank, and is the civilian employee who manages the operations of the Police Commissioner's office. Many, like the Deputy Commissioner, Training, are aided by *assistant commissioners*, who also are high-level civilian appointees. In addition, the Department has about 14,000 civilian employees who serve in every imaginable non-enforcement position.

### **Chief of Department (★★★★)**

The NYPD's highest-ranking uniformed member of the service is the Chief of Department. This officer generally is in charge of the Department's day-to-day operations, and makes major decisions about policies, strategies, and deployment of personnel. He is the official who chairs the Department's *COMPSTAT* meetings, at which patrol and other operational commanders meet with the Department's top administrators to discuss patterns of crime and disorder, as well as their plans and strategies for dealing with them. Like other officials in uniformed ranks above captain, the Chief of Department is an individual who, through civil service procedures, has been promoted up to the rank of captain, and has then won designations to higher ranks at the discretion of the Police Commissioner.



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### Bureau Chiefs (☆☆☆)

The Department is divided into several major bureaus, most of which are headed by three-star chiefs. These chiefs typically command thousands of uniformed and civilian employees and, with a couple of exceptions (e.g., Chief of Internal Affairs; Chief of Counter-Terrorism), report to the Chief of Department. These officials include:

- Chief of Counter-Terrorism
- Chief of Criminal Justice Bureau
- Chief of Detectives
- Chief of Housing Bureau
- Chief of Internal Affairs Bureau
- Chief of Organized Crime Control
- Chief of Patrol
- Chief of Personnel
- Chief of Transportation

### Assistant Chief (☆☆)

Assistant Chiefs serve as the commanders of each of the NYPD's eight *Patrol Boroughs*:

- Manhattan South
- Manhattan North
- Bronx
- Brooklyn South
- Brooklyn North
- Queens South
- Queens North
- Staten Island

Each of the Patrol Boroughs encompasses several *patrol precincts*, whose commanding officers report directly to the Borough Commander who, in turn, reports to the Chief of Patrol. In addition, assistant chiefs serve as commanders of major non-patrol units, such as the Narcotics Division, the Transit Division, the School Safety Division, and the Office of the Police Commissioner. The commanding officer of the Special Operations Division, which includes the Emergency Service Unit, Harbor, and Aviation, holds one of the Department's most visible assistant chief positions. Several assistant chiefs also hold positions as *executive officers* (or second in command) of such major units as the Patrol Services Bureau, the Detective Bureau, and the Housing Bureau. Others are commanding officers of *Detective Boroughs* (e.g., Detective Borough Manhattan).





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### Deputy Chief (★)

Deputy Chiefs serve as Detective Borough Commanders; as Patrol Borough executive officers; as the commanders of major units within bureaus headed by deputy commissioners or bureau chiefs (e.g., the Commanding Officer, Police Academy is a deputy chief who reports to the Deputy Commissioner, Training, the head of the Training Bureau; the Commanding Officer of the Traffic Division is a Deputy Chief who reports to the Chief of Transportation). Several deputy chiefs also serve as executive officers to top administrators such as the Chief of Department and the Chief of Personnel.



### Inspector

Many Inspectors serve as aides to top Departmental administrators such as deputy commissioners, bureau chiefs, and borough commanders. Others are commanders of detective or narcotics units, or of patrol precincts that are deemed to be especially sensitive or demanding commands. Others command such major units as the Operations Division, the Department's nerve center, or the Personnel Orders Sections, which processes all of the Department's personnel actions. Most recently, the Department established the position of Counter-Terrorism Inspector in each of the patrol boroughs.



### Deputy Inspector

Deputy Inspector is the first *discretionary rank* above the rank of captain. It is a reward for excellent performance as a captain, and typically is given to individuals who have served as exemplary commanders of patrol precincts, housing police service areas, or transit districts. Deputy inspectors serve as commanders of especially active precincts, detective and Organized Crime Control Bureau units, and of important staff units. They also perform as executive officers and as aides in such units as the Police Academy and other staff and operational commands.



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### Captain



Captain is the NYPD's highest civil service rank, and is earned by passing a competitive examination and by possessing both a bachelor's degree and a record of excellent performance. Captains serve as commanders and executive officers of patrol precincts, housing police service areas, transit districts, detective commands, patrol borough task forces, Organized Crime Control, and Special Operations Division, and OCCB units.

### Lieutenant



Lieutenants have passed two competitive civil service examinations and have proven themselves through records of excellent performance and educational attainment. On patrol, you will frequently encounter lieutenants as desk officers and platoon commanders, as precinct special operations lieutenants and administrative lieutenants, and as detective unit commanders. Here in the Police Academy, lieutenants serve as unit commanders, administrators, aides, and as platoon commanders.

### Sergeant



Sergeants are the NYPD's first level supervisors, and earn their rank by their performance on a competitive civil service exam. They are the ranking officers to whom you will most often report during all the time you are a probationary police officer, police officer or detective. They will work most closely with you, will evaluate your performance, and will serve as trainers and teachers even after your Academy training is completed. The Department's administration regards sergeants as its street-level management representatives, and pays close attention to the recommendations and reports of sergeants. You will have to do this, as well.



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### Detective

Detectives are police officers who hold the detective designation by virtue of outstanding performance as police officers. Historically, detectives were the Department's criminal investigators, and their *gold shields* have been one of the most distinguished badges in all of law enforcement. During the 1970s, the Department began to recognize excellence in areas other than criminal investigation by awarding this designation to officers who excelled as patrol officers, trainers, or specialists in some other area of activity. Today, *specialist* detective shields are worn by Emergency Service Unit personnel; helicopter and boat pilots; divers; bomb technicians; gunsmiths; and specialists in community relations, law, intelligence operations, marine policing, data processing; dignitary protection, and virtually every other Departmental endeavor.

Detectives do not hold supervisory rank but, at events involving their expertise (e.g., crime scenes), they are granted considerable authority to assure that their mission is accomplished. Police officers designated as detectives typically begin as *Third-Grade Detectives* and, through excellence in performance, may continue to work their way up through *Second Grade* to *First Grade*.



### Police Officer

If you succeed in completing your studies and the rest of your work here at the Academy, you will earn a police officer's shield and the right to wear it until you are evaluated at the end of your probationary period. If, at that time, you are rated satisfactorily, your status will change from *probationary police officer* to *police officer*. Although every day you hold the police officer's shield will require you to do so with honor, integrity, and a commitment to service, the next two years will be particularly important. During this probationary period, *any* misconduct – or even simple mediocrity – on your part can result in your summary termination from this Department. We consider this two-year period to be an engagement; during this time, we will be carefully evaluating your relationship with us to determine whether we want to make it permanent. Keep that in mind, and take care now to form values and work habits that will give both you and the Department the basis for a mutually rewarding long-term relationship.



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### THE ROLE OF THE UNARMED, UNTRAINED RECRUIT OFFICER

On the day you were sworn into the Police Department, you acquired the power and authority of arrest granted a police officer by the New York State Criminal Procedure Law. Possessing this power and authority and knowing how to apply it, however, are two different things.

While you are a recruit, your role in situations that may warrant police action is governed by special rules and procedures. These are designed to protect the public and to protect you from both physical injury and civil liability.

Contrary to the image often portrayed on television and in films, there are limitations to an officer's powers. The federal and state constitutions, statutory law, court decisions and Department policy all restrict your actions. An arrest cannot be made without *probable cause*, a term that will be defined in subsequent lessons. There are great limits on the force you may employ as a police officer, placed there by legislators and judges at the federal and state levels and by the Department's leaders, as well. You must learn them before you can properly exercise the powers you have been granted. You must also understand the best ways to interact with civilians before you can properly assume full duties as a police officer. You must also understand the proper use of **discretion** in order to perform your job.

*Discretion* is at the heart of the police officer's job. Discretion is the ability of a professional to choose a solution to a problem from among a range of alternatives. Discretion is the hallmark of the professional: doctors exercise it when they decide whether and how drastically to perform surgery. It is exercised by lawyers when they decide whether to try cases or to settle them; whether to call certain witnesses; and what questions to ask and to avoid asking. Discretion is exercised by police officers when they pick and choose the best way to solve the problems that confront them. Discretion exists because every situation encountered by professionals differs in some ways from all others. If all heart attacks or cancer cases were precisely the same, doctors would have one textbook solution to all heart attacks and cancer cases. They do not because, even though all heart attacks and cancer cases may have a lot in common, they differ in some ways that may affect the choice of treatment. In the same way, you will find throughout your career that every domestic dispute, every burglary in progress, every traffic stop differs in some ways from every other one. We will try to teach you to identify what you should be trying to accomplish in each of these situations, and how to choose and use the best possible way of accomplishing it.



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At this point in your careers, however, your discretion is extremely limited. Today, you are not much different from the day before you were sworn in to the Department. You have not been trained as a police officer; you have not been equipped as a police officer; and you have not had any practice or experience as a police officer. Thus, the limits on your discretion are simple: **DO NOT BECOME INVOLVED IN ANY INCIDENT THAT REQUIRES POLICE ACTION, SKILLS, OR EQUIPMENT BEYOND YOUR TRAINING OR CAPABILITIES.** Instead, you can assist in police matters by using your observational skills, obtaining descriptions, and reading wanted posters.

If you become aware of criminal activity, or any situation requiring police attention, you have an obligation to report it and await the arrival of a trained police officer. This would also include circumstances where you may be personally involved.

### "CALL A COP IF YOU NEED ONE"

Reporting an emergency situation, criminal activity or other unusual police occurrence to the Police Department involves calling 911. When a police operator answers:

- Give your location. Be specific.
- Identify yourself as a probationary police officer assigned to the Police Academy, and specify whether you are on or off-duty.
- Give details of the incident, including a description of suspicious persons at the scene. (Try to keep them under observation, if possible.)
- If you are reporting a crime or suspicious occurrence, give a description of yourself and your clothing – you do not want to be mistaken for an offender or criminal suspect.
- Remain at the scene of the incident when feasible and consistent with personal safety.
- When remaining at the scene is inappropriate, the uniformed member of the service concerned may leave the scene; however he or she must promptly notify the Desk Officer, precinct of occurrence, and be guided by the Desk Officer's instructions.



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At the first opportunity, you should notify the Police Academy of the incident. Do this by calling the Recruit Operations Unit at 212-477-9790 or 212-477-9721. Upon your return to the Academy, notify your Official Company Instructor (OCI) and prepare a report for the Commanding Officer, Police Academy. For further information, consult the *Recruit Officer Orientation Guide* and Patrol Guide Procedure 212-32 and 212-34.

### Off-Duty Misconduct

This Department's rules and policies cover your off-duty behavior as well as your conduct during working hours. You do not have a license to use your police employment to settle personal disputes or grudges or to regard yourself as somehow privileged or exempt from the rules and laws that governed your behavior before you were sworn in. When you are off-duty, we will expect you to represent this Department favorably, as a good citizen and member of the community. Violating this expectation is the quickest possible way to bring your career in this Department to a premature end. Carry yourself with dignity both on-duty and off-duty, and remember that what you do both on-duty and off-duty reflects on everyone who wears an NYPD uniform.

### Off-Duty Conduct After the Academy

During your training, you will receive extensive instruction about your responsibilities when off-duty *after* you leave the Academy, and have been equipped with a gun and shield. For now, you should understand that what you are capable of doing when you are in uniform, readily identifiable, and in touch via radio with the rest of the Department may not be so easy when you are off-duty, in civilian clothing, and out of radio contact. For this reason, we have developed special strategies and tactics for off-duty officers to employ when they encounter situations that may require police intervention. These differ in important ways from the tactics useful to uniformed patrol officers, and you should listen carefully and understand the distinctions between what is appropriate while you are working in uniform and what is appropriate – and safest for the public, for you, and for those who may be with you – when you are off-duty and in plain clothes.

### Leaves, Excusals, and Reporting Sick

As you accrue time in service, you will become entitled to vacation leave and to one personal leave day per year. You will not be taking either of these while you are in training, however, and only two types of leave should be of concern to you right now: *sick leave* and *emergency leave*.



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**Reporting Sick.** The Department has very liberal provisions for sick leave, but also takes great pains to see that sick leave is not abused. If you report sick, you generally are required to remain in your home except, of course, to visit a doctor. You should be advised that, unlike most other employers, the Department may assign a supervisor to visit your home to assure that you are ill. But if, in the opinion of the supervisor, you are malingering or abusing your sick leave, you're liable to be a subject of investigation and may be disciplined. **DO NOT ABUSE YOUR SICK LEAVE PRIVILEGES.**

To report sick while you are assigned to the Recruit Training School, you must follow these two procedures:

1. **Call the Department's Sick Desk, at 718-760-7600, at least two hours before you are scheduled to report for work;**
2. **Call the Recruit Operations Unit at the Police Academy, at 212-477-9790 or 212-477-9721, at least one-half hour before you are scheduled to report for work.**

**Emergency Leave (E-Day).** At times, it may be necessary to request time off for an emergency. This time will be charged to your available leave balances (i.e., vacation, lost time, etc.). Such emergencies may include an ill family member or other serious, unforeseen occurrence. In such cases, **you must contact the Recruit Operations Unit at 212-477-9790 or 212-477-9721. Taking an E-Day at any time, especially during your training, should be a last resort.**



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### RECOMMENDED READING

If you are interested in learning more about the history of the NYPD and policing in the United States, you may wish to read the following:

Astor, Gerald, *The New York Cops: An Informal History* (New York: Scribner's, 1971).

Fogelson, Robert M., *Big-City Police* (Cambridge MA: Harvard University Press, 1977).

Lardner, James, and Thomas Reppetto, *NYPD: A City and its Police* (New York, Henry Holt, 2000).





# POLICE STUDENT'S GUIDE

## General Regulations

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT THE DEPARTMENT'S GENERAL REGULATIONS?

The Department's General Regulations are the body of rules that govern the on-duty and off-duty behavior of all police officers in the New York City Police Department. It is essential that you develop a thorough understanding of these rules so you can function appropriately and effectively within and outside the Department. The development of a detailed knowledge of the General Regulations will also help minimize the possibility of your getting into trouble based on confusion and ignorance.

The Department has many regulations to govern your behavior for a number of reasons. Experience has taught us that they are necessary to assure that all our officers know what the rules are and how they will be held accountable for violating them. All of the Department's General Regulations – and there *are* many – are intended to see that officers' behavior, both while performing in an official capacity and as a private citizen, is beyond reproach.

You also need to know how the Department is organized at the patrol level, where you are most likely to be assigned when you graduate from the Academy. This subject is also addressed in this chapter.

### THE DEPARTMENT'S GENERAL REGULATIONS

The General Regulations covered in this lesson are divided into categories:

- **Performance of Duty** regulations outline behavior that is expected of you while on duty, and behavior that constitutes **Prohibited Conduct**.
- **Compliance with Orders** regulations are necessary for the proper functioning and discipline of the Department.
- **Fitness for Duty** regulations require that you be physically and mentally able to perform police duty at all times, except when on sick report.
- **Public Contact** regulations outline your responsibilities to the public as well as behavior that constitutes **Prohibited Conduct** in your public contacts.
- **Personal Appearance** regulations outline the personal grooming standards the Department expects.



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## General Regulations

- **Residence Requirements** define where officers may live, and what they must do to assure that the Department can contact them when necessary.
- **Courtesies** define professional relationships between members of the Department.

### Seat Belts

We need to get one simple and clear General Regulation out of the way immediately: **Police officers must wear seat belts at all times when in vehicles.** There is, in this Department and others, a tradition that police officers do not wear seat belts on grounds that they may quickly have to get out of their patrol cars. This sounds reasonable, but it is not.

The Department has studied the issue extensively, and can find no case in which a police officer was seriously hurt **BECAUSE** he or she wore a seat belt. On the other hand, we know that vehicle accidents are a major cause of officers' injuries and deaths, especially when officers are not belted in. Around the country every year, vehicle accidents kill about ten times as many police officers as are killed by suspects or vehicle stops. We know also that officers cannot credibly enforce seat belt laws unless they themselves obey these laws. The bottom line is this:

***YOU ARE REQUIRED TO WEAR YOUR SEAT BELT  
AND ARE SUBJECT TO DISCIPLINE IF YOU DO NOT.***

The wearing of the three-point or two-point safety belt is required for all individuals operating or riding a Department vehicle or a private vehicle authorized for Department use.

There is one exception to this rule. The Patrol Guide provides that a seat belt may be removed when a potentially dangerous situation is perceived or anticipated, or when the wearing of the safety belt during a non-routine assignment might endanger the member of the service.

### THE PATROL GUIDE

The Department's *Patrol Guide* is its major book of rules, regulations, and policies. It contains guidelines and policy statements that you will be required to follow throughout your police career. It describes the organizational structure of the Department, the functions of personnel of different rank and status, the rules and regulations governing the conduct of members of the service on and off duty,



# POLICE STUDENT'S GUIDE

## General Regulations

and the procedures to be used by members while performing official duties. The Patrol Guide also provides directions for performing duties and achieving goals, serves as a guide for handling emergencies and other police situations, and describes the rules and regulations that form the basis for police officer decision making on the job.

Officers are held accountable for their actions within the context of the Department policies and procedures listed in the Patrol Guide. The Patrol Guide does not prescribe specific actions to be taken in every situation you may encounter. Instead, it provides guidance for all members of the service. While a few procedures in the Patrol Guide do not allow for variation, the majority is somewhat flexible, and applies to most situations. In unusual circumstances or when an answer to a procedural question cannot be found in the Patrol Guide, you should consult with your supervisor or the Desk Officer.

You should follow a procedure unless it is obvious it does not fit the situation. In situations in which formal procedures do not strictly apply, you may utilize some degree of discretion in order to achieve the desired goal. **Discretion** is the ability of a person to act according to his or her own professional judgment. In this Department, discretion is not unlimited. While exercising it, members must act within the limits imposed by the U.S. Constitution, the New York State Constitution, state laws, court precedents, city ordinances, and Department policies, procedures, and orders. Discretion is also bounded by norms: professional norms, community norms, moral norms, and procedural norms.

Thus, discretion is **NOT** simply doing as you please. Instead, as we will discuss in detail later in your studies, **discretion involves assessing problems and situations and acting within professional and moral bounds to select the approach that appears most likely to accomplish the goal, or to get the job done.**

This is not always easy. On some occasions, there may be more than one goal to accomplish, and they may be competing. Many officers, for example, have been faced with the choice of whether to apprehend a criminal even though doing so may put the lives of innocent people at risk. When this happens, or in any other circumstances, the choice is easier if you always give first priority to the protection of life: **nothing we do is more important than protecting lives, and nothing we do should ever give any other goal a higher priority than the priority we give to protecting lives.**

The Patrol Guide is constantly changing. New problems arise; new solutions are devised; new laws and court decisions affect our work, and all may have an effect on police work. Thus, your Patrol Guide must be maintained and updated, and is subject to inspection by a supervisor several times each year to insure that it is being updated. The Guide must be returned to the Department



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when you retire, resign, or are terminated. In the Academy, your instructors will periodically inspect the Patrol Guide. The Guide is also the primary reference when preparing for promotional exams.

### How to Read the Patrol Guide

Always read the "**Purpose**," "**Definition**," and "**Procedure**" statements at the beginning of each procedure, as well as all the information that applies to **uniformed members of the service**. Other categories that contain pertinent information in each procedure are the "**Note**" and "**Additional Data**" sections.

Open your Patrol Guide to procedure 212-09, "Unusual Occurrence Reports." At the top right side of the page you will find the caption, "Procedure Number." The first three numbers indicate the major category listed in the table of contents. For example, 212 relates to "Command Operations," 217 relates to "Vehicle Accidents," etc. The number(s) that follow the dash divide the major areas into specific subcategories. Take time to familiarize yourself with the outline of the Patrol Guide page.

Each procedure directs specific members/ranks to perform specific tasks. As a recruit, you will be responsible for all tasks to be performed by "uniformed member of the service."

### DIRECTIVES AND ORDERS

In any large, dynamic organization such as the Police Department, change is inherent. The Department notifies members of changes in policy and procedures through directives and orders. All directives are issued in the name of the Police Commissioner or his designated representative. They can be found in each command, in the Commanding Officer's office and posted behind the desk. You will usually be able to examine the Desk copies or those maintained in the clerical office. They are indexed and easy to read. As they are published, Patrol Guide Revisions and Legal Bulletins are distributed to all uniformed members of the service, at their assigned command. There are a number of directives with which you should become familiar. They include:

- **Revision Notices** are published periodically to amend the Patrol Guide. A "Revision Notice" will indicate pages to be added, deleted or replaced. Several amendments may be contained in one Revision Notice, including directions that minor changes be made in ink in existing procedure pages. Revision Notice cover pages will be maintained numerically by year in front of the Guide.



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- **Interim Orders** are published to announce and implement new Department procedures. These orders may temporarily amend or suspend current Patrol Guide procedures. Interim Orders may be revoked by publication of a Revision Notice, a subsequent Interim Order, or, in an emergency, by transmission of a FINEST Message.
- **Operations Orders** - *contain*:
  1. Orders or details relating to a single event or condition that will exist for a limited time. (i.e., *parade, demonstration, etc.*)
  2. Instructions, information or directions for compliance with, or clarification of, an existing procedure to achieve uniform performance.
  3. Announcement and/or scheduling of members to attend Department-wide training programs.
  4. Implementation of a pilot project.

**Note:** Operations Orders expire upon conclusion of the event or situation that is the subject of the order, or one (1) year after publication unless otherwise directed.

- **Legal Bureau Bulletins** - contain information concerning newly enacted or amended laws and regulations of different agencies, pertinent court decisions, and interpretations and application of laws, which are of interest to members of the service.

Legal Bulletins are numbered sequentially in the Legal Bureau by volume and number within a calendar year. Legal Bulletins must be maintained in each command with all volumes filed in one (1) folder with lowest number on the bottom.

- **FINEST System** - is the computer system that provides each command with the capability of making direct inquiries to certain state and federal computer information banks. This computer-based program will provide information on stolen property, wanted/warrant files, and motor vehicle owner/driver records.
- **FINEST Messages** - The FINEST System also may be used to transmit amendments to laws, orders, or the Patrol Guide when promptness is necessary. A subsequent FINEST Message or other Department directive may revoke FINEST Messages. This computer system also provides a



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message-switching feature that facilitates the exchange of information between commands within the Department.

**Note:** All operators of the FINEST System must be qualified after completing a training course by the Department. Additionally, **any information entered into, or retrieved from, the FINEST is considered official Department business.** The system, for security reasons, is located in the area of the precinct desk. Inquiries are made with the permission of the Desk Officer.

- **Personnel Orders** - announce appointments, assignments, promotions, transfers, suspensions, resignations, retirements, dismissals, leaves of absence, Departmental recognition and dispositions of disciplinary action. Each time you are transferred or your Department status changes, your name will appear on this directive.
- **Chief of Department & Bureau Chief Memos** - contain instructions and information affecting the operations and/or functions within the jurisdiction of the Chief of Department or respective Bureau Chief.
- **Department Bulletins** - contain announcements for the general information of all members of the service, e.g., line or fraternal organization events, scholarships available and scholarship winners, seasonal and holiday reminders, various management and other educational courses available to members of the service, and information concerning Departmental programs.

Interim Orders, Operation Orders, Personnel Orders, Department Bulletins and Chief of Department/Bureau Chief Memos are numbered consecutively commencing with number one (1) on January 1st of each year. All commands maintain these orders on clipboards with the lowest numbered directive on the bottom.

- **Board of Ethics Rulings** - contain decisions rendered on ethical questions. For example, a police officer who receives a plaque and a cash award from a community group for outstanding service to the community should request a determination from the Board of Ethics regarding the acceptance of the monetary award. The Board will hand down a ruling to guide the officer.



# POLICE STUDENT'S GUIDE

## General Regulations

### OFF-DUTY CONDUCT

*Off duty conduct* is as important as your on duty conduct. Inappropriate behavior by off duty members of the service reflects poorly on each and every one of us, and is a quick way to end a police career. The worst of this behavior has involved the use of firearms by uniformed members of the service who had consumed alcoholic intoxicants. The Department's policy on this point is clear: **Any misconduct involving a member's misuse of a firearm while unfit for duty due to excessive consumption of, and intoxication from, alcohol will result in that member's termination from the Department.**

The phrase *unfit for duty* applies to situations other than those involving weapons. As long as you are in this Department, you will be required to **remain fit for duty at all times except when on sick report.** If you compound the violation of this policy with firearms use, you will soon be looking for other lines of work, or worse, will find yourself facing prison time. To prevent this, the Department's policy is that Members of the Service **SHOULD NOT** be in possession of their firearms if there is any possibility that they may become unfit for duty due to the consumption of intoxicants.

Any misconduct involving members of the service who are found to be unfit for duty due to excessive consumption and intoxication from alcohol while armed with a firearm, will result in the charge of "Unfit for Duty While Armed" in Departmental disciplinary proceedings. In addition to those penalties imposed as a result of all other charges stemming from the misconduct, strict punitive sanctions will be imposed for any member upon whom the charge has been substantiated. Members are also reminded of the Department's commitment to the many counseling and assistance programs available for a wide variety of problems. Members of the service who are experiencing problems related to alcohol, or know of any other member who may be experiencing problems related to alcohol, are strongly encouraged to call **HELPLINE** at (718) 271-7777, in order to achieve confidential assistance.

While the Department is highly committed to assisting members in receiving whatever help they need, irresponsible actions of a few members will not be allowed to tarnish the Department's image and jeopardize the impressive accomplishments that the men and women of this Department have achieved collectively.



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### Off-Duty Employment (Patrol Guide 205-40)

Probationary police officers with less than one-year aggregate service who have not completed entry-level training at the Police Academy are **PROHIBITED FROM ENGAGING IN OFF-DUTY EMPLOYMENT**. Once you have completed your probationary period, you will then be allowed to seek off-duty employment **within** Department guidelines.

### THE DISCIPLINARY PROCESS

All organizations require a process through which performance can be recognized, both positively and negatively. This is the *disciplinary process*.

Many people think of discipline in very negative terms, but this is so because they confuse it with punishment, the last and most severe disciplinary action. In a large organization such as the N.Y.P.D., discipline is the art and science of getting members to perform in the prescribed ways. There are many steps involved in this process: it begins with hiring good people who can be taught and trusted to do the right things. It involves training members so that they know what the right things are and how to do them. It also involves testing and supervising their performance; counseling them and correcting their mistakes. Only when their conduct is so bad and/or chronic should they be punished.

In an organization of this size, discipline - keeping people from engaging in inappropriate behavior - is critical. ***The inappropriate conduct of one member can affect all uniformed members of the service.***

### NYPD's Disciplinary Policies and Practices

**Instruction.** This agency's least severe disciplinary measure is an *instruction*. Pursuant to this recommendation, the subject officer's Commanding Officer is required to instruct him or her regarding proper procedures with respect to the situation or problem involved. An instruction is a form of re-training and is considered informal discipline.

**Command Discipline.** The principal responsibility for maintaining discipline rests with your immediate supervisor, usually a Sergeant. More often than not, he or she is the person who initiates disciplinary action in the form of a *Command Discipline*, which is then referred to the Commanding Officer (C.O.)/Executive Officer (X.O.) for corrective action.

There are two (2) types of Command Discipline: *Schedule A* and *Schedule B*. Both forms of Command Discipline are informal, and corrective





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measures are imposed by the subject officer's Commanding Officer. The penalties, which result from Command Discipline Schedule A or Schedule B violations, are based on the seriousness of the misconduct, the officer's disciplinary record, and the officer's past performance record. Command Discipline creates a potential permanent notation on the subject officer's record.

Command Discipline is a non-judicial punishment available to maintain discipline within each command. It permits the C.O./X.O. to correct minor violations without resorting to formal "Charges and Specifications."

If you are the subject of a Command Discipline, you will be scheduled for an interview with your Commanding Officer/Executive Officer to discuss the matter. During this discussion, you may have a representative from a line organization (like the PBA, etc.) present. You will be given the opportunity to make statements in rebuttal during the interview. At the close of the interview, your Commanding Officer will inform you of the results of the investigation. If the allegations have been substantiated, your Commanding Officer may impose penalties.

A copy of the Command Discipline is placed in your personnel folder. For specified violations it is removed after one year, provided no subsequent disciplinary action is lodged against you.

**Charges and Specifications.** The most serious disciplinary measure is *Charges and Specifications*. This refers to the lodging of formal administrative charges against the subject officer who, as a result, may face an administrative trial where the Department has determined that adjudication pursuant to the Command Discipline process would be inappropriate.

Such trials are held either at the Department's Trial Room located at One Police Plaza or at the City's Office of Administrative Trials and Hearings (*OATH*). The Department Advocate's Office is the legal entity that prosecutes the case on behalf of the Police Department. The subject officer is usually represented by an attorney and is accorded full due process rights during the administrative trial.

After the hearing, the administrative trial judge will prepare and forward a written opinion to the Police Commissioner, along with findings of facts and conclusions of law and, when appropriate, a recommended penalty. The penalties can be as severe as termination from the Department. More typically, however, the recommended penalties are a loss of vacation days or of pay. The penalty may also be suspension from the job without pay for up to thirty (30) days. The hearing officer at this proceeding is the Deputy Commissioner of Trials or his/her assistant. Counsel represents the Department, as well as the



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member involved. Allegations must be proven by a preponderance of the evidence.

A member of the service given charges may be *suspended* or *placed on modified assignment* pending the outcome of the investigation and department trial. The primary difference between the two is that *suspension* involves loss of pay and all employee benefits, while a member of the service placed on *modified assignment* remains on the payroll and retains benefits.

### Dispositions

There are various final case dispositions, which apply to cases of Equal Employment Opportunity, misconduct, or civilian complaints:

- Substantiated:** Accused member has committed **all** of the alleged act(s).
- Partially Substantiated:** Member has committed some or **part** of the alleged act(s).
- Unsubstantiated:** **Insufficient evidence** to clearly prove or disprove allegations made.
- Exonerated:** Subject member clearly **not involved** in any of the alleged act(s).
- Unfounded:** Acts complained of **did not occur**.

### LEAVES, EXCUSALS, AND REPORTING SICK

To assure that Department policy concerning sick leave is not abused, a **Chronic Absence Control Program** has been established. Officers who abuse sick leave are dealt with through the disciplinary process. To formally recognize officers with exceptional attendance records, certificates are awarded for each year without reporting sick. These awards become a permanent part of the member's personnel record. The Department considers your attendance record to be an extremely important component of your performance.

The procedures for reporting sick have been described earlier in this Guide. In addition to sick leave, there are numerous other types of leave and excusals available to uniformed members of the service. This section introduces you to the various leaves and excusals and the proper manner in which to request them.



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### Chronic Absence Control Program

Chronic absenteeism is a critical issue for the Department. There are far too many uniformed members of the service who are designated "chronic absent." Therefore, to protect the unlimited sick leave benefit as well as to ease the burdens imposed upon those members who consistently report for duty as scheduled, a Chronic Absence Control Program is in existence.

#### Key elements of this program include the following:

1. A definition of Chronic Absence and the creation of two (2) classifications for members in that status: **Category "A"** and **Category "B."**
2. Creation of a Special Medical District to monitor and service the chronic absent.
3. Home visits by Police Surgeons and supervisory officers.
4. Particular emphasis on attendance as a factor in annual evaluations.
5. Intensified supervision of those in the Chronic Absent category.
6. Charges and Specifications for Chronic Absent members who violate sick leave restrictions.

Uniformed members of the service will be designated "Chronic Absent" and classified in accordance with the following criteria:

#### Category "A"

A member who reports sick for any reason, ***except an initial line of duty absence***, or for any hospitalization:

- 4 or more times within a twelve (12) month period.

When a member is initially classified Chronic Category "A," he or she shall be notified in writing by his or her Commanding Officer.

#### Category "B"

A member who reports sick for any reason, ***except an initial line of duty absence***, or for any hospitalization:

- 6 times in 12 months, or;
- 4 times in 12 months and loses a total of 40 working days (not calendar days)

**Note:** The Category "A" designation remains in effect for six (6) months.



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**Note:** The Category "B" designation remains in effect for nine (9) months from the date of return to duty following last absence.

**Note:** Outpatient service such as ambulatory surgery is **not** considered hospitalization for the purpose of the Chronic Absence Control Program.

A Special Medical District operates to monitor and service all members in Category "B", regardless of residence and existing medical districts.

Members assigned to the Special Medical District will **not** be permitted to utilize the administrative return procedures. These members must visit the Special Medical District Surgeon **each time** they report sick.

Category "B" members who report sick and indicate an inability to report to the Special Medical District when scheduled, will be subject to a home visit by a Reserve Surgeon. If the Surgeon determines that the sick member was able to travel to the Special Medical District OR the member displays no objective evidence of the illness or injury claimed, then the ranking officer accompanying the Surgeon will prepare Charges and Specifications.

Category "B" members found fit and returned to duty after examination by the Reserve Surgeon or the Special Medical District Surgeon and who report sick again for the same reason prior to their next scheduled tour of duty, may be **suspended from duty without pay** if, upon subsequent examination by a Surgeon, no objective findings of such illness or injury are found. Charges and Specifications will be prepared by the Commanding Officer, Medical Section.

Category "B" members will not be permitted to leave their residence while on sick leave without the express permission of the Special Medical District Surgeon. Violations of this prohibition will result in Charges and Specifications rather than a Command Discipline.

### Assignment to Limited Capacity

After an evaluation by a District Surgeon, a uniformed member of the service may be placed on Limited Capacity due to an injury or illness. On limited capacity a member of the service may be returned to duty however, he or she would be assigned to a "non-enforcement activity" (e.g., clerical duties, answering phones, etc.).

**Note:** It is not necessary to report sick to request a limited capacity assignment from a District Surgeon.



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### Types of Leave

The Department allows various types of leave, such as:

**Vacation** - All police officers receive an annual vacation; the number of days granted depends on the member's length of service.

**Personal Leave Day** - Members of the service in the rank of Police Officer are entitled to one "Personal Leave Day" per year. It is granted every July and must be used within a one year time period.

**Emergency Day (E-Day)** - At times, it may be necessary to request time off for an emergency. This time will be charged to your available leave balances (i.e., vacation, lost time, etc.). Such emergencies may include an ill family member or other serious, unforeseen occurrence. In such cases, you will contact the Desk Officer at your command and he or she may approve/disapprove your request.

**Lost Time** - Occasionally you may find it necessary to request some time off from your tour, in essence a partial excusal, which will allow you to start later or leave early. The time will be charged to your available leave balances. A request for "lost time" must be submitted to the Desk Officer and may be approved or disapproved.

### Leave Of Absence Report

When you want to request leave (e.g., annual vacation, etc.) you must prepare a LEAVE OF ABSENCE REPORT (PD 433-041) and submit the completed REPORT to your Commanding Officer/Supervisory Head for approval, **at least five (5) days before leave commences**, except in an emergency. Leave may be denied by your Commanding Officer or may be terminated by the Police Commissioner depending on the needs of the Department.

## OVERTIME

Compensation for work performed beyond the expiration of a regularly scheduled tour may occur due to a late relief, an arrest, or other occurrence. In addition, overtime may be earned due to a detail you are ordered to report to on a Regular Day Off (R.D.O.), or for voluntary overtime in a special program. The compensation is time and one-half of your hourly rate. It may be taken in cash or time. The Overtime Report is filled out by the member performing the overtime and promptly submitted to the Desk Officer.



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### RECORDING POLICE ACTIVITY

During this class you will be issued *Activity Logs* and become familiar with the *Police Officer's Monthly Performance Report*. An Activity Log is the book in which you will record your daily police activities.

Your Activity Log entries represent a chronological depiction of the actions you took or the observations you made during your tour of duty. Keep in mind that there can be repercussions if you do not document your activity while on patrol. If you have not properly recorded what you did on that day, you could be subject to disciplinary charges; or worse, a criminal might go free. It is doubtful that you would want to place yourself in one of these situations, yet some officers do. To avoid this, accurately document all actions you take during a tour of duty in your activity log.

Supervisors will regularly examine these logs for proper entries and place their signature in the log as verification. These verification signatures are informally referred to as a "*scratch*" in your Activity Log.

The *Police Officer's Monthly Performance Report* (PD 439-1414) is a summary of the types of assignments and activity you performed during the month. It is also used by supervisors to note their comments on the strengths and weaknesses you have demonstrated during each month.

### ACTIVITY LOGS

Activity logs are prepared by all uniformed members of the service below the rank of captain, except members performing permanent administrative or clerical duties, or members required to prepare an Investigator's Daily Activity Report. An Activity Log (PD112-145) is a bound, serial-numbered book, which contains sixty (60) lined, security coded pages. The black box at the bottom of each page is the actual security code. It has been incorporated into the log to insure that pages are not missing or removed and replaced. An electronic scanning device may be used for verification, if necessary.

Your Activity Log is used to chronologically record, in military time, all activities and tasks performed during a tour of duty. Activity Logs are obtained from a designated supervisor, usually the Desk Officer who will record the serial number in the *Activity Log Distribution Record*. The Desk Officer will sign the appropriate captions on the cover of the log and direct you to fill in your name and tax registry number. You should examine the log and bring any defects to the attention of the Desk Officer. For protection, the Activity Log is required to be carried in a regulation leather binder (which you purchased at the equipment section). The length of time a log lasts will depend on the amount of entries you



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make. There is no limit to the amount of logs that you will complete throughout your career. You should use as many pages as necessary to document your daily activities. The only exception to this is the last line on the last page. Sufficient space should be left for a supervisor's signature, normally the Desk Officer, when a log is completed. The Desk Officer will then sign the cover, make entries in the Activity Log Distribution Record and issue you a new log. **Completed Activity Logs will be stored in your Department locker and be available for inspection and review upon request from competent authority.**

Activity Logs are frequently used in court as a "memory aid" and in most cases will be introduced as evidence. Your Activity Log is an official legal document and it is extremely important, so treat each and every entry as though it will become a court record (Criminal Court, Civil Court, Traffic Violations Bureau, Departmental administrative proceedings). Activity Logs may also be required in proceedings by other government agencies.

It should be noted that a large number of disciplinary charges stem from improper Activity Log entries. Study the material in this lesson carefully. The proper preparation of your Activity Log is extremely important.



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### Military Time

Military time is utilized on Department forms and records – such as Aided Reports, Complaint Reports, Activity logs, etc. – to ensure a uniform standard when recording the time of incidents, and to avoid any misunderstanding when relaying information quickly. The following are examples of military time:

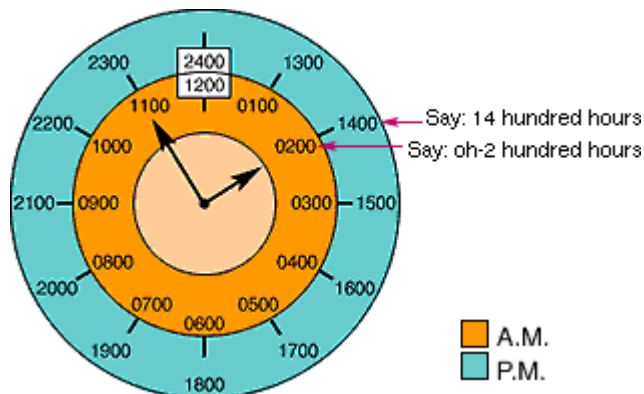
0030 hours – thirty minutes after midnight  
0300 hours – 3 A.M.  
0645 hours – 6:45 A.M.  
1200 hours – 12 NOON

To convert from civilian to military time (in the P.M. hours) add 1200.

For example 1 P.M. + 1200 = 1300  
9 P.M. + 1200 = 2100

1300 hours – 1 P.M.  
1620 hours – 4:20 P.M.  
2000 hours – 8 P.M.  
2400 hours – MIDNIGHT

**Note:** 0300 – 3 A.M. is pronounced zero (or “oh”) three hundred hours  
1400 – 2 P.M. is pronounced fourteen hundred hours







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### UNIFORMS & EQUIPMENT

One of the first transitions you must make from civilian to police officer is becoming accustomed to wearing a uniform every day. The New York City Police Department is a paramilitary organization, which bases its uniform regulations and courtesies on United States Army regulations. The purpose of this lesson is to provide training in the proper wearing of the uniform. All of these regulations are found in your Patrol Guide Procedure No. 204-01.

This lesson will reiterate the importance of maintaining *pride in appearance* and decorum within the Department. Throughout your life, knowingly or not, others are continually judging you even before any type of verbal communication takes place. Since your first job interview, you have been scrutinized as to your demeanor and attire. First impressions play an important role in identifying us as individuals and how we want to be perceived.

The first step toward molding you into a professional police officer is to incorporate dress standards into your training cycle as specified in the *Recruit Officer Handbook*. The reason for wearing the recruit uniform is to allow you to get used to conforming to the Department's regimented dress code policy.

Upon graduating, you will be required to wear the prescribed uniform of the New York City Police Department. The uniform will be worn as a means of identifying you to the public you are sworn to serve. It is a symbol of authority and should be worn with pride and integrity. Failure to maintain your uniform not only reflects upon you as an individual but also on the NYPD itself. Your uniform is a very important part of your job. It carries a great deal of authority, respect, pride and tradition.



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### REQUIRED EQUIPMENT ITEMS TO BE CARRIED WHEN ON PATROL IN UNIFORM

- Regulation 9mm pistol
- Regulation holster
- Two magazines
- Two leather belts
- Activity Log inserts:

Auto Identification

Courtesy, Professionalism & Respect

Corruption Hazards

Emotionally Disturbed Persons (EDP's)

Spanish Phrases

Street Encounters / Legal Issues

Possible Indicators of Terrorist Activity

Any Other Insert as Required

Domestic Violence/Victims of Crime

- Traffic whistle and holder
- Regulation handcuffs w/case and key
- Baton and holder
- Flashlight
- Wristwatch
- Pepper spray and holder
- Dual-purpose disorder control/scooter helmet with face shield, as indicated in Patrol Guide procedure 203-05.
- Reflective traffic safety vest
- Four (4) belt keepers
- Glove pouch
- Mandatory wearing of bullet resistant vest

Uniformed members of the service may carry only authorized firearms at any time (on/off duty). While on uniformed patrol, lieutenants, sergeants, and police officers are required to carry or wear the above listed items.

Uniformed members of the service are issued personal protective equipment by the Counterterrorism Bureau. This equipment is designed to enhance the personal safety of uniformed members in the event of a disaster or catastrophic incident, including those of a chemical or biological nature. Included in this personal protective kit is a tactical response hood contained in a cloth carry pouch. This item is designed to be attached to the gun belt worn by uniformed members. It should be carried by, and available to, all uniformed members performing patrol duty in uniform.



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Uniformed members of the service will carry the tactical response hood as follows:

- a. Members performing patrol duties in a Department vehicle will have the hood and pouch available in the vehicle;
- b. Members performing foot patrol duties and/or assigned to a detail such as a parade, fixed post, etc. will carry the tactical response hood by attaching the pouch to their gun belts on the side opposite which the member carries his or her firearm;
- c. Members performing administrative or other duties inside a Department facility will have the tactical response hood and pouch readily available at all times.
- d. Members will secure the tactical response hood pouch to both their gun belt and their thigh using the straps and clips provided.

The balance of the personal protective equipment will be carried in Department vehicles by those members of the service performing patrol duties in such vehicles. All other uniformed members of the service will have the balance of the personal protective equipment readily available, e.g. stored in their Department locker.

### **DEPARTMENT DECORUM**

There are many important aspects to being a professional police officer. We must act responsibly and professionally and treat each other and the public with courtesy and respect. Through our values and mission we serve the people of the City of New York both on and off duty.

One aspect of professionalism that is easily judged by the public is our image. Without prior information of the abilities of a person or an organization, we look to their appearance to gain the first impression by which we measure confidence, ability, and worth. Look to your own personal life when considering that fact. What first impressions are important to you?

While professionalism in the performance of duty remains one of our main priorities, officers' professional appearance and courtesies tend to diminish as the years pass. As a new recruit, you will learn all the proper procedures of protocol and courtesies. This should not be lost after you graduate and leave the Police Academy. Remember, another class will be hired after you graduate.



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### **PRECINCT ORIENTATION/PATROL SERVICES BUREAU**

A New York City Police Officer is a multi-faceted individual with extensive training in community affairs, crime prevention, investigations, narcotics enforcement, forensic science, law, and youth relations. The NYPD is the largest Police Department in the United States and is looked upon as the leader in law enforcement technology. Many of our officers become specialists in Aviation, Highway Patrol, Emergency Services, Crime Scene Analysis, Criminal Investigations, Drug Enforcement and much more.

The NYPD grew from an unarmed, ragtag bunch of night watchman to today's 35,000 plus fully armed and trained police force. The Department today is divided into 8 Patrol boroughs consisting of 76 precincts, 12 Transit Districts, 9 Police Service Areas, Field Training Units, and Borough Task Forces covering the five boroughs of New York City.

The New York City Police Department is a large organization charged with a mission of paramount importance; protecting the life and property of the inhabitants and visitors within the 319 square miles that comprise New York City. The residents of our City look to the police to prevent crime and preserve order. This challenge is not an easy task for our Department, yet we fulfill our obligation daily. The following portion of this section discusses the organization of the Patrol Service Bureau and precinct orientation.

### **PRECINCT ORIENTATION**

#### **Commanding Officer (C.O.)**

A Precinct Commanding Officer (C.O.) has total responsibility for a specific command and its day-to-day functions. Although the C.O. is not normally involved in the handling of routine incidents, he or she may, from time to time, monitor the performance of members on patrol. The C.O. also initiates investigations and coordinates operations at certain serious incidents that occur in the command. Another function of the Commanding Officer is to investigate incidents in which members of their command are involved, and to take corrective action when necessary. As described earlier, the C.O. administers and adjudicates Command Disciplines, reviews requests for Departmental Recognition and makes personnel assignments within the command. The C.O. of a patrol command is usually a Captain, but in certain large or particularly sensitive commands this position may be held by a Deputy Inspector or above.



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### Executive Officer (X.O.)

This ranking officer (usually a captain), assists the C.O. in directing the activities of the command, and assumes the responsibilities of the command during the C.O.'s absence. Known as the X.O., the Executive Officer is responsible for the supervision of the administrative functions in a command as well as the coordination of all specialized units within a command.

### Duty Captain

On each tour, a member in the rank of captain is designated to provide command level coverage in those commands within the borough where neither the C.O. nor X.O. is performing duty. The *Duty Captain* will be notified of any incident normally brought to the attention of the Commanding Officer. The Duty Captain will also monitor the performance of members on patrol, and visit commands within the Borough, taking corrective action when required.

### Operations Coordinator

This ranking officer (usually a lieutenant) performs duty in uniform assisting the Commanding Officer in administrative matters. This person supervises the command's clerical staff, including:

**Planning Officer** - Assists the C.O. by analyzing command conditions and making recommendations concerning the use of personnel and resources to achieve goals.

**Training Sergeant** - Conducts training in the command on Department procedures maintains the precinct library and distributes Patrol Guide revision notices.

### Special Operations Lieutenant

In conjunction with and at the direction of the Commanding Officer, this Lieutenant acts as the *problem solving coordinator* for the command. Specifically, the duties of the *Special Operations Lieutenant* include:

- Identification of major crime and quality of life problems affecting the command.
- Performing an analysis of the identified crime and quality of life problems in order to separate them into their essential components.



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- Designing a response utilizing command, Department, and community resources, and where possible the resources of other agencies.
- Implementation of the designed response.
- Evaluation of the effectiveness of the response and any modification, if necessary.

Additionally, the Special Operations Lieutenant supervises the following:

**School Safety Sergeant** - Assists the precinct commanding officer in developing and implementing the precinct school safety plan and the coordination of precinct resources to address developing school-related conditions. The School Safety Sergeant is the liaison between precinct personnel, school principals and other staff.

**Anti-Crime Teams** - Contain experienced personnel who identify, and conduct investigations of locations of high crime within the precinct. The Anti-Crime teams perform duties in civilian attire and work according to crime trends.

**Street Narcotic Enforcement Unit (SNEU)** - Concentrate strictly on Narcotic-related offenses. The personnel assigned to this precinct unit perform duty in uniform and work according to crime conditions.

**Community Policing Unit (CPU)** - The members of this unit strive to achieve the following goals:

- Involve the community in identifying its own public safety concerns and elicit input in setting the Department's priorities.
- Increase community participation in policing activities and community based public safety programs.
- Exchange information with the community on a regular basis.
- Non-traditional tactics and strategies.
- Coordinate strategies for addressing community problems with other agencies and private organizations.

**Warrant Officer** - Performs duty in uniform and performs tours conducive to the apprehension of targeted fugitives, as directed by the commanding officer. Precinct warrant officers pursue all misdemeanor and violation



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warrants that are forwarded to the command for individuals residing within command boundaries.

**Crime Prevention Officer** - Conducts crime prevention surveys of premises and makes recommendations concerning security. This officer also evaluates crime patterns within the command and institutes programs to combat them.

**Traffic Safety Officer** - Performs tasks related to:

- The enforcement of traffic violations, primarily at locations designated as “accident or violation prone.”
- Conducts speed surveys at identified “speeding” locations routinely.
- Inspects the Highway Condition Record & Weekly Street Conditions Survey Reports.
- Assists School Crossing Guards in court hearings.
- Reviews and signs all Traffic Intelligence Reports and Police Accident Reports.

**Youth Officer** - Coordinates command programs (such as the PAL, school and community programs, etc.) and investigates Juvenile Reports submitted by police officers for non-serious offenses and incidents. Works as a liaison with School Safety Agents assigned to schools located within that command.

**Auxiliary Police Coordinator** - Coordinates all of the auxiliary police programs in the precinct. Duties include recruitment of new members, inspection of auxiliary police officers (APO's), and assisting the commanding officer and special operations lieutenant in meeting the command's problem solving objectives.

**Peddler Enforcement Personnel** - Are utilized to address chronic peddling conditions that affect the overall quality of life in a precinct. The personnel assigned to these operations enforce various laws concerning the sale of food and merchandise on public streets and sidewalks.

**Note:** Individual members of the service may perform any of the above listed officers' duties. If the workload in a command is light, one member may perform two or more roles (for example, the CPU Officer may also perform the duties of the Youth Officer).



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### Command Integrity Control Officer (ICO)

As the title implies, this ranking officer's main responsibility is to keep a check on corruption within the command. The ICO may visit courts to observe members' conduct, inspect command records and perform similar duties to monitor the level of integrity within the command. This member, usually a Lieutenant, performs no other duties other than integrity control. The ICO will conduct investigations and submit responses to official communications received from the Internal Affairs Bureau and patrol borough investigations units when so assigned by the Commanding Officer.

### Platoon Commander/Precinct Desk Officer

This lieutenant is responsible for all command operations during the tour performed. For this reason, the *platoon commander* is usually assigned as the precinct desk officer. The commanding officer may, however, direct the platoon commander to divide his/her time and movement during the tour between the field and command facility. In this case, a sergeant may be assigned as the desk officer. The platoon commander will usually respond to emergency situations occurring in the field such as mobilizations of personnel, homicides, firearm discharges by members of the service, etc.

The *desk officer* is directly responsible for several members of the service who perform duty inside the command during the tour. These include:

**Command Clerk** - is assigned to a space adjacent to the Precinct Desk. The individual assigned may be either a uniformed or civilian member of the service and is responsible for recording, filing, and indexing most of the paperwork generated by patrol personnel. This office is informally known as the "124 room," after the section of the Department's former *Rules and Procedures* that described the clerk's duties.

**Telephone Switchboard Operator (T/S)** - may be a civilian or a police officer. The T/S Operator will answer the telephone promptly, stating in a Courteous, Professional and Respectful manner, command, rank or title and surname and "May I help you?" He/she will refer callers appropriately and notify the Desk Officer of important messages. The T/S Operator maintains several records:

- **HIGHWAY CONDITIONS RECORD** - This records the disposition of complaints made to the command which affect other agencies.





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- **OUTGOING TOLL CALLS** - A record of phone calls concerning Department business made outside the 212, 718 and 646 area codes by members of the service.
- **TELEPHONE DISPATCH LOG** - A record of calls dispatched by the command and not the radio dispatcher (911). Such assignments are known as "a job from the house," and are reported by the assigned unit to the Radio Dispatcher ("Central") as a "10-61 - Precinct Assignment." The assigned unit will report the disposition, or a final result, of this assignment to the Telephone Switchboard Operator, who will make an entry in the Telephone Dispatch Log.

**Field Intelligence Officer** - This officer is the Intelligence Division's liaison to local patrol precincts. He or she is assigned to the Intelligence Division, and serves as the precinct's expert on intelligence.

**Community Affairs Officer** - Watches community conditions within the command and attends meetings with various civic groups. This officer administers and assists the Community Council, Youth Council, Police Athletic League, Summer Youth Program, and others. The Community Affairs officer falls under the supervision of the borough and is assigned by the Deputy Commissioner of Community Affairs.

### Patrol Supervisor

The Sergeant assigned as the Patrol Supervisor is responsible for all police field operations within the command during his or her tour of duty. Among the Patrol Supervisor's responsibilities are:

- Conducting roll call, if directed by the Platoon Commander.
- Immediately responding to and directing activities at radio runs involving weapons, serious crimes, burglaries and emergencies.
- Visiting members of the service to ensure that assignments are being performed correctly and indicating visit by signing members' activity logs.
- Keeping the Platoon Commander/Desk Officer notified of matters of importance.

### PATROL DUTIES & RESPONSIBILITIES OF A POLICE OFFICER

The duties and responsibilities of a police officer assigned to patrol are defined in the *Patrol Guide*. These are the basic regulations you as a police officer must comply with when assigned to either foot or *radio motor patrol* (RMP).



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These regulations address the everyday conditions you may encounter and the appropriate procedures to follow if corrective steps become necessary. These conditions may include redirecting traffic, reporting an unsafe street condition, and/or any other unsafe condition that may affect the community you serve. They also include specific procedures that must be followed when you complete a tour of duty. Supervisors must account for each member of the service to ensure that they have returned to the command. If it becomes necessary to work past the end of your scheduled tour of duty to complete an assignment, there are specific actions you must take. This will assist your supervisor in being able to account for your whereabouts. It is a very serious matter when a member of the service cannot be accounted for after a tour of duty.

### TYPES OF PATROL

**Vertical Patrol.** This is the tactically planned patrol of the interior hallways, stairways, and rooftops of selected multiple occupancy buildings to prevent, detect and take necessary enforcement action regarding illegal activity occurring in public areas of these buildings. A uniformed member of the service responds to a specific location at a designated time, and coordinates activities with other assigned members. Officers will make Activity Log entries of results of Vertical Patrol. (See Patrol Guide Section 212-59)

**Directed Patrol.** Officers are assigned to patrol an area at a time when they are most needed. Precinct statistics determine the time and locations to assign this coverage. For example, a number of auto thefts may have taken place within a small area at a particular time of the day. The result of these incidents may be the assignment of officers to the location in question during the time when incidents are most likely to occur.

In order to combat burglary conditions, patrol officers may utilize the *Trespass Affidavit Program*. This program enables patrol personnel to conduct vertical patrols in buildings that have identified crime patterns and other quality of life concerns with the permission of the owner. Additionally, the owner agrees to prosecute those found to be trespassing by completing an affidavit, which will enable prosecution.



# POLICE STUDENT'S GUIDE

## General Regulations

### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this chapter – **General Regulations**. These procedures must be read in conjunction with this chapter. Questions for the 1<sup>st</sup> Trimester Exam may come from these procedures:

202-21	Police Officer's Duties and Responsibilities
202-22	Radio Motor Patrol Operator
202-23	Radio Motor Patrol Recorder
203-02	Courtesies
203-03	Compliance with Orders
203-04	Fitness for Duty
203-05	Performance on Duty – General
203-06	Performance on Duty – Prohibited Conduct
203-07	Performance on Duty – Personal Appearance
203-08	Making False Statements
203-09	Public Contact
203-10	Public Contact – Prohibited Conduct
203-15	Off Duty Conduct – Attendance at Parades, Funerals, Memorial Services and Other Department Oriented or Law Enforcement Events
203-16	Guidelines for Acceptance of Gifts and Other Compensation by M.O.S.
203-18	Emergency Notification Procedures/Residence Requirements
203-19	Vacation Policy
203-20	Authorized Leave
204-01	General Uniform Regulations
204-02	Uniform Classifications
204-03	Uniforms
204-04	Optional Uniform Items
204-08	Firearms: General Regulations
204-09	Required Firearms / Equipment
204-15	Shields, Nameplates and I.D. Cards
204-16	Emblems, Insignias and Breast Bars
204-17	Mourning Bands
205-01	Reporting Sick
205-02	Reporting Sick from Outside City and Outside Resident Counties
205-03	Responsibility for Weapons While Sick
205-17	Overtime
205-25	Bereavement Leave
205-26	Jury Duty Leave for Uniformed Members of the Service
205-27	Pregnancy Related Guidelines For Uniformed Members of the Service
205-40	Off Duty Employment
205-45	Chronic Absence Control Program



# **POLICE STUDENT'S GUIDE**

## **General Regulations**

206-02	Command Discipline
206-03	Violations Subject To Command Discipline
206-04	Authorized Penalties Under Command Discipline
212-02	Meal Period
212-03	Expiration of Tour
212-08	Activity Logs
212-32	Off-Duty Incidents Involving Uniformed Members Of The Service



# POLICE STUDENT'S GUIDE

## Introduction to Law and Justice

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT LAW AND JUSTICE?

Maintaining a just and orderly society through proper application of the law is one of the major tasks of the police. This job cannot be done unless officers have a thorough understanding of the law as it applies to their work. In some cases officers begin the legal process themselves when, for example, they make an arrest or issue a summons. In other cases, as when they refer injured persons to civil courts, officers serve as the guides to citizens who believe that they have been victimized in ways that may not involve criminal behavior. For the police, therefore, the law is a tool that, in the appropriate circumstances, should be used to accomplish legitimate purposes.

Like any other tool, the law must not be abused. When people file frivolous lawsuits – those that have no merit or are designed to harass someone, rather than to right a wrong – they abuse the law. Officers abuse the law when they discriminate against certain groups of people, or use the law inappropriately to decide who should get a summons, be arrested, or merely warned. Because law is so broad and because the possibilities for abuse – intentional or unintentional – are so great, it is important that you understand not only the details of the law, but also what the law is designed to accomplish. Then, when faced with situations that involve the application of law – “*Should I arrest this individual or send him on his way?*” or “*Should I give this person a summons or a warning?*” – you will have a clearer guide to the appropriate action.

In these situations, **justice** is what you should be seeking to accomplish. Dictionary definitions of justice include words and phrases like *fairness and objectivity; impartial adjustment of conflicting claims; establishment or enforcement of rights; truth; fact; and reason*. For our purposes, *justice is doing the right thing for the right reasons*. Justice is blind in the sense that it does not play favorites or act against people because of who they are, rather it is what they have done. Justice is objective and reasonable, in the sense that those who administer it can explain why they have taken particular actions in ways that make sense to both lawyers and citizens. When a police officer is asked to explain why he has stopped and frisked a person, for example, he must be able to give an answer that is based upon his observation of specific suspicious *activities*, rather than to answer in ways that are subjective and unreasonable. If an officer sees a person who, late at night, is carrying a car radio, ducking in and out of the shadows, and looking over his shoulder, it would be reasonable for the officer to conduct a stop and question. Indeed, most of us would demand an explanation from any officer who *did not* stop and question such a person. But an officer who conducts a stop and question merely because, by virtue of race or some other characteristic, a person *appears not to belong in the neighborhood* is abusing the law. Such an officer cannot explain why he has taken these actions without showing that he has violated a central



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principle of law and justice: *it is illegal and unjust for the police or any other agent of justice to take action against a person merely because he or she belongs to a particular class of people.*

When you are working on the street, you can take police action when you believe people have done something wrong; but you may not take action merely because people are a particular gender, race, or age, or because they appear to have a particular sexual preference or may hold a view that you do not share. The law is intended to protect society and its members from wrongful *actions* or from wrongful failure to perform legally required actions. Those who use the law for other purposes act unjustly.

You should see by now why the material in this chapter is important: law and justice are the heart of police work. The law also is complex, and has many sources. If you do not understand the law, it is very easy to unintentionally cross the line and to use it in ways that create injustice. If you do not understand the law, you won't be able to explain justifiable actions in ways that make sense to the judges, lawyers, and others who may review them. Others will then believe that you acted unjustly. They will come to distrust you and other police officers. For obvious reasons, you should not let this happen.

There are other important reasons for you to know the law. As a police officer, you will have to apply the law quickly, in situations that do not allow room for error. If you fail to do the right thing in these situations, the consequences, for you, may be costly. Here's an example:

You are walking your beat one day when a druggist runs out of his store and tells you that he was "just robbed by a man with a gun." He points to a man running down the street and says, "That's him, Officer." You run after the suspect, but soon realize that you can't overtake him. You also realize that if you don't apprehend him, you may be permitting a dangerous criminal to escape. Can you lawfully use your gun to stop him? Should you use it? What if you could catch the suspect, but before you actually overtake him, he runs into a private home? Can you pursue him inside? If you do enter the home, can you search the interior until you find the suspect? What rights does the suspect have? What is your authority?

These are tough questions, and street-level police work does not give officers the time to go searching through law books for the correct answers. On the street, you will have to know the answers then and there, or will have to live with the consequences. **KNOW THE LAW AND ITS LIMITS ON YOUR AUTHORITY** so that, on the street, you unhesitatingly do the right thing, and can then explain why you did what you did.



# POLICE STUDENT'S GUIDE

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### WHAT IS LAW?

Law is a set of rules, and rules are essential to an orderly social existence. Without rules, society would deteriorate into anarchy. Our society, like most others, employs different types of rules to encourage desired behavior among its members in a variety of settings. For example, religious groups have rules that define their systems of belief, and professional organizations have rules to define their systems of ethics. Social groups – high school kids; groups of friends; people in a neighborhood – employ informal rules, or *norms*, to guide the behavior of their members and to exclude those who do not conform to their rules.

Law is the most formal part of this system of social regulation. Simply put, law is the set of rules formulated by a government and interpreted by its courts. When a high school kid violates the rules, or norms, of her group – by dressing outlandishly, by acting in ways that are not “cool” – she may suffer an informal penalty: nobody will want to associate with her. When the same person violates the *law*, enforcement is done by government, in very formal ways that are recorded and that may affect one's life forever.

In order to live in an ordered society, people surrender some of their freedoms. The strong surrender their ability to overpower the weak and the smart surrender their ability to take improper advantage of others. In return, society's members get a major benefit: the law assures that they will be protected from others and that, if they are hurt by others, society will act on their behalf to bring the violators to justice. Philosophers call this exchange – surrendering one's right to hurt others in order to receive society's protection – the **social contract**. It is a critical part of civilized life, even though it is not always achieved: not all crimes are prevented; not all criminals are caught; not all the criminals who are caught receive the punishment we may think they deserve. Still, it is not difficult to imagine what life would be like if law and the social contract were not the major feature of the relationship between citizens and the government. When law and the social contract break down – as in riots, vigilantism, and anarchy – life becomes a matter of *every man for himself*, and order turns into violence, vengeance, exploitation, theft, and destruction.

The police are a critical part of the social contract and a professional police service is one of the hallmarks of an advanced and civilized society. Reflect on this for a minute: you are a recruit police officer in the greatest, most advanced, and most civilized city in the world. That should be a source of great pride and encouragement to do the very best police work you can.



# POLICE STUDENT'S GUIDE

## Introduction to Law and Justice

### SOURCES OF AMERICAN LAW

Law in the United States comes from four main sources:

1. The English Common Law
2. The U.S. Constitution
3. Statutes
4. Court Decisions (case law)

#### 1. The English Common Law

For several hundred years, prior to the creation of the English Parliament - that nation's legislative body - royal judges settled legal disputes. At that time, there were no formalized, written legislative laws to guide the judges. In these circumstances, the principles that emerged from the judges' decisions became the *Common Law*, or *Customary Law*, the traditional legal notions, or precedents that guided judges in subsequent cases.

The American colonies and the early American Republic based their laws on the English Common Law. In the nineteenth century, state legislatures began to enact formalized written laws, borrowing much from the Common Law. Many of our contemporary definitions of crimes – murder, manslaughter, robbery, arson, etc. – are derived directly from the English Common Law. Also based on English Common Law are many of the procedural principles and safeguards built into our current written laws. These include the presumption of innocence and the right to cross-examine one's accusers.

#### 2. The United States Constitution

The United States Constitution was originally designed as a blueprint for a federal system, defining the powers of the central government and its relationship to the states. Concerns over safeguarding individual liberties soon led to the enactment of the Bill of Rights, the first ten amendments to the Constitution. The Constitution is the fundamental written law of the United States, which means that no other written law or court decision is permitted to conflict with its provisions. In addition to the U.S. Constitution, each of the states has enacted its own constitution to define state powers and limitations.

#### 3. Statutes

The formalized written laws enacted by a legislature are called statutes. Since the U.S. Constitution was the first such written law in this country, it is properly considered our primary statute. Similarly, the United States Congress is the federal legislative body, and its laws apply to the federal government, the states, and the citizens. Every state has its own legislature, which enacts laws applicable only





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within that state. Also, many municipalities have lawmaking bodies; in New York City, the legislative branch is the City Council, which passes local laws and ordinances (like health codes) applicable only within the City of New York.

### 4. Court Decisions

The role of the courts is to interpret the U.S. Constitution and other federal and state statutes. These interpretations, written as court decisions, are known as "case law," and have developed in much the same way as the English Common Law. The U.S. Constitution provides for a federal court system, composed of the United States Supreme Court and lower Federal Courts. Every state has its own court system. In New York State, the highest court is the **Court of Appeals**.

### Criminal Law and Civil Law

The legal classifications, embodied in the social contract, are reflected in the difference between civil and criminal law.

**Criminal law** is designed to protect the public interest by preventing and punishing conduct that society deems to be wrongful or undesirable. Under the criminal law, an "offense" – a robbery, an assault – is a wrong against the state, and is punished by the state. Let's say John Smith is arrested for assaulting Mary Jones and the case goes to court. Although Mary has been victimized, the case won't be titled *Mary Jones versus John Smith*. Instead, it will be called *The People of the State of New York versus John Smith* because John has hurt *The People of the State of New York*. The *state* – through their elected representative, a district attorney – will initiate the charges and try the case against John. If the state succeeds in convicting John, he will *pay his debt to society*, by spending time in prison. The case is an action brought by the state rather than by Mary. Mary thus acts as a witness for the state rather than the plaintiff, which is the state. By acting to punish John for the assault, the state is living up to its end of its social contract with Mary. By punishing John, the state also sends a message to other would-be perpetrators: Before you victimize anybody, think carefully about what happened to John. This message is believed to deter others from committing similar crimes.

**Civil law** deals with wrongful acts, called *torts*, which are civil wrongs causing injury, for which offenders may be liable to compensate victims. Tort cases are typically brought directly by the persons who have been injured by wrongful acts. Civil legal actions, or *lawsuits*, are private matters between the wrongdoer and victim, although government courts adjudicate these disputes. A criminal legal action (prosecution), on the other hand, is initiated by a government prosecutor (in New York, the prosecutor is called the *District Attorney*) on behalf of the public.

Some torts involve conduct that is wrongful and that causes injury or damage, but that may not involve any crime. Take, for example, a motorist, whose foot hits



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the car's gas pedal rather than the brake, causing the car to crash into a neighbor's garage. The motorist has committed a wrongful act, a *tort*, but not a crime. In such a case, the neighbor – whose property has been damaged by this tort – may initiate a civil legal action, a lawsuit, to recover from the motorist the cost of repairs to the garage.

Some criminal matters may involve no immediate injury or damage to anybody. These are called *public order* offenses because the damage is done to the good order of public life, rather than to any member of society or to property. Motorists who operate their vehicles while intoxicated commit the offense of Driving While Intoxicated. They are prosecuted by the district attorney, and may be sentenced to prison terms if found guilty at trial. But, unless they have been involved in accidents while intoxicated, their crimes involve no torts. The same principle applies to other public order offenses that do not involve torts, including possession of drugs; disorderly conduct; prostitution, and public intoxication.

In many cases, both a criminal case and a civil case may arise from the same wrongful act. The prosecutor will bring the criminal case, while the victim brings the civil case. Both cases will be brought independently from each other, in different courts. The case of John Smith's assault of Mary Jones, for example, involves both a crime and a tort, since it is also a civil wrong to assault someone. John hurt Mary as well as the state. Therefore Mary could sue John for compensation regardless of whether he was convicted of the criminal charges. Her case would be titled *Mary Jones versus John Smith* and be tried in civil court.

This is precisely what happened in the notorious O.J. Simpson case. Mr. Simpson was acquitted of criminal murder charges in *People of the State of California versus O.J. Simpson*, prosecuted by the Los Angeles District Attorney. Later, the father and mother of Ronald Goldman, the young man who had been killed along with Mr. Simpson's ex-wife, brought a civil suit against Simpson (*Fred Goldman and Sharon Rufo versus O.J. Simpson*), alleging that he had committed a tort against them by killing their son. Largely because the rule of evidence in civil cases is different from those in criminal cases, Simpson lost this case.



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## Introduction to Law and Justice

### Comparison of Civil Law with Criminal Law

The differences between civil and criminal law are outlined in the following chart:

CIVIL LAW (TORT)	CRIMINAL LAW (OFFENSE)
Results from a wrong committed by one individual against another individual	Results from a wrong committed against society.
Action instituted by the person who has been wronged	Action instituted by the State (District Attorney).
Object is compensation: payment of damages or compelling of an action	Object is to bring the offender to justice, to deter the offender or others, or to reform his conduct so that he can then be a useful member of society.

As a professional police officer, it is imperative that you understand that your role is not limited to enforcing criminal statutes. Your assistance will be requested by persons seeking aid in civil matters, such as disputes involving storekeepers and customers, or landlords and tenants. Although you may not always be able to settle these conflicts, you are a resource to the community. Your knowledge of the law, your training and experience, are valuable tools in problem solving. Use them to address matters that are civil in nature and to develop strategies that will enhance the overall quality of life. Providing information and making referrals to courts or other agencies can be a helpful step in resolving most civil disturbances. Your genuine interest in solving the community's problems will help create trust and facilitate communication. *Remember, be innovative!* Lend whatever assistance you can, consistent with department guidelines. As you do this keep in mind that these guidelines prohibit you from referring citizens to specific attorneys or law firms.

### Types of Offenses

The Penal Law of the State of New York defines an offense as any conduct for which a jail sentence or fine may be imposed. Under New York State law, all offenses fall into one of four categories, under two broad headings:

1. **Crimes**
  - a. Felonies
  - b. Misdemeanors
  
2. **Petty Offenses**
  - a. Violations
  - b. Traffic Infractions



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A *felony* is a crime that is punishable by imprisonment in a state prison for a period of more than one year.

A *misdemeanor* is a crime that is punishable by imprisonment in a city or county jail for a period of more than 15 days, but not more than one year.

A *violation* is an offense that is punishable by imprisonment in a city or county jail for a period of up to 15 days.

A *traffic infraction* is any violation of vehicle and traffic laws or rule which is not a felony, and which usually requires only a fine to be paid.



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### HOMEWORK

1. The fundamental law in the United States is the:
  - A. Monroe Doctrine
  - B. State penal codes
  - C. Federal legislative enactments
  - D. Federal Constitution
  
2. The law in the United States comes from four main sources. Which of the following is not a source of American law?
  - A. English Common Law
  - B. Federal and State Constitution
  - C. Legislative enactments
  - D. United Nations Charter
  
3. Laws may be divided into two main categories: civil law and criminal law. Look at the following statements and note whether each is a characteristic of civil or criminal law.
  - A. Private wrong
  - B. Public wrong
  - C. Prosecuted by the state
  - D. Objective of punishment is to deter and reform offenders
  
4. Consider the following acts. Next to each, note whether it is civil and/or criminal.
  - A. Joe backs his car out of a driveway and accidentally hits a parked car
  - B. Mary steals a fur coat
  - C. Tom refuses to pay his rent
  - D. Tom's landlord kicks him in the knee
  
5. Violations of the Penal Law are all called offenses. However, only certain offenses are *crimes*. Which of the following offenses would be crimes?
  - A. Violation
  - B. Traffic Infraction
  - C. Misdemeanor
  - D. Felony



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6. Answer the following TRUE or FALSE:
- A. Although police officers are primarily involved with criminal law, they often encounter persons seeking assistance regarding civil matters.  
\_\_\_\_\_
  - B. Regulations enacted by the City Council apply throughout the state.  
\_\_\_\_\_
  - C. All felonies are crimes. \_\_\_\_\_
  - D. All crimes are felonies. \_\_\_\_\_



# POLICE STUDENT'S GUIDE

## Introduction to Law and Justice

### THE U.S. CONSTITUTION AND THE BILL OF RIGHTS

As a newly sworn police officer, you have taken an oath to uphold and defend the Constitution of the United States. These are not just empty words to be recited at ceremonial occasions. As police officers in a free society, you must strive to preserve law and order while respecting our most precious freedoms.

Our Founders were weary of living under tyrannical rule and sought to limit the power of the government and still maintain order; the Constitution was the result. The Constitution presents a major challenge to the law enforcement community: *How do the police protect the citizenry and enforce the social contract without violating the rights and freedoms that make life in this country the envy of the world?* Effective policing requires more than mere knowledge of the law and the Constitution. Police officers must respect the rule of law and the rights guaranteed to all under the Constitution.

You, as a police officer, are responsible to enforce and ensure these protections for all people. The people grant your authority as a police officer and, ultimately, it is the people to whom you and all other governmental employees are accountable.

The Constitution contains seven (7) articles and twenty-six (26) amendments. A copy of the preamble of the Constitution - as well as the Bill of Rights - is included at the end of this chapter.

### THE ARTICLES

**Article 1** provides the legislative power of the government, and establishes a Congress, consisting of the Senate and House of Representatives, elected by the people.

**Article 2** places the executive power of the government in the President. It is under this article that the President is given the power to appoint the United States Attorney General as the head of the Department of Justice.

**Article 3** establishes the Supreme Court. It also authorizes Congress to establish lower federal courts.

The first three articles of the Constitution are very important because they establish the legislative branch of the federal government that makes the law, the executive branch that enforces the law, and the judiciary branch that interprets the law. The remaining four articles are concerned with relations between the states, amendment procedures, debts, treaties, and ratifications. These certainly are important – but the *balance of powers* among the executive, legislative, and judicial



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branches that has kept our government on course for more than 200 years is defined in the first three articles.

### THE BILL OF RIGHTS

The first ten amendments to the Constitution are called the **Bill of Rights**. They define the basic rights of individuals in American society. The Founders were concerned about potential abuses by the newly created federal government and wanted guarantees for certain personal liberties. They wanted to assure that citizens were protected from the kinds of governmental abuses that had caused them to rebel in the first place.

Many of the first ten amendments concern the rights of persons accused of committing crimes. One of the fundamental goals of the U.S. Constitution was the limitation of government authority. While police agencies did not exist at that time, the Founding Fathers sought to limit government intrusion into people's homes, persons, and papers without good reason. The Founders recognized that broad authority to search was subject to abuse, and they prohibited it. It would also be easier to obtain criminal convictions if the prosecutors and judges could wield coercive power in court. But this also was unacceptable to the Founding Fathers, so they wrote safeguards into the Bill of Rights protecting criminal defendants against the coercive power of the state. Also, a presumption exists that a person charged with crime is considered innocent unless and until the state convinces a jury of his peers that he was guilty beyond a reasonable doubt. At U.S. criminal trials, contrary to the practice in some other parts of the world, accused persons have no duty to establish their innocence, and they have the right to a public trial by a jury of their peers.

The central tenet of our democracy is the freedom to agree or disagree with governmental actions and policies. Because we are free to speak, write and vote as we please, changes in our government are brought about by voting rather than by revolution. The Constitution guarantees the right of everyone to express his or her views, however unpopular these views may be. If we refuse to let people with whom we disagree speak their minds, we deny a fundamental right in a democracy.

When the right of every individual to express himself freely is not protected, our system of law and government, and our basic philosophy of the rights of individuals will have failed. When the infringement of constitutionally protected rights is permitted because of "special cases" or "special circumstances," for example, denial of a fair trial to a "notorious criminal," the next step may be a breach of basic rights whenever the government chooses. Our legal system does not exist to guarantee rights only to "certain people." Rather, the Constitution and its amendments protect the rights of **ALL** of the people, all of the time.





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Nothing is more important to the protection of our liberties than a police force that is knowledgeable and respectful of the Constitution. Although the Constitution severely limits the powers of the police, those limits must be respected rather than viewed as an obstacle to effective law enforcement. The fact is that the goals of law enforcement *can* be accomplished within the limits placed on us by the Bill of Rights.

The amendments discussed in this chapter are of particular relevance to police officers in that they deal with the rights of the accused and other issues affecting policing.

### FIRST AMENDMENT

The First Amendment is simple and clear:

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

The five freedoms contained in this amendment are basic to the American way of life. Freedom of religion, speech, press, and the right to peaceably assemble and petition the government for a redress of grievances are cornerstones of our democracy. However, none of these freedoms is absolute and must be balanced with the rights of society as a whole. As the Supreme Court has observed, the right to freedom of speech does not authorize anyone to shout "FIRE!" in a crowded theatre because doing so would unreasonably and unnecessarily endanger life.

By 1787, when the Constitution was written, the founders knew it would be necessary to separate Church and State. They wanted to make sure that religion would be neither aided nor oppressed by the government. This clause prohibits the federal government and, the state governments as well, from telling a person what she may believe about religion, what forms of religious exercise she may practice, or whether she must believe in religion at all. Exceptions include practices that may endanger the health of citizens, such as rites with poisonous snakes, bigamous marriages, or use of hallucinogenic substances in rites (see also the section on Demonstrations). The government may not, however, restrict any religious or anti-religious belief, regardless of how unusual or bizarre it may appear to most people.

Freedom of speech means that citizens have a right to express ideas. This guarantee is not limited to an expression of ideas that are shared by the majority. Freedom of speech and freedom of the press permit the free exchange of ideas for bringing about political and social changes desired by the people. It also keeps the



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people fully informed about the acts or misconduct of public officials, as well as keeping the public generally well informed. A well-informed public is the best insurance for the continuation of our democratic society.

As the crowded theatre example indicates, freedom of speech is not an absolute right. The amendment does not give anyone the right to speak or write in a way which will result in physical injury to another person or his property, or which will incite criminal activity, or which advocates specific immediate action toward the overthrow of the government by force.

Although people may express any political theory they wish, speech or writing which incites others to violence is not protected by the Constitution.

### **DISCUSSION**

1. *While standing on a street corner in New York City, John voices his objections to our government's policy in the Middle East. He states that the President is an "idiot." Discuss.*

2. *While standing on a street corner in New York City, Jim makes a speech that protests American foreign policy. He tells his followers that the only way to change our foreign policy is to shoot all congressmen. Discuss.*

- *Suppose Jim had a number of loaded rifles available in his house? Would this change the situation? Discuss.*
- *What if the crowd was armed with rifles and traveled to City Hall to shoot a visiting group of Congressmen?*

The clause of the First Amendment dealing with peaceable assembly protects all lawful meetings or gatherings, regardless of the views to be discussed or debated. It also protects citizens' rights to picket – a right that has been exercised in labor-management disputes and civil rights demonstrations. In general, picketing is protected by the First Amendment so long as it is for a lawful purpose, (i.e., to publicize grievances), and when it is conducted in a lawful fashion. The fact that the right to picket is given to one group of citizens does not mean that the community, as a whole, must allow disorder or violence by the pickets. However, if a crowd that is hostile to the pickets gathers, and the pickets are conducting themselves in a lawful manner, the police must protect the pickets. The police could not lawfully order the pickets to disperse, as it would be an unconstitutional infringement of their rights. It should be remembered that the First Amendment does not only provide for the protection of popular views, but for **all** views so long as they are lawfully expressed.



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### **DISCUSSION**

*A civil rights group is picketing a store that they believe engages in unfair employment practices. The pickets are walking up and down the sidewalk in an orderly manner, not blocking the sidewalk and not preventing others from entering the store. A crowd opposed to the civil rights group gathers and danger seems imminent.*

*Discuss.*

*If the pickets decide to sit down in the middle of the street and obstruct vehicular traffic, would they be acting within their legal rights?*

*Discuss.*

The applicability of the First Amendment to police action at the scene of demonstrations is discussed a later section of your Student's Guide – "Maintaining Public Order".

### **SECOND AMENDMENT**

*A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.*

It has been held that this Amendment does not restrict the states or the Federal Government from regulating the use, sale and possession of firearms within their jurisdictions. The Supreme Court has found that this right to bear arms, like the right to free speech, is not an absolute right. Still, this amendment and the whole question of when and whether citizens may possess firearms, especially handguns, have long been one of the most debated issues in American society.

### **FOURTH AMENDMENT**

*The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

Although the public has a real interest in being protected from criminal behavior, such interest must be balanced by the protections given a suspect by the Constitution.



# POLICE STUDENT'S GUIDE

## Introduction to Law and Justice

The right to be free and to have privacy in one's own home is very precious, and was one of the major causes of the American Revolution. The rights of privacy and personal security granted by the Fourth Amendment are regarded as essential to each person's liberty. Protection of one's privacy both in his person and property is extended to all by both the states and the federal government. One type of protection is the exclusion of evidence that has been seized in violation of the Fourth Amendment; another is the civil liability of police officials who violate citizens' Fourth Amendment protection against unreasonable search. You will be studying this area of Constitutional Law in depth, later in the curriculum.

### FIFTH AMENDMENT

*No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.*

**Double jeopardy.** In addition to the protection against self-incrimination contained in the Fifth Amendment, it prohibits the government from twice trying a citizen for the same charge (double jeopardy) in the same court. Different levels of government, however, may bring charges for the same act. If a person is kidnapped in New York and transported to another state, for example, New York can try the suspect. So can the federal government, because it is a federal crime to transport kidnap victims across state lines. The point here is that the double jeopardy provision prohibits a single jurisdiction from trying defendants more than once for the same act. If that were not so, prosecutors would be free to continually retry an acquitted defendant until they finally convinced a jury of the defendant's guilt.

#### DISCUSSION:

John Jones, charged with murdering his wife, is brought to trial in state court. The jury finds him not guilty. Jones then writes a book in which he admits killing his wife, boasting about how he has gotten away with it? Can he now be re-tried for the murder of his wife?



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**The Grand Jury and Indictment.** A provision of the Fifth Amendment that many people do not understand involves the Grand Jury and indictment. The purpose of the Grand Jury is to limit the power of the federal government to prosecute citizens. A Grand Jury consists of citizens who are selected to hear evidence of suspected criminal activity in order to determine whether a person should be held for trial. The Grand Jury works closely with the District Attorney, and hears evidence the District Attorney presents to it. When a Grand Jury decides that the evidence is sufficient to proceed with a felony prosecution, it issues an **indictment**, a formal charge of a felony. When the Grand Jury decides that the evidence is not sufficient to proceed with a case, it issues a “**No True Bill**”, and the case usually ends there. Because the Grand Jury does not determine guilt or innocence, the safeguards that apply to trials are not operative. Grand jury proceedings are closed rather than public. Persons under investigation – or *targets* – rarely appear at Grand Juries, and are usually advised by their attorneys to stay away. When they do appear, their attorneys can enter the grand jury room only if targets of investigation waive their immunity from prosecution. In the room, witnesses – including targets – may be questioned by both the prosecutor and by individual jury members. Once defense attorneys enter grand jury rooms, they may advise their clients, but cannot participate in proceedings in any other way.

In New York, the Grand Jury includes 23 members, 16 of which must be present to vote. By contrast, a trial jury – or *Petit Jury* – usually has six or 12 members.

**Self Incrimination.** The legal theory behind the self-incrimination clause of the Fifth Amendment, briefly stated, is that the government should be required to establish the guilt of the defendant by independent evidence, and that no defendants should be compelled to convict themselves with their own words. This right is designed to protect individuals from the force of the courts and the police, as well as from their own weaknesses. The right to be free from self-incrimination is absolute, and may not be infringed by the government or its agents for any reason.

If an individual is a defendant in a criminal trial, he has the right to invoke this privilege. Requiring defendants to invoke this privilege from the witness stand by testifying, “I refuse to answer the question on grounds that my answer might incriminate me” would, in the minds of most jurors, be the same as an admission of guilt. For this reason, a defendant in a criminal trial is not required to testify at all. The fact that he does not take the stand to testify may *not* be considered by the jury as an indication of his guilt. It is the responsibility of the court (judge) to make this point clear to the jury. If the D.A. were to give the impression that a defendant must be guilty by making reference to the fact he did not testify, the judge could declare a mistrial.



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Fifth Amendment rights apply when law enforcement officers question a suspect, be they state or federal. No coercion of any kind may be used to get an admission or confession of a crime. The suspect questioned may not be threatened, frightened, or promised a lighter sentence in reward for his confession. In **Miranda v. Arizona**, the best known of all self incrimination cases, the Supreme Court also ruled that whenever a person is subject to questioning while in custody, he must be advised of his constitutional rights before he may be questioned. These rights include the choice to remain silent and to not answer questions, and the right to have an attorney present during any questioning, at public expense if he cannot afford one himself. If defendants in custody are not properly informed of these rights and go on to make incriminating statements, their statements will be suppressed in court. This requirement does not apply to questions concerning basic identifying information, called *pedigree information* (e.g., name, address, age, etc.), which are not considered interrogation. Defendants may waive their rights to silence and counsel, but they cannot be tricked into doing so. Instead, any waiver of constitutional rights must be done knowingly, intelligently, and voluntarily. The prosecution bears responsibility for showing that a defendant waived his rights to silence and counsel (usually through police testimony). A more detailed discussion of *Miranda* and of suspect's rights when being questioned is contained in a later section of your Student's Guide – "Criminal Procedures."

**Due Process.** Due process prohibits the government from arbitrarily or unfairly depriving individuals of life, liberty, or property without proper legal proceedings. This requires fair notice and a fair hearing before a tribunal with the power to decide the case. The Fifth Amendment guarantees due process to any defendants in federal criminal proceedings. Subsequently, after the Civil War, the U.S. Senate and Congress enacted the Fourteenth Amendment, which applies the right of due process to state prosecutions.

**Eminent Domain.** The last clause in the Fifth Amendment restricts the federal government's right of eminent domain, which is the power of the government to acquire private property for public use. It requires that the owner be paid the fair value of the property so taken. State governments also have the right of eminent domain, and the same compensation restrictions apply. While this clause is extremely important to those who own property, it will have little or no relevance to your work as a police officer.

### SIXTH AMENDMENT

*In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the*



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*witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.*

This amendment requires a **speedy trial** to protect the defendant from indefinite imprisonment before trial. It is in the best interests of justice because it prevents the government from holding citizens in jail for years awaiting trial.

This amendment also requires that the defendant be informed of the reasons for the trial or, as the Constitution says, "to be informed of the nature and cause of the accusation." In order to prepare his defense properly, a defendant has a right to know exactly what offense he is charged with and the circumstances under which it is alleged that he committed the crime.

**The right to cross-examine** witnesses gives a defendant the opportunity to challenge the testimony of witnesses who have testified against her.

Juveniles who are brought to Family Court to answer for an act that would be a crime if committed by an adult have the same Sixth Amendment rights as an adult. However, juveniles do not have a right to a jury trial. The public also does not have the right to attend a juvenile trial.

### EIGHTH AMENDMENT

*Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.*

The judge, for the purpose of assuring that defendants will return for their scheduled court appearances, sets bail. Defendants who cannot post bail must spend the time before their trials in jail, and account for a substantial percentage of the population at Rikers Island and other city jail facilities. In setting bail, judges attempt to assess the risk that defendants will flee to avoid justice. In doing so, they consider such factors as the financial ability of the defendant, the seriousness of the offense, and the defendants' previous criminal record, character, and ties to the community.

### FOURTEENTH AMENDMENT

*...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.*



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As originally conceived by the Founding Fathers, the Bill of Rights, the first ten amendments to the Constitution, binds only the United States government and was not intended to limit the powers of the states. In 1868, the Fourteenth Amendment was ratified. This Amendment was one of the post-Civil War laws passed by Congress, largely to prevent the southern states from violating the rights of the newly freed slaves.

Passage of the Fourteenth Amendment authorized the federal government to step in and protect citizens from abusive acts by state government. However, according to court interpretation, it did not fully apply the Bill of Rights to the States. The Supreme Court, in explaining the "due process" clause of the Fourteenth Amendment, has made most of the provisions of the Bill of Rights applicable to the States. The Court has adopted the view that the Fourteenth Amendment requires the States to deal with citizens in a fair way. While most of the rights in the first eight amendments have been held to apply to the States, not all have. The federal courts have not imposed all of the Fourteenth Amendment criminal justice procedures to the state courts. Instead, the federal courts have chosen to intervene in certain critical areas – like the right to be free from unreasonable search and seizure; the use of force by police officers; the guarantee against self-incrimination and the right to counsel; the circumstances under which capital punishment may be used – that are critical to criminal justice operations.





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### HOMEWORK

1. Our founding fathers, in writing the Constitution, wanted each of us to have guarantees of freedom and protection of individual rights. Discuss how these freedoms apply to a criminal defendant in our system of justice and what these freedoms mean to you as a police officer.

2. The Bill of Rights provides certain restraints on each of us as individual enforcers of the law.

TRUE \_\_\_\_\_

FALSE \_\_\_\_\_

3. Discuss some ways in which the Bill of Rights protects a defendant's rights as they pertain to the Sixth Amendment.

4. The First Amendment is considered to be one of the most important amendments to the Constitution. Under what circumstances might it affect the work of a New York City police officer?

5. Why is it so important for a police officer to know of an individual's Fourth Amendment rights? Discuss.

6. How are the rights of a criminal defendant, such as the right to remain silent as it is contained in **Miranda v. Arizona**, guaranteed and applied to the States?

7. The Fifth Amendment provides for:

- a. Indictment by Grand Jury for infamous crimes
- b. Protection from double jeopardy
- c. Protection against self-incrimination
- d. Due Process
- e. All of the above



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### The Preamble to the Constitution of the United States

**WE THE PEOPLE OF THE UNITED STATES**, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence\*, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

### The Bill of Rights

#### Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

#### Amendment II

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

#### Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

#### Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

#### Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence\*\* to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

\*defense

\*\*offense

#### Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature



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and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

### **Amendment VII**

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

### **Amendment VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

### **Amendment IX**

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

### **Amendment X**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[The first ten amendments (the Bill of Rights) were ratified on December 15, 1791.]



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### THE CRIMINAL JUSTICE SYSTEM

Police are the most visible form of government. The police address a wide range of crime, public safety and quality of life issues facing the people of New York City. The police also have the most widely defined mandate. Our mission involves not only preventing crime and hazards to public safety, but also responding to incidents, and solving crimes that could not be prevented. When police find individuals who have violated the law, they most commonly issue summonses or effect arrests.

Arrests and summonses are merely the first step in placing an individual under the control of the criminal justice system. No matter how comprehensive the investigation and how convincing the evidence, police officers' cases are not complete when the suspect is arrested. Recall that, in our system, even those who are caught in the act of committing a crime are presumed to be innocent until prosecutors succeed in convincing jurors that they are guilty. In other words, there is a difference between whether you *did* the crime and whether a prosecutor *can prove beyond a reasonable doubt* that you did the crime.

Processing the arrests that police make is the task of the criminal justice system. This system is made up of several different agencies, including the police, prosecution, courts and corrections. Each of these components perform vital roles in preventing and addressing crime, while also safeguarding the rights of accused persons and the dignity and safety of victims and witnesses.

### RESPONSIBILITIES OF THE INDIVIDUAL COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM

#### THE POLICE

The police are unique among the various components of the criminal justice system. The work of prosecutors, criminal court judges, defense attorneys, and corrections officials only involve crime and its victims, witnesses, and accused persons. In contrast, crime and criminal justice is only a small part of the work expected of the police. A typical work day of a police officer involves contacts with people who are injured and sick, persons who need police assistance for dealing with family or personal problems, people who are involved in minor disputes, traffic accidents, violations of traffic law; people who need directions; disorderly people; people who are demonstrating for or against a cause; and, maybe, with criminals, crime victims, and witnesses.

In view of the variety of tasks assigned to the police, it is unrealistic for police officers to think of themselves exclusively as *criminal justice officials* or as *law enforcement officers*. Criminal justice and law enforcement certainly are critical



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parts of the police officer's job, but they do not describe the whole of patrol work. Instead, police officers also serve as crisis interveners; mediators; information sources; street-level counselors; and first responders to a wide variety of problems that no other agency is available or able to handle.

It is critical that you understand the enormous range of work performed by police officers. The duties of most other officials can be summarized in a few words – prosecutors prosecute accused persons; defense lawyers defend accused persons; judges adjudicate cases against accused persons; corrections officials control and treat convicted persons and people who are jailed before trial; teachers teach; firefighters try to prevent fires and to extinguish those they have not prevented; sanitation workers clean the city; buildings inspectors inspect buildings. Even in policing, most specialized assignments are limited in scope: narcotics officers investigate narcotics violations; homicide detectives investigate homicides; Police Academy instructors teach.

It is impossible to come up with such a short and neat description of a police officers' work. Instead, about the best we can do is to state that police officers are expected to protect life, property, and rights; to maintain order; to prevent crime and enforce laws; and to provide, on a 24-hour-a-day, seven-day-a-week, 52-week-a-year basis, a whole variety of miscellaneous services that are not available from anybody else.

The *order maintenance* function of the police involves officers in such non-crime assignments as intervention in and resolution of disputes; crowd control; preservation of the peace at public events and demonstrations; preventing the mentally ill or intoxicated from endangering themselves or others; and protecting the rights of individuals in the community. The NYPD *service* function can best be understood as providing assistance to members of the public with respect to matters unrelated to crime. Some areas where police are required to render service are providing first aid and medical assistance; locating missing persons and runaways; providing information such as directions to the public; and referring people to various social and public agencies that may be better equipped to solve non-crime related matters.

Police officers are expected to act as liaisons between city government and members of the community. The knowledge and experience of the police officer is an effective tool in making the members of the community aware of what services and agencies are available and how an individual may utilize the available services. By becoming familiar with the members of a particular community, police officers may communicate the needs and concerns of the community to the government and also communicate the concerns of the government agencies to the community.



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Police officers on patrol also serve as the eyes and ears of the department and of the entire U.S. law enforcement apparatus. Veteran police commanders, detectives, and intelligence officers, as well as federal investigators, know that nobody knows the city better than alert patrol officers who pay careful attention to what is happening where they work. Since 9/11, it has become especially apparent that the information that patrol officers might develop during the course of their work may have great value not only in addressing community concerns and in preventing and solving crimes, but also in the defense of the nation. Several of the Al Qaeda terrorists, for example, learned to fly large jets at a flight school in another state. They told their instructors when their lessons began, they were interested only in learning how to control planes that were already in flight, and had no interest in learning how to take off or land planes. We did not learn this until *after* 9/11; but consider what this information might have meant had it come to the attention of an alert patrol officer who had built relationships with the businesses in her area *before* 9/11.

### THE PROSECUTOR

The primary function of the prosecutor is to prepare and present the people's case before the court in criminal cases following an investigation or arrest by the police. In New York State, the prosecutors are called District Attorneys (D.A.'s). Each county in the state elects its own District Attorney to a four-year term. Then, depending on the size and workload of the jurisdiction, the District Attorney hires numerous assistants to prosecute the criminal cases presented to them by the police. In addition, an appointed Special Narcotics Prosecutor works closely with the Department on serious drug cases.

Prosecutors investigate cases with the police, assist police with the preparation of search and arrest warrants, gather evidence for trial, and interview witnesses. Prosecutors are probably the most powerful figures in the criminal justice system. They are the link between the police and the courts, and have the authority to decide how and when – and even *whether* – to prosecute criminal cases. They determine whether the charges against defendants will be reduced in return for pleas of guilty; whether to decline to prosecute individuals in return for their cooperation and testimony in cases against others, and whether to decline prosecution altogether in order to better serve the interests of justice.

Each of New York City's five boroughs is a separate county. Therefore the police department works with five different District Attorneys, each of whom has policies, procedures, and priorities tailored to fit the needs of the people he serves.



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### THE COURTS

The role of the courts is to adjudicate cases. The prosecutor will present the case to the court where a decision will be made on an individual's guilt. This decision - *the verdict* - takes one of two forms. The jury (or judge, in some instances) finds that the prosecutor has either met the burden of proving guilt beyond a reasonable doubt or that the prosecutor has not met this burden. In other words, defendants – the individuals charged with a crime – are found *either guilty or not guilty*. Because the only burden of proof is on the prosecutor, no criminal defendant is ever found *innocent*; instead, a *not guilty* verdict means only that the state did not prove guilt beyond a reasonable doubt.

The court has the responsibility to hear and weigh all the evidence presented against a defendant and, at the same time, to protect the defendant from the violation of his rights by law enforcement agents. When a jury is involved, its role is to serve as *the finder of fact*. The jury resolves such **questions of fact** as who is telling the truth and who is not; whether a defendant intended his actions and their results, or whether a matter was simply an accident; and whether a defendant is guilty beyond a reasonable doubt. In doing so, the jury is guided by the judge who resolves **questions of law**, such as whether the police have obtained evidence improperly, in which case it should be excluded; whether the jury should be made aware of a defendant's prior history; and whether testimony should be excluded because it might mislead the jury. In cases involving no jury, the judge resolves both questions of fact and questions of law. Once a defendant has been found guilty, the courts are responsible for providing the punitive sentence.

The United States has a dual court system, which includes state and federal courts. Each state has a system of *state courts*. At this level, *trial courts* are responsible for hearing cases involving crimes defined by the state legislatures. State *appellate courts* hear appeals from the findings of state trial courts, and it is their decisions that make up state-level *case law*. This system is similar to that of the *federal courts*, where trials for offenses that violate federal law are heard in the *United States District Courts*, the federal trial courts. Appeals from the decisions of these courts are heard by the *United States Circuit Courts*, and, ultimately, by the *United States Supreme Court*, the highest court in the land. Rulings of the Circuit Courts are the case law within those circuits, which usually include several states, and must be followed by all the District Courts within the Circuit.

Rulings of the United States Supreme Court become the nation's case law, and must be followed by all the courts they affect. In *Miranda v. Arizona*, for example, the Supreme Court established the case law principle that all persons in custody had to be advised of their rights to silence and counsel before they could be questioned, and that, where necessary, counsel had to be provided at state



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expense. That decision established a requirement that has since been followed by every state and federal trial and appellate court in the country. A further discussion of the court structure follows later in this chapter.

### CORRECTIONS

The correctional component of the criminal justice system has legal responsibility for the custody, supervision, treatment and punishment of convicted offenders. In New York City and most other places, correctional facilities also serve to hold people confined without bail before and during their trials. These people have been convicted of no crimes and are presumed to be innocent. They are simply being held out of fear that they might otherwise escape.

The correctional phase of criminal justice commences as soon as offenders start to fulfill their sentences, and ends upon successful completion of the sentences imposed by the courts. In addition to actual confinement in prison or jail, sentences may – and usually do – include such *community-based correctional programs* as probation and parole. Criminal sentences have several purposes.

- **Retribution** is designed to punish wrongdoers for what they have done.
- **Deterrence** is designed to prevent crime by convincing people that the costs of committing wrongful acts are greater than the benefits that might be gained from the acts. By punishing people who have already committed crimes, the courts hope to deter them from committing them again. The punishment also sends a message to the general population that crimes are not worthwhile.
- **Incapacitation** involves protecting the community by rendering offenders incapable of repeating their criminal acts. Usually, this consists of putting individuals into places where they can no longer hurt innocent people. Incapacitation is usually achieved by confining prisoners in secure facilities away from the public at-large. Capital punishment is also a form of incapacitation.
- **Rehabilitation** is served by attempts to provide offenders with the treatment or training that might help them to become law-abiding citizens when they have completed their sentences. Programs providing prison inmates education and job skills are examples.

Our corrections systems are organized along several lines, similar to the court system. At the national level, the United States Department of Justice operates the Federal Bureau of Prisons, where persons convicted of violations of federal law are confined. Danbury (Connecticut), Leavenworth (Kansas), and Atlanta (Georgia) are among the best known federal facilities. The correctional institutions run by New York State include *prisons* like Attica, Auburn, Dannemora, and Greenhaven. They hold persons convicted of felonies and serving sentences of one year or more. *Jails*





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are local facilities run by county and state officials. They are used to confine both persons convicted of misdemeanors and those held without bail, pending trial. The major jail operated by the New York City Department of Correction is on Rikers Island.

### THE STRUCTURE OF THE COURTS

**Trial and Appellate Courts.** We have already pointed out that both the state and the federal government operate court systems. Each of these levels of government runs a two-tiered system. **Trial courts** are those that adjudicate cases, and **appellate courts** are those that review the decisions of trial courts.

When trial courts hear criminal cases, prosecutors present the government's evidence against accused persons and defense attorneys attempt to refute it. It is in these trial courts that the decisions about whether defendants have been found "guilty" or "not guilty" are made. A trial may be presented before a judge and a jury or, sometimes at the request of a defendant who fears that he or she cannot find an objective jury, before a judge without a jury (known as a *bench trial*). In rare cases, a trial court may consist of a tribunal of a number of judges.

It is the job of appellate courts to hear appeals from trial court decisions and rulings and to decide whether they are properly based. Take, for example, a defendant who believes that he was convicted of drug possession because a trial court judge made an error in allowing into evidence drugs that had been taken from him in an unreasonable search by the police. If he appeals his conviction, the appellate court's job will be to review the search and to decide whether, as a matter of law, the trial judge made an error in finding that the search was reasonable and that the drugs could be used as evidence. If the appellate court rules that the trial court judge was correct, it will *affirm* the conviction. If the appellate court finds that the trial court judge was wrong to admit the drugs, it will *reverse* the conviction and send the case back to the trial court. When this happens, the prosecutor will have to decide whether she can successfully try the case again without using the search and the evidence obtained from it. In this example, the prosecutor is likely to drop the case because both the drugs and the search that produced them cannot be used in evidence. In only very rare cases, appellate courts may also conduct what are called reviews *de novo*, in which they may decide that trial courts' findings of fact simply were wrong.

In other cases, however, an appellate court reversal does not mean that a defendant walks free. In the famous case of *Miranda v. Arizona*, a conviction was overturned because the evidence used at trial included a confession that was found by the United States Supreme Court – the country's highest appellate court – to have been obtained unreasonably. This case had worked its way through the Arizona court system and got to the federal court because it involved legal questions concerning the U.S. Constitution; the most important issue was whether Miranda's



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confession had been obtained in a way that violated his Fifth Amendment right against self-incrimination. When the Supreme Court ruled that the confession had been obtained unconstitutionally, the case wound up back on the prosecutor's desk. Then the prosecutor had to decide whether to retry Mr. Miranda without using the confession as evidence. Because the police had developed plenty of other evidence against Miranda – the statements of the victim and witnesses, physical evidence – the Arizona prosecutor brought Miranda to trial a second time, and succeeded in convicting him.

**Jurisdiction.** A court's authority to hear a particular case is called jurisdiction, and is based on both geography and law. Most crimes are violations of state law that is enforced by local and state police. The majority of criminal cases are heard in state courts of the state in which the crimes occurred. Typical street crimes such as robbery, rape, homicide and larceny account for most of the arrests made by patrol officers, and are heard within the state system. The federal courts hear cases arising from violation of federal laws, including drug offenses, crimes relating to organized crime (i.e., racketeering) and white-collar crimes (i.e., securities fraud, bank embezzlement).

### THE NEW YORK STATE COURT SYSTEM

The New York State Court System's trial courts are called *courts of original jurisdiction* or *courts of first instance*. This is where trials of criminal offenses and decisions of fact (guilty; not guilty) are made. The courts a police officer will normally encounter are:

1. The New York City Criminal Court
2. The New York State Supreme Court
3. The New York State Family Court

**The New York City Criminal Court.** The N.Y.C. Criminal Court is the busiest of New York State's trial courts. It is a local court, and there is one in each of the City's five boroughs. Criminal Court is empowered to handle only misdemeanor cases.

Almost all criminal cases are initially processed in the Criminal Court. Each person arrested without a warrant in New York City is first brought to Criminal Court for *arraignment*, the initial appearance at which a judge makes a decision regarding whether to release an arrestee on bail and how high bail should be set. In a typical case of an arrest in which a felony is alleged, the Criminal Court also is the scene of a *preliminary hearing*, in which a judge hears the evidence against the defendant, as well as the defense attorney's cross-examination of the prosecutor's witnesses. At the end of the preliminary hearing, the judge decides:



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- Whether there is sufficient evidence to believe that a felony has been committed. When this happens, the judge typically refers the case to the Grand Jury, which hears it and decides whether to issue an *indictment* charging the defendant with a felony; whether to issue an *information* (a charge of a misdemeanor); or whether to issue a *no true bill* (a finding that the Grand Jury has found no reason to proceed with criminal charges). In practice, however, the point in time at which defendants and their lawyers learn that judges are referring their cases to the Grand Jury is usually when *plea negotiations* begin in earnest.
- Whether there is sufficient evidence to believe that the case involves only misdemeanors. In this instance, the case will be set for trial in the Criminal Court.
- Whether to dismiss the case for lack of evidence.

**The New York State Supreme Court.** At the federal level and in most states, the “Supreme Court” is the highest-level appellate court. In New York, however, the Supreme Court is the **major trial court**. It is run by the state, has a branch in each county, and is comprised of both criminal and civil divisions. The criminal division, or *criminal term*, is responsible for the disposition of all felony indictments, so that all felony trials in the state are conducted in the Supreme Court. The Grand Jury is part of the State Supreme Court.

**The New York State Family Court.** The Family Court is also a trial court, with a jurisdiction limited to domestic and juvenile matters. Family Court was established as a special agency for the care and protection of children and the preservation of the family. The goal was to establish a single judicial forum in which almost all family related problems could be heard.

Family Court is given jurisdiction and responsibility for cases involving paternity, juvenile delinquency, custody, adoption, persons in need of supervision (PINS), spousal/child support and special jurisdiction for the protection of children and preservation of the family. Family Court is also given jurisdiction over certain offenses when committed between family members or members sharing a household. Those offenses are: menacing, assault, disorderly conduct, reckless endangerment, aggravated harassment, stalking, and harassment. You are most likely to encounter the Family Court when you take children into custody who have committed acts that would be considered crimes if they were adults.

### NEW YORK STATE APPELLATE COURTS

New York State has two levels of appellate court. Appeals from decisions made in Supreme Court trials generally are heard in the **Appellate Division** courts. Although the Appellate Division is staffed by judges from the Supreme Court, it hears no trials. Instead, lawyers for both sides submit papers summarizing their



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arguments and, if appellate courts agree to hear their cases, they appear before panels of judges to present oral arguments.

The highest court in the state is the **New York State Court of Appeals**, which hears appeals from Appellate Division decisions and, on occasion, directly from Supreme Court trial decisions. Working within the New York State Constitution and other statutes, the Court of Appeals makes the rules for New York State court proceedings. The Court of Appeals is located in Albany, New York.

Neither the Appellate Division nor the Court of Appeals has the power to try or retry cases. Appellate courts have the authority to reverse convictions or to remand cases back to the lower courts for retrial or other remedial action. An appeal is based on the contention that one or more errors of law were made during the criminal justice process, not on the defendant's guilt or innocence.

### THE UNITED STATES SUPREME COURT

The United States Supreme Court is the highest court in the federal court system and the highest court in the United States. The primary task of the Supreme Court is to hear appeals from the highest state courts and the lower federal courts, and to determine whether the cases and decisions involved include violations of the United States Constitution. The volume of cases appealed to the Supreme Court is enormous. Therefore, the court must pick and choose those cases that involve constitutional questions it wishes to resolve and/or critical social issues. The Supreme Court is the most influential judicial tribunal in the world: its clearest responsibilities are to uphold and enforce the U.S. Constitution and to ensure laws passed by Congress are consistent with the Constitution.



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### SUMMARY: COURT STRUCTURE AND HIERARCHY

#### APPELLATE COURTS

##### UNITED STATES SUPREME COURT

- Highest court in the United States
- Hears appeals from N.Y.S. Court of Appeals and Lower Federal Courts
- Rules on Constitutional issues
- Its decisions are the binding, nationwide case law

##### NEW YORK STATE COURT OF APPEALS

- Highest court in New York State
- Hears appeals from N.Y.S. Trial Courts, usually after they have also been heard by the Appellate Division

#### NEW YORK STATE TRIAL COURTS

##### NEW YORK STATE SUPREME COURT

- Conducts Grand Jury hearings and trials for felony cases.
- Located in each county of New York State

##### NEW YORK STATE FAMILY COURT

- Paternity
- Juvenile Delinquents
- Custody
- Adoptions
- Persons in Need of Supervision (PINS)
- Spousal/Child Support
- Family Court Act offenses when concurrent jurisdiction applies
- Located in each county of New York

##### NEW YORK CITY CRIMINAL COURT

- Initial arraignments for summary arrests for violations, misdemeanors, and felonies



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- Lowest trial court: misdemeanors and violations only
- Preliminary hearings for felonies
- Located in Each Borough of New York City

### THE CRIMINAL JUSTICE PROCESS

The criminal justice process involves the cooperation and interaction of all four components of the system. This is not always easy because the goals and missions of the different components of the system often conflict and compete with one another, and vary according to their occupation. There are three basic criminal justice occupations. The first is **police officers**, including those who are responsible for apprehending offenders, and the uniformed corrections officers who are responsible for criminals' custody after they have been placed in jails or prisons. The second occupation is **lawyers**, which includes prosecutors, defense attorneys, and judges. The members of the third occupation are **social workers** who work as youth, family, and prison counselors, and therapists. Probation and parole officers combine law enforcement and social work – in New York State, many probation and parole officers have been trained as social workers and do much counseling, but all are classified as *peace officers*.

These conflicting professional ideologies and orientations sometimes cause individuals who work in the system to lose sight of its overall goals. The system is not intended to put offenders behind bars at any cost. Nor is it intended to allow the guilty to manipulate witnesses and evidence so that they might walk free. The system has two purposes: it is intended to prevent and to control crime while affording due process and all constitutional rights to accused persons.

Because almost all accused persons enter the system when the police arrest them, the system could not work effectively without the police. The responsibilities of the police do not end when the individual is arrested. The police officer has a duty to continue to assist the other agencies in the system by carefully reporting the facts, helping the District Attorney to identify all the evidence (including that which might indicate an accused person's innocence); securing witnesses; and testifying in court.

### STEPS IN THE CRIMINAL JUSTICE PROCESS

For the purposes of the following discussion, think of the person accused of a crime as the criminal justice system's *client*. As clients go through the system, their status changes from *suspect*, to *defendant*, to *convict*. As they pass through the system, they may be released at any point when the evidence becomes insufficient.

Imagine the following case: an officer has been told that an automobile has just been stolen. He sees it being driven down the street. He stops it and determines that its driver is not its owner. He arrests the driver who protests that he had borrowed the car from its female owner, named Jane. The official records



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indicate that the owner is a man with a different last name. In this case, the arrest is legitimate, because **probable cause** existed when it was made. There was sufficient evidence to create reasonable cause to believe that a crime was committed and that a particular individual (the driver) committed it. Now suppose that it later turns out that the man arrested was a co-worker of the registered owner's wife, Jane. Without the registered owner's knowledge, his wife had loaned the car to the man who had been caught driving it. Our probable cause has disappeared.

After the arrest and when the arresting officer had heard *all* these facts, she would **immediately** have to take steps to have the arrestee released: we have no authority to hold an arrestee in custody once we have learned that probable cause no longer exists. The withdrawal of the case does not make the arrest *wrong*. It would simply mean that, upon a more careful look, the probable cause that existed at the time of the arrest had disappeared. Similarly, cases may be dismissed or result in findings of not guilty because additional evidence reveals that defendants are not guilty beyond a reasonable doubt. The point is that, at each stage in the system, decisions that affect the client and the outcome of the case are made. These decisions determine whether a case ends then and there or proceeds further through the system.

The following 12 steps describe what happens to felony cases, from initial investigation to sentencing. Misdemeanor cases are slightly less elaborate:

1. INVESTIGATION
2. ARREST
3. STATION HOUSE PROCESSING
4. CENTRAL BOOKING
5. PREPARATION OF COMPLAINT WITH DISTRICT ATTORNEY
6. ARRAIGNMENT
7. PRELIMINARY HEARING
8. GRAND JURY
9. SUPREME COURT— REARRAIGNMENT ON INDICTMENT
10. PRE-TRIAL (OR SUPPRESSION) HEARINGS
11. TRIAL
12. SENTENCING

1. **Investigation.** The purpose of criminal investigation is to legally gather evidence that will aid in identifying, arresting, and convicting persons who have committed crimes. Sometimes, investigating and closing a particular crime is a simple process: officers respond to a call of a burglary in progress in a vacationing family's home, find a person inside the home; determine that the person's pockets are full of the residents' valuable jewelry; and that most of the rest of the family's valuables have been stacked up near a backdoor that has been forced open. The officers contact the family, and determine that the person has not been authorized to enter the home. The officers call the Crime Scene Unit, whose investigators find the



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suspect's fingerprints all over the family's valuables, the bag, the door that was forced open, and the tool that was used to force it open. Investigations of other crimes may be far more complex. In all cases, however, officers and investigators should use all the resources available to investigate crimes as thoroughly as possible and to bring to District Attorneys cases that are as strong as possible.

Unfortunately, we sometimes are denied the opportunity to investigate crimes because we never learn of them. This occasionally occurs because crime victims themselves do not know that they have been victimized, as often is the case with offenses such as frauds, computer crimes, shoplifting, and thefts by employees. In other cases, however, we do not learn of crimes because victims do not report them to the police. There are a number of reasons for this:

- Some victims do not believe that the police are capable of solving the crimes against them, so that they do not take the time to file reports.
- Others believe that, even if the police solve crimes, the persons who commit them are not likely to be punished sufficiently.
- Others are embarrassed by the crime or the circumstances in which it occurs. Many victims of rape and sex crimes fall into this category. So do victims who are not so innocent: con game victims often are cheated when they believe that they are cheating somebody themselves. Drug dealers or gamblers who are robbed also fall into this category.
- Others are unable to acknowledge that the acts that hurt them are crimes. This is often true of victims of domestic violence; acquaintance rapes; and crimes between friends, like barroom assaults.
- Sometimes, rather than bring the police into these matters, they prefer to settle the matters themselves.

It is in everybody's interest that crime be reported. If we do not learn about a crime against one person, we have no way to prevent the offender from acting again against the same individual or against others. Nor can we assure that the offender does not become a victim of private revenge. We can encourage people to report crimes by educating the public about the need to do so. We can also encourage them by demonstrating our interest and our effectiveness at apprehending offenders.

**2. Arrest.** An arrest occurs when the police take an individual into custody in a lawful manner for the purpose of holding them or detaining the individual to answer a criminal charge. Arrests may be accomplished in one of two ways. The first type of arrest occurs under the authority of an **arrest warrant**. An arrest warrant is an order based on probable cause, signed by a judge directing the police to take a person into custody. Warrants often are issued after grand juries indict individuals. The





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second type - most frequently used by police officers - is known as a **summary arrest**. A summary arrest is made without an arrest warrant. Instead, it is based on probable cause, established by the police officer, that a crime has been committed and that the suspect committed it. This usually occurs when a police officer witnesses a crime or, after an investigation, concludes that an individual committed a crime. But, regardless of whether an arrest is made with or without a warrant, it must be based upon probable cause.

**3. Stationhouse Processing.** Once an individual is lawfully arrested, he is brought to the station house of the precinct in which he was arrested for processing. The arresting officer will inform the desk officer of the charges against the individual, and prepare all the necessary reports, including the On Line Booking System Arrest Report Worksheet, Omniform, and Property Clerk Invoices, as necessary. The prisoner will also have his fingerprints entered in the Livescan fingerprint imaging system for verification of identity. Any required notifications are also made at this time.

A prisoner may be released from the station house under certain circumstances. In most cases of an arrest for a misdemeanor or petty offense arrest, a Desk Appearance Ticket (DAT) may be issued in lieu of detention. However, DAT's are only issued when there is no flight risk. The police must also be satisfied that the arrestee has been properly identified. A DAT directs the suspect to appear in court for arraignment at a date in the future. In addition, a person arrested on a misdemeanor or petty offense may be released on station house bail.

DAT's and station house bail generally benefit everybody. They are beneficial to arrestees who would otherwise have to spend time in jail before appearing in court. They are also beneficial for the police and corrections departments who would otherwise have to safeguard, house, and transport these arrestees. Courts also benefit because it makes their schedules more predictable. This procedure is codified in the N.Y.S. Criminal Procedure Law Article 150.

**4. Central Booking.** After all forms have been completed and notifications have been made, prisoners are transported from local station houses to Central Booking facilities. These are located at each borough's Criminal Court, which is where arrestees are held until their initial court appearances. Despite their courthouse locations, Central Booking facilities are operated by the NYPD, which takes official Department computer imaging photographs when prisoners enter. Even though they have already come this far, prisoners also are eligible for DAT's or release on bail while at Central Booking.

**5. Preparation of Complaint with District Attorney.** Once a prisoner is processed at the station house, the arresting officer is responsible for contacting the Assistant District Attorney (ADA) on duty to receive and review cases in the DA's Intake Unit or Early Case Assessment Bureau (ECAB). At this point, the arresting



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officer describes the circumstances, and the ADA prepares the accusatory instrument that is required to arraign the defendant. The ADA interviews the arresting officer and may interview civilian complainants or witnesses to determine the appropriate charges to be brought against the defendant. The ADA may change the charges or even decline to prosecute an arrest based on the facts of the incident that led to the arrest. Whenever an ADA declines prosecution, the prisoner must be released immediately.

**6. Arraignment.** In New York City, a defendant's first court appearance is known as arraignment. In criminal justice and law books, arraignment is described as "*initial appearance*" or "*bail setting*," the names by which it is known in many other states. In most cases, arraignment occurs in the N.Y.C. Criminal Court. It is possible, however, for a defendant to be indicted by the Grand Jury without knowing about it, prior to an arrest. In such cases, arraignment occurs in the N.Y.S. Supreme Court.

The purpose of arraignment is to officially inform defendants of the specific charges being brought against them. Note that arresting officers also are required by C.P.L. Section 140.15 to inform persons arrested of the reasons for the arrest as soon as it is practical to do so. During the initial appearance in court, defendants also are informed of the right to be represented by counsel at both the initial appearance and at every subsequent *critical stage* of the court proceeding. Critical stages, the courts have ruled, are those that have a *substantial impact on the outcome of the case*. In simpler terms, these are points in the process at which the defendant's fate – guilt or innocence or the nature and length of any sentence – may be determined. This includes any court hearing, but excludes Grand Jury proceedings, which serve only to determine whether and what charges will be brought.

At the initial appearance, the defendant also is informed:

- Of the right to remain silent.
- That, if he or she cannot afford an attorney, the court will provide one without cost.

Note that these are basically the *Miranda* advisements that are provided to defendants by police prior to interrogations. Indeed, *Miranda* might be viewed as the Supreme Court's way of correcting the odd situation that had previously existed. What sense does it make, the Supreme Court asked in its *Miranda* opinion, to tell a defendant in court that he can remain silent and have an attorney furnished if the police have obtained a confession before he was told this? Unless defendants are told as soon as they are taken into custody that they have these rights, any warnings in court may come too late to be meaningful. Therefore, the Supreme Court concluded, the police should be required to give this advice before they interrogate persons in custody.



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At arraignments, bail or other conditions of pre-trial release may also be set. This first court appearance may also be used to conduct brief trials for petty offenses, such as disorderly conduct, where many defendants may wish to plead guilty, pay a fine, and end their court involvement quickly.

It is also at this point in the process that plea negotiations, or **plea-bargaining**, may become an issue. At any time prior to conviction, defendants and prosecutors may avoid trial by negotiating guilty pleas to lesser charges and/or for sentences less than what might otherwise be handed down. The plea bargain system has a bad reputation, but it is essential to the operation of the criminal justice system. Plea-bargaining accounts for more than 90 percent of all case dispositions in New York State. If every person arrested were to receive a trial, no progress would be made in disposal of cases. Imagine how often citizens would be called to jury duty, for example, if the number of criminal trials in New York City were suddenly multiplied by ten. Besides, the criminal plea negotiation system is very much like what happens to the great majority of civil cases that go to court. The great majority of these cases are resolved by *pre-trial settlements*, the civil courts' equivalent of the criminal courts' negotiated guilty pleas.

In addition, prosecutors sometimes are willing to engage in plea-bargaining because of weaknesses in their cases. Take, for example, a defendant who has been arrested and charged with Robbery in the 1st Degree, Criminal Possession of a Weapon, and Grand Larceny. These are very serious charges. If the Assistant District Attorney (ADA) sees a possibility that the search conducted by the arresting officer - which resulted in the recovery of a gun - would be ruled improper, he may be willing to engage in bargaining. The ADA does not want to go to trial because she is concerned that questionable search may raise doubts in the jury's mind about the credibility of the arresting officer. The case might then be lost. To avoid this, the ADA might agree to accept a plea of guilty to the Robbery charge alone. This probably would be welcomed by the defendant and his attorney who have no way to know in advance how the jury might be affected by the officer's testimony concerning the search. Therefore, rather than risk a conviction for everything, the defendant pleads guilty to the robbery charge alone. This is acceptable to the ADA, because she does not want to risk losing everything.

**7. Preliminary Hearing.** As indicated above, felony cases usually involve preliminary hearings, conducted to determine whether there is sufficient evidence to present a case to a Grand Jury. Preliminary hearings normally are conducted in the N.Y.C. Criminal Court, where defendants have the absolute right to be represented by attorneys. Defendants also have the right to challenge the evidence and to cross-examine witnesses. Preliminary hearings may be considered *mini-trials* and, unlike the Grand Jury, are open to the public. Defendants may, however, waive their right to a preliminary hearing and have their cases proceed directly to the Grand Jury.



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**8. Grand Jury.** After arraignment and preliminary hearings, felony cases will proceed to N.Y.S. Supreme Court for Grand Jury proceedings. The Grand Jury must listen to evidence presented by the ADA and determine whether probable cause exists to believe that defendants committed the crimes they are accused of having committed. In the case of the Grand Jury, the operating definition of probable cause usually is: *evidence that is legally sufficient to establish that the accused committed the offense, and there is competent and admissible evidence providing reasonable cause.* A quorum of 16 grand jurors must be present to vote on whether to issue a *true bill* (a felony indictment or misdemeanor information) or to find *no true bill*. A true bill vote requires at least 12 jurors (the majority of the full 23-member Grand Jury) to determine that probable cause does exist.

In certain cases, a suspect may not have been arrested for a crime prior to indictment. Instead, after investigation but before arrest, the facts of the case may be presented to a Grand Jury. If an indictment is made, a person may then be arrested on an arrest warrant and be arraigned directly in the N.Y.S. Supreme Court on a felony charge, or in the N.Y.C. Criminal Court on a misdemeanor charge.

The Grand Jury proceeding is a closed or secret process (that is, the public is not permitted to be present). Defendants who decide to testify before a Grand Jury, may do so only if they surrender their right of immunity from prosecution on matters to which they testify. New York law permits an attorney for a witness, including a defendant, to be present in the Grand Jury room if the witness has waived immunity. An attorney who is present may not take part in the proceeding but may advise the witness.

*The Grand Jury proceeding is neither a trial nor a critical stage, and an indictment does not change the presumption of innocence until proven guilty.* The proceeding serves as a filter to determine whether a case merits further prosecution. It also safeguards individuals from unjust government prosecution. In New York, a defendant must be indicted before a felony trial may begin, unless the defendant formally agrees, in writing before an open court with their attorney present, that their case should not go before the Grand Jury. This waiver is not effective until the court accepts it.

**9. Re-arraignment on Indictment.** Once defendants are indicted on felony charges, they are re-arraigned in N.Y.S. Supreme Court. If only misdemeanor charges come out of a Grand Jury proceeding, defendants are re-arraigned in N.Y.C. Criminal Court, and are also tried there. Once indicted, defendants are so advised, and previously set bail may be adjusted depending on the seriousness of the charges. If an indictment is not handed down, the case usually is dismissed but may be kept alive pending the receipt of additional evidence.



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**10. Pre-Trial (Suppression) Hearing.** Pretrial hearings, also known as evidence suppression hearings, are conducted in both the N.Y.C. Criminal Court and N.Y.S. Supreme Court. Their formal purpose is “to consider such matters as will promote a fair and expeditious trial.” In plain English, most pretrial hearings are held to determine whether evidence to be submitted at trial was obtained in accordance with the Constitution and relevant case law.

- **Mapp** hearings are those that determine the admissibility of physical evidence (like drugs, weapons, and stolen goods) obtained during searches.
- **Huntley** hearings determine the admissibility of confessions and admissions.
- **Wade-Gilbert-Stovell** hearings determine the fairness and admissibility of eyewitness identifications.

**11. Trial.** Felony trial, which may result in sentences to state prison, are conducted in N.Y.S. Supreme Court, while misdemeanor trials, which can result only in sentences to local jails, are conducted in the local N.Y.C. Criminal Court. Trials for petty offenses such as disorderly conduct are held in N.Y.C. Criminal Court, while proceedings involving traffic infractions take place in the Traffic Violations Bureau.

**12. Sentencing.** If found guilty, defendants may be fined, placed on probation, sent to prison or jail, or in the case of Murder 1°, sentenced to death. Defendants who are placed on probation are supervised for a certain period of time. They are also required to comply with certain restrictions placed on them (for example, to make restitution; to stay away from certain people or areas). If they violate the conditions of their probation, they may be sent to prison to serve their original sentence.

It's important to note that probation and parole are not the same. Probation is a judicial sentence handed down in place of imprisonment. Parole comes at the end of a prison sentence. Many persons who spend less than their maximum sentences in prison serve out the remainder of their sentences on parole. Take, for example, a person who is sentenced to the custody of the state correctional authorities for a maximum of ten years. If, at the end of eight years, he is found to have acted in prison in ways that deserve early release, he may be released on parole. If this occurs, he will be free in the community but will be subject to some detailed parole conditions (e.g., work steadily; don't go back to the old neighborhood; do not drink; do not associate with criminals or ex-convicts; be home at midnight every night; report to a parole officer at specified intervals; allow the parole officer to make unannounced visits and examinations of the home).



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### QUESTIONS

1. Name the four (4) parts of the Criminal Justice System.

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2. A defendant's first appearance in court after a lawful arrest is known as:

- a. A Trial
- b. A Hearing
- c. A Summons
- d. A Sentencing
- e. An Arraignment

3. In which court does arraignment take place for all summary arrests that occur in New York City?

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4. In the State of New York (which includes New York City), all trials for felony offenses are held in which court?

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5. In New York City, trials for misdemeanors are held in which court?

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6. What are the purposes of preliminary hearings?

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7. List the reasons why a Desk Appearance Ticket (DAT) is generally beneficial to all parties concerned.

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8. In New York State, including New York City, in order for a felony trial to begin, a defendant must usually be \_\_\_\_\_ by the Grand Jury.

- a. Summoned
- b. Charged
- c. Arrested
- d. Arraigned
- e. Indicted

9. Name and describe the purposes of the Grand Jury.

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10. Name and describe the purpose of the Criminal Justice System.

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### *Acknowledgment*

The Police Academy is extremely grateful to Susan R. Petito, the NYPD's Assistant Commissioner for Intergovernmental Affairs. Her comments and insights on this chapter were invaluable.



# POLICE STUDENT'S GUIDE

## Policing a Multicultural Society

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT MULTICULTURALISM?

New York City is composed of a vast array of people of diverse ethnic, racial, cultural and class backgrounds. As a police officer, you will be in a unique position to learn the ways of life of these different populations. Not only can this be personally enriching, it is also essential to your work.

As you read this chapter and begin to learn the basics of policing a multicultural society, keep in mind the following: ***Regardless of who people are, where they may have come from, how long they have been here, what they believe, the language they speak, their sexual preference, or their membership in any other category, we owe them all the same thing: we are obliged to treat everyone with courtesy, professionalism, and respect.***

In order to effectively police a city composed of individuals from many cultures, it is critical that you become aware of and sensitive to the differences among these New Yorkers. Individuals assign different meaning to verbal and non-verbal behaviors, depending on their cultural background. What is normal behavior in one cultural group may seem inappropriate to another. Words and gestures that are innocuous from the perspective of one social group may be seen as disrespectful, obscene, or threatening to another.

It is therefore essential that you develop skills in cross-cultural communication. Only then will you be able to accurately interpret behavior, gain the cooperation of the people you serve, avert violence, and avoid making costly mistakes. ***Cultural competence*** is the ability to effectively communicate with individuals whose background is different from your own. It is absolutely critical to your performance on the street, and may someday even save your life or the life of an innocent person.

Cultural competence requires that you abandon certain taken-for-granted notions and see the world in a new way. You can begin by acknowledging that your cultural experience influences your perception and interpretation of the world around you. From there, you can explore the possibility that people from other societies have alternative understandings of social reality which relate to their cultural backgrounds and experiences. You can then begin to address the specific beliefs and values that govern the behavior of particular social groups and develop ways to communicate cross-culturally.

This chapter provides some of the background knowledge that will help you to develop cultural competence. We begin by providing a brief history of





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immigration in the United States which should address any misconceptions you have regarding any one group's right to live on U.S. soil. We go on to introduce some basic concepts that will help you develop cultural awareness and overcome the biases that inevitably accompany being a member of any social group. Some general principles of cross-cultural communication are then discussed with reference to relevant examples from different ethnic communities.

We also want to make you aware of another phenomenon. Wherever you work, many – if not most – of the people you meet while responding to 911 calls and other requests for assistance will be in trouble. Some of these will be people who have done wrong, like traffic violators, offenders, and people clearly on the wrong side of disputes. Rarely will these people be happy to see you, and many are likely to let you know how they feel. Others will be people who have had a wrong done to them, like crime and accident victims. While they may be glad to see you show up, they will not be happy about the circumstances that caused you to come to the scene. After a period of exposure to such situations, some officers unfortunately begin to develop the sense that **all** the people in the area in which they work are nothing but trouble. When many of these people look or sound different from these officers, they may begin to believe that the troublesome behavior of a few is characteristic of everyone in the relevant cultural group. Stereotyping results and the officers assume all individuals affiliated with the group *are nothing but trouble; they can't solve their own problems; and on and on*. When such a stereotype develops, it follows that the people who are its victims come to be viewed as second-class. Once people acquire such a label, it becomes easier to justify giving them inferior treatment with the result that these members of our community do not receive the professional help and service they deserve. If you are to succeed in a police career, you must recognize and respect the differences between the various cultural groups who compose this City's various communities. You must also recognize that problematic behavior on the part of the few individuals you meet does not reflect the norms, values, and actions of everyone in the relevant cultural group. As police officers, you must treat everybody as an individual, with all the courtesy, professionalism, and respect you would expect if you were in their shoes.

Keep in mind that reading this chapter is only the first stage in the development of your ability to effectively police in a multicultural environment. Your skills will be refined in the context of the particular communities that populate the area where you are assigned. Be sure to read the newspapers published by every community. They will provide detailed information regarding important issues and activities that are also relevant to you. Every time you move from one precinct or command to another, you will further expand your



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## Policing a Multicultural Society

knowledge of ethnic diversity. The development of cultural competence is thus an ongoing process that will continue throughout your career as a police officer.

### CULTURE AND ACCULTURATION

**Culture** may be defined as the beliefs, values, and patterns of thinking, behavior and customs that are shared by a group and have been passed from generation to generation. Culture is learned in early childhood and becomes part of a person's subconscious, mediating our attitudes and behavior in ways that usually are outside our awareness. Without our even realizing it, our cultures affect nearly everything we do, say, or think. At the same time that culture is deeply ingrained in our consciousness, it is rarely stagnant. Cultural beliefs and behaviors frequently undergo change in the context of new experiences that teach people alternative ways of perceiving and interpreting the world. A new immigrant family (to New York City), for example, may share some but not other values and norms with relatives who have been in New York City a generation or more.

**Acculturation** is the process by which members of one culture become integrated into another. It involves *resocialization*, which is the learning of new cultural values and ways of looking at the world. All immigrant groups to the U.S. accommodate and adapt to their new world in some way. However, not all choose to completely adopt the norms and values of the mainstream American culture. Some prefer to live in familiar communities where they can share their lives with people who understand them. In an effort to better survive a new and different world, individuals may even strengthen their identification with the traditional lifestyles and values of their countries of origin.

Immigrant communities are constituted in ways which can contribute to the reproduction of traditional norms and values. In order to work and live in the U.S., most immigrants are required to prove they have access to jobs and can support themselves. Newcomers are thus usually sponsored by relatives and friends who can provide work opportunities and temporary or permanent housing. The result is that many of the immigrants who share a neighborhood in the U.S. often come from the same town, region, or state as their predecessors and share similar ways of looking at the world.

Remember, acculturation is not a one-way street in which the immigrant group adopts the norms, values, and behaviors of the mainstream population. Frequently it involves an exchange as aspects of the immigrant culture begin to



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## Policing a Multicultural Society

infuse that of surrounding groups. Think, for example, about how much commonly used slang comes from immigrant communities.

### Feeling at Home in an Alien Environment

Maintaining a strong affiliation with members of their native culture allows immigrant groups to feel more at home and less like aliens in a strange world. The same pattern is practiced among the majority of Americans who move to other countries, such as Nicaragua, Guatemala and Costa Rica. Some of these people attempt to learn Spanish; others don't. Almost all live in American ex-patriot communities and socialize with other Americans with whom they share a familiar cultural world.

Immigrants who leave their communities and come to the U.S. without their families may experience an increased sense of loneliness and alienation from mainstream American customs. This is the case, for example, among some of the West African traders who have come to New York to work to support families who are living abroad. For West Africans, the ethnic group forms the base for unity and survival. This is by no means a new phenomenon or something unique to African, Asian, Arab, or Hispanic immigrant groups. In generations past, immigrants from Ireland, Italy, Greece, Germany, Eastern Europe, and Scandinavia settled in particular parts of the City that have long been identified with their groups.

For new immigrants as well as old, the source of identity is the *we* of the family and community, and not the *I* or the *me* as is common among mainstream Americans. Without the *we*, a West African individual is likely to feel incomplete as a person, leading to feelings of sadness and confusion. Efforts to minimize the resultant isolation include taking a wife in the United States, living in *vertical villages* (high-rises) shared by other Western Africans and increased involvement in religious activity (usually the Muslim community).

How individuals from different cultures define themselves is important for police officers to know, not simply because it helps you understand the difficulties inherent in adapting to a new world. It's also important because it can tell you something about who you should approach when you need to get information regarding important police matters. Among West African groups, for example, the community may be a more important unit than the individual.

Police officers seeking to solve a crime or trying to gather intelligence in a West African community would be well advised to identify and contact the **headman**, a major figure in these communities, or other recognized leader



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before plunging headlong into certain types of situations. This leader will have the trust of the community and will be able to find out what is going on in the neighborhood. In contrast, among mainstream Americans, where individualism is prominent, community leaders generally do not enjoy the same sense of trust and responsibility, and would not have the same access to information regarding what is happening among their constituency.

### **Ethnocentrism**

Ethnocentrism is the belief that one's own cultural values, beliefs and practices are more natural than and superior to those of another culture. It involves seeing and judging other cultures from our own cultural point of view. Ethnocentrism is part of every culture. If you were born and raised in the United States, you may find it strange that most people in India regard the cow as a sacred animal and forego using it as a source of food. On the other hand, if you were born and raised in India, you might be surprised at the use of cows in the United States for food, clothing and other consumer goods.

Ethnocentric attitudes can result in prejudice and hostility towards different racial, ethnic or cultural groups. Avoiding ethnocentrism does not mean you must agree with the values and practices of all groups and cultures. It does mean that you should recognize, understand, and respect different cultural norms and beliefs when you try to communicate with people whose background is different from yours. Failure to do so can result in misunderstandings, inaccurate reporting, and misguided investigations. In extreme cases, there may even be fatal results.

An example is provided by Robert Shusta and his colleagues in their book, *Multicultural Law Enforcement*. A young Vietnamese boy had been absent from school as a result of a serious respiratory problem. Believing that the native healing practice of "coining" would solve the problem, his father rubbed heated coins on his neck, resulting in bruising. When he returned to school, the teacher reported the bruises to the police who interviewed the father. In halting English, he told them that he had caused the bruising.

The police arrested the father on charges related to child abuse. The son died some time after the coining stopped. Devastated and feeling responsible because he had not saved his son, the father killed himself in jail. The death of the son is neither the fault of the police nor the father. From the cultural perspective of the individuals in both cultural groups, they were doing the right



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thing. Nevertheless, at least one life might have been saved had the police understood that the father acted in the best way he knew to protect rather than harm his son.

Similar problems can result when there are language differences that effect interpretation. Refer to the example provided in the chapter on *Policing Impartially* in which a Spanish-speaking father was arrested after he admitted that he “molested” his daughter. **Molestar** means “to bother” in Spanish. The man had merely admitted to annoying his daughter, an activity that most parents of adolescent children seem to do fairly regularly, regardless of how sensitive they may be.

The examples of cultural misunderstandings cited above seem obvious once they are brought to light. However, many miscommunications are subtle, leading to a quiet erosion of trust between the police and the community and undermining the good intentions of both parties. Let's take the example of lying. When you go on patrol, you will learn that *truth is an odd construction*. Police officers who are involved in an incident like a shooting, for example, often develop what's called *tunnel vision* and only recall selected parts of the events. Indeed, even a deafening sound, such as a shot from an officer's own gun, may not be perceived at all. When the officers later truthfully try to reconstruct what they saw and experienced, their account may differ somewhat from another truthful witness who observed the event from a different perspective or place in the room. The same may be true for other types of accounts told by citizens with the result that, at times, a skillful lie may appear more accurate than the truth. An objective eye, like a television camera, would obviously record a more complete version of events, although they too would be somewhat selective, depending on its position in the room or what the person behind the camera decided to tape. While the most accurate account of what occurred would be recorded by cameras which captured every angle, even those images are subject to different interpretations by the people who see the film.

As police officers, your experience with people will help you develop a reasonable level of expertise in sorting out the truth. However, it is important to keep an open mind as even an expert may sometimes be wrong. Cultural issues, for example, can further complicate the matter, as rules pertaining to whether and how much of the truth should be told to the police may vary from one culture to another.

In some societies, in which lying to officials is culturally unacceptable, police will rarely be told untruths. People from some other societies, however, come from places in which they suffered great oppression and deprivation in



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which the police played a major part. In such places, people learn early that there is little to gain and much to lose by trusting the police or by telling them the truth. It should not be surprising; therefore, that such peoples' loyalty is likely to lie with their relatives, friends, and neighbors rather than with the police who have helped to keep them in their places. Nor should it be surprising that this habit and norm does not change at the moment that immigrants hit the ground in New York. No matter how friendly, trustworthy, and helpful we may try to be, habits and traditions learned during a lifetime of oppression do not die easily.

Even setting aside cultural norms about dealing with the police and officials, we must be aware that truth is a cultural construction filled with unconscious blind spots and inconsistencies which sometimes make it appear more fantastic than a well-planned lie. Conversely, a well-planned lie may seem so logical and complete that it sounds more believable than the truth. Police should keep cultural background in mind when they try to resolve situations, particularly those involving contradictory accounts. Although an individual's cultural background will not provide definitive answers regarding the reliability of information, it can serve as a guideline for interpreting what is said.

*The cultures are different. We all know that. In West Africa, you don't lie. It's just not what we do. Some police will take the other person's side because he makes up this story. We just say it like it happened.*

- A West African immigrant  
from the Ivory Coast

### PATTERNS OF IMMIGRATION TO THE UNITED STATES

Immigration is not new in the United States. With the exception of Native Americans who are indigenous here, every one of you is related to someone from another country. Ironically, the unwelcome words with which some people greet members of the new immigrant populations echo precisely what others once said about these people's ancestors, grandparents, or parents when they came to the U.S. Two groups of people who compose large parts of New York City's population are not considered immigrants. While most Europeans and Asians who came to this country did so as a matter of choice, in order to seek greater opportunity and freedom, African Americans were brought here in chains, as slaves, and had no say in the decision to leave their native lands. Instead, they were kidnapped by slave traders and were brought here as property, rather than people. The second group consists of Puerto Ricans who came here as citizens when their native land was made a commonwealth, and formal part of



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the United States. Puerto Ricans are thus not immigrants because they moved only from one part of the United States to another.

Patterns of immigration have changed historically, depending on shifts in the world political economy and transformations in the U.S. immigration laws that generally reflect the social and economic interests of powerful groups. Beginning with the Chinese Exclusion Act of 1882, the laws have favored European immigrants and limited the numbers of Asians, Africans, and Latin Americans. This favoritism ended in 1965 when quota systems were changed to allow immigration for all countries. The table below highlights some of the laws that profoundly structured patterns of immigration to the U.S.

- |   |
|---|
| <p><b>1882:</b> <i>The Chinese Exclusion Act of 1882 prohibited the immigration of Chinese laborers into the United States for ten years.</i></p> <p><b>1917:</b> <i>The Jones Act was passed, granting citizenship to Puerto Ricans and extending to them some of the protections of the Bill of Rights.</i></p> <p><b>1924:</b> <i>Immigration Act limited number of non-European immigrants.</i></p> <p><b>1940:</b> <i>Chinese Exclusion Act repealed, and limits on Chinese immigration were lifted.</i></p> <p><b>1948:</b> <i>Under The Displaced Persons Act, the United States accepted more than 395,000 refugees from war-torn European nations.</i></p> <p><b>1951:</b> <i>Puerto Rico officially became a Commonwealth with its own constitution.</i></p> <p><b>1952:</b> <i>Under the McCarran-Walter Act, quotas were placed on immigration. The total quota for Asia was 2,990 - compared with 149,667 for Europe and 1,400 for Africa.</i></p> <p><b>1965:</b> <i>The Immigration Act of 1965 changed the quota system to allow Immigration from all countries into America. Ceilings of 120,000 from eastern and 170,000 from western hemispheres were established. Mexican, Cuban, Filipino, Italian and Taiwanese immigrants then began to enter the United States.</i></p> <p><b>1980:</b> <i>The Refugee Act, allowing ten million permanent immigrants to be admitted to the United States.</i></p> <p><b>1990:</b> <i>Immigration Act – The number of immigrants allowed into the US per year was increased to 700,000.</i></p> |
|---|



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The first immigrants to the United States came mostly from Western Europe including England, Germany, and Russia. The Chinese followed in the 1850s during the Gold Rush, and, a few years later, helped to build the railroads. The Japanese, as well as substantial numbers of laborers from the Philippines, arrived forty years later.

The first and last parts of the twentieth century were characterized by particularly high levels of immigration to the United States. As dictated by law, 92 percent of this population in the first decade came from Europe, including Ireland and Italy. Since World War II, the numbers have increased every ten years, going from 2.5 million to 7.3 million between 1951 and 1960.

Most of the Puerto Ricans who have settled in New York and other parts of the mainland U.S. came here during the first decade of commonwealth status, 1950-1960. This occurred as a result of the unique status Puerto Rico has in relation to the U.S. Since Puerto Rico was made a commonwealth in 1951, its population has received citizen status, creating an exchange of cultures and peoples that have benefited both Puerto Rico and the mainland. By 1960, there were 613,000 Puerto Ricans in New York alone.

A sizable number of Cubans arrived in New York in the early 1960s to escape the revolution. In general, this original large group of Cuban immigrants differs substantially from other Hispanic and Latino immigrant groups. This first was composed of persons who fled Castro's communist revolution and were disproportionately conservative, middle and upper middle class. About 20 years after the Cuban Revolution, a new wave of Cuban immigrants came to the United States. These later immigrants tend to view the world rather differently than their predecessors. Having left their country as a result of poor economic conditions and lack of educational and job opportunities, these immigrants tend to be less conservative politically.

Since the Immigration Act of 1965 opened up doors to members of non-European nations to emigrate to the U.S., new populations have begun to arrive from countries in Asia, the Caribbean and Latin America. By the 1970s, these immigrant populations composed about 18 percent of the total. The numbers have expanded in the years that followed, so that they measured more than 33 percent by 1998.

From 1970–1990, natives of the Dominican Republic were the largest immigrant group to New York City and continue to be prominent. Others include Chinese, Koreans, Haitians, Jamaicans, Mexicans, El Salvadorans, Guatemalans, Russians West Africans, Vietnamese, Bangladeshis, Iranians,





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Pakistanis, and Indians. New York City's foreign born population increased by 37 percent between 1990 and 2000, bringing the total number of foreign born residents in the state to almost 3.9 million. Among the five boroughs of New York City, nearly half the population of Queens (47%) was born overseas. In Brooklyn, 38% of the population is foreign born, while 29% of Manhattan's residents were born outside of the United States. These percentages, of course, reflect only officially recorded populations, and do not include a probably substantial number of undocumented immigrants. Thus, the figures probably understate the actual number of foreign-born persons residing in the City.

A variety of factors have influenced where immigrants have settled in New York City. Obvious factors include the cost of living as well as the whereabouts of the individuals and families who provided them sponsorship. New immigrants have also generally settled in places that facilitate the use of inexpensive modes of transportation.

While the numbers of foreign-born residents in New York City are impressive, the notion that immigrants have begun to "overrun" America in recent years is a myth, based on ignorance or racial and ethnic bias. In truth, no single decade has topped 1901-1910 for immigration admissions. Further, less than 1.5 percent of the world's refugee population comes to the United States. What has changed are the countries of origin of the new residents and the diversity of their ethnic and racial composition.



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### *The Immigrants*

by

**David Rudder,  
a Trinidad musician**

*The immigrants are here to stay to help build America*

*The immigrants ain't going nowhere they're here for*

*America*

*Fighting for a better life, fighting through the grunge*

*America, remember Ellis Island*

*We all came here to TAKE THE PLUNGE*

*I hope you understand me*

*This city is now like sweet soul calypso*

*A compass and a reggae*

*Like a punta rock and a salsa samba*

*A highlife, bangra merinque*

*In other words, this is a different kind of apple now*

*That is the truth that the haters don't want to face*

*It's still big, bright, red and juicy, but a little spicy to the taste.*

New York City is fortunate in attracting this diverse group of people. There is no other place in the world where residents and tourists can experience the extraordinary variety of culture, art, food and music. Economically, the immigrant population adds richness, contributing to such diverse sectors as manufacturing, service, construction, retail and the professions including medicine, law, technology and banking.

Far from burdening the nation, immigrants have started large numbers of the small businesses that annually account for about 80 percent of the new jobs available in the U.S. Foreign companies doing business in the U.S. provide additional jobs, employing slightly more than 10 percent (2.2 million) of the U.S. industrial workforce. Immigrants earn \$240 billion a year, pay \$90 billion a year in taxes, and receive only \$5 billion in welfare. Indeed, prior to being allowed to come into the U.S., immigrants must prove they can earn a living income. The percentage of unemployed among immigrants is lower than it is among the native-born, and immigrants' saving rates are higher than those of people born in the U.S.



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### WHY IMMIGRANTS COME TO THE UNITED STATES

People come to this country for a variety of reasons. The United States is part of a global political economy in which we have been able to take a dominant position, reaping a powerful advantage over many other countries, particularly those in the "third world." From a historical perspective, at least part of our wealth stems from our ability to effectively exploit resources in foreign countries, sometimes to the detriment of native populations. Free-market trade arrangements, for example, have worked to the advantage of the U.S. and further impoverished countries like Mexico.

The result is an increase in immigration as people look for jobs and a better way of life in countries like the U.S. When you go on patrol, you will begin to meet numerous persons who work very hard in low-paying jobs and live as cheaply as possible in order to send money home to their native countries. Others have fled war and repressive governments involved in the torture and massacre of the civilian population, including friends and family. They come to the United States seeking peace, stability, democracy and an education for their children.

*"In Mexico, one can study and study but there's no good work when you finish school.... Here we do the jobs that no one wants to do because we know the value of work"*

-A custodian who moved to the United States from the Mexican state of Morelos, quoted in the *New York Times*, August 6, 2003; A14.

### Racism, Human Rights Abuse and the Perception of Police

Cultural background and the past experience of immigrant families influence how members of different groups are likely to respond in the presence of police officers. **Avoidance behaviors**, for example, may have different significance depending on the history of the individuals you are observing. This is important to keep in mind so that you don't mistake behavior indicating fear with that related to criminality.

Immigrant groups who have experienced formal discrimination are sometimes distrustful of police. This is the case, for example, among some descendants of the first waves of Asian immigrants to settle in the U.S. These



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groups, in particular, experienced legal discrimination, culminating in Executive Order 9066, which resulted in the evacuation and incarceration of 100,000 Japanese Americans during World War II.

Populations who come from countries with repressive governments tend to be more fearful of police than those who have not. More than 200,000 members of the native population were massacred in Guatemala during their recent civil war. Almost all of these were civilians, many of whom were tortured. Similar events occurred in Haiti, El Salvador and Argentina where people were routinely **disappeared** - kidnapped, tortured and murdered by the military. Parts of Africa remain plagued by civil war, violence and, in some areas, a repressive military-police apparatus.

Cambodia and its people experienced one of the worst genocides in history during the 1970s, under the regime of the Khmer Rouge. Although the Paris Peace Accords were signed in 1991 and democracy was instituted, human rights abuses continue with police officers among the perpetrators. Your interactions with immigrants from countries like Haiti, Cambodia, El Salvador and Guatemala will go more smoothly if you take the time to assure them that you will not hurt them. Again, few people leave home and move to an entirely new country unless conditions are bad where they came from. In many of these places, the police were part of the bad conditions. Certainly, you had no part in what may have happened to people before they arrived here: but we must all recognize how important it is to assure these immigrants that we are there to help rather than to hurt.

*An incident that took place between a Cambodian and a police officer is indicative of the fear that haunts the victims of the Khmer Rouge and their families. A police officer stopped a slow moving vehicle under suspicion of DUI. When he saw the officer, the Cambodian male driver began to shake, increasing the officer's suspicions. The officer attempted to administer a breath analysis but, confused, the man was uncooperative. The police officer took the driver into custody. As it turned out, the driver was not intoxicated. His trembling resulted from fear. Unable to speak English, the driver did not know what a Breathalyzer was and did not know how to communicate his concerns with the officer. (Bridging the Gap Project, Inc. p. 52*



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### Fear of Deportation and Perception of Police

Other immigrant groups avoid the police because they fear they will report them or their families and friends to the National Immigration Service. As a result, they fear, deportation will occur. This concern has become more widespread since Federal Courts instituted new laws regarding reporting after 9/11. Among Arab/Muslim and South Asian communities this fear is particularly intense, in view of their understanding that their members have been targeted for visa violations and are facing deportation hearings. Although the City of New York encourages a **don't tell, don't ask** policy regarding the status of the immigrant population, people are still concerned that police will not protect their confidentiality. This fear runs rampant among the legal and illegal immigrant population in New York City, 37% of whom are foreign born and 14 percent of whose families include at least one undocumented person. As police officers, you will have to deal with their fear in your daily interactions with many members of the immigrant community. You will find it difficult to be viewed with suspicion when you are there to help. Behave professionally with courtesy and respect regardless of your personal feelings. Explain your intentions in detail so as to minimize people's fear of you. Remember, the key to effective policing is building community trust.

When you confront immigrants who are fearful of police, you should keep in mind a major difference between this country and the countries from which virtually all immigrants have come. Here, in the U.S., policing and law enforcement are extremely decentralized. This is not so abroad where, usually, just a very few national agencies are responsible for all law enforcement, including the regulation of immigrants. This has consequences. Anybody who speaks with a police officer abroad is dealing with someone who is very closely tied to the immigration apparatus of the relevant country. This is not true in the U.S. As a member of the New York City Police Department, you do not report to the INS and you will rarely have contact with them. Many immigrants are not aware of these facts and are likely to believe that any contact with law enforcement presents the risk of immediate deportation or change in one's immigration status. Further, in many of the countries from which New York City's immigrants come, members of the public are required to produce proof of their identity whenever any law enforcement official demands it. We do not have such **show me your papers** laws in this country—but many immigrants, especially undocumented, probably do not know this. Thus, when you get evasive answers from people who are obvious immigrants, you should keep in mind that the cause of their conduct probably has nothing to do with you personally. Instead, it is likely to involve their fear that a conversation with anybody in a law enforcement officer's uniform may result in a one-way trip back to a very unpleasant place.



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### Diversity of the Immigrant Population

Immigrant communities are extremely diverse. Newly arrived individuals come not only from different regions and countries but also from varied environments within countries. Recent immigrants who come from urban locales in China, for example, may tend to be less reticent and more assertive than those who have come to the United States from rural areas in previous times. There is similar variation within mainstream cultures in the U.S. For example, New Yorkers tend to be far more assertive than their country cousins. Language differences are also common in different regions within a country. Sometimes the differences involve grammatical issues, meaning of words, and accent. This is the case, for example, among immigrant groups who share Spanish as a common language but who may speak it in very different ways. At other times, linguistic differences involve dialects that are neither shared nor understood by all natives of a particular country.

The point is that police cannot assume that everyone from one area of the world speaks the same language. Not every individual who is Chinese speaks the same dialect. South Americans from Brazil speak Portuguese and those from Peru speak Spanish. Some Nicaraguans from the Atlantic coast speak Spanish while others speak predominately Creole and English. Asian Americans represent at least a dozen distinct cultures and language groups yet we have a tendency to classify all Asians together. Ethiopians, Somalis and Eritreans, all from East Africa, speak different languages, practice different religions, have different marriage customs, and even follow different calendars.

Contrary to popular opinion, immigrants are not all poor and struggling. Immigrant populations are diverse in terms of socio-economic class and employment background, racial and ethnic identification, and education. Forty percent of people of Haitian descent in the United States, for example, have at least some college education. Indeed, the 1950's wave of immigrants consisted of some of the most educated people in the country, who were forced to leave Haiti during the brutal dictatorship of Papa Doc Duvalier. More than 22,000 Haitians in the U.S. are medical doctors, engineers, college professors, business executives, lawyers, stockbrokers, teachers and nurses. Similar variation and achievement exists among individuals who come from Western Africa and the Caribbean.

Skin color is another surface trait that cannot be used to predict people's class, education, cultural and religious affiliation. While people from Trinidad, Jamaica, Haiti, and Western Africa may share similar skin color with African Americans whose families have been here for centuries, their cultural and ethnic



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identifications are very different. In view of the importance of culture to identity, it's important that police officers be careful not to lump all individuals together based on superficial categories like skin color and language.

The perception of skin color and what it means for one's place in society also varies. In a meeting during the preparation of this chapter, a university professor who had immigrated to the United States from Africa a generation ago made this point:

*I never thought of myself as a black man until I came to the United States. Back home, I thought of myself only as a man. But when I came here, I started to think of myself as a black man because everybody I met treated me differently than they would treat white men. I came to see that there were things I could not do and places I was not welcome because I was black. This is a great country and I have many freedoms here that I did not have at home. But it is sad that race is so important here. It is always on my mind, as it has to be if I am to function here.*

This has been a big, and unfortunate, adjustment for this man, as it has been for many other people of color. It may also help you to understand why some people who share a common trait like skin color may not behave as you might expect. Anybody who has been raised in and paid close attention to this diverse environment knows that, unfortunately, race and skin color are major facts of life in the United States. This is not so in many of the countries from which our immigrants come, and many of our immigrants do not readily understand or accept this. This is not their fault: instead, their difficulty in coming to grips with it is an unhappy reflection on the state of race relations in this country.

### **Racial and Ethnic Profiling**

As Commissioner Raymond W. Kelly has recently directed, police officers should not use race, color, ethnicity, or national origin as the determinative factor for initiating police action (see Operations Order #12, March 13, 2002). There are good and bad people in every community. To assume the worst about a whole group of people, based on the actions of a few, is insulting and degrading and will greatly compromise your relationships with the community in which you work. It is frightening and humiliating, for example, when a person is stopped and treated as a terrorist because the police perceive him or her as Middle Eastern.



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Imagine how it would feel to you to be a victim of “occupational” profiling. Let’s say that you have been on patrol for a few years when an investigation into corruption resulted in the arrest of some officers from your precinct. Think of what you would feel if, when you tell people where you work, they respond by asking, “How’s business?” or saying, “So that’s how you can afford to live in this neighborhood,” as if you too are involved in criminal activity. Regardless of skin color, language, fluency in English, class, and ethnicity, all individuals should be treated with courtesy, professionalism and respect.

### **Immigration and Status Loss**

Immigrants frequently are unable to gain employment in the United States that corresponds to their training and experience. A study of New York’s Soviet Jewish community, for example, found that only about half of those who had held professional, technical and managerial occupations in the USSR managed to find similar jobs in this country. The same is true for immigrants from Latin America, the Middle East, Asia and Africa. As police officers, you should not assume that an individual with a foreign accent driving a taxi, or working as a domestic servant or a custodian has little education. Many highly educated immigrants are unable to find suitable work, and take alternative jobs to earn an income.

Along with loss of work related prestige, immigrants may experience other types of status loss when they come to the United States. This is the case in situations where skills that are highly valued in one culture are not relevant to another. The Nuer of Sudan (Africa), for example, were largely rural people whose expertise revolved around cattle and farming. The sophisticated skills they developed in their native countries are not easily translatable to urban life in the U.S., resulting in a loss of power and prestige in their own, as well as, the larger community.

### **Authority, Power, and Gender**

There are cultural differences in the allocation of power and status between genders and across generations. In Latin American and Asian cultures, for example, parents are generally granted more power and respect than children. In contrast, in mainstream American households, a more egalitarian relation between parents and children is generally allowed because it is believed it fosters the valued traits of independence and individualism.





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In Latin American households, power may also flow along gender lines such that the man of the household is imbued with more formal authority than is his wife. For Asian and Latin American immigrants in the U.S., however, a painful power reversal often occurs when women find work more easily than their husbands, and children speak fluent English, functioning as translators and liaisons to the outside world.

In general, police officers entering an Asian or Latin American household should show proper respect by directing their inquiries to the male of the household, even if children are serving as interpreters. However, this rule is not written in stone. The status of women has changed among many younger Latin Americans as well among Latino/Hispanic immigrant families living in the U.S. If you do not know whom to address in the household, do not be afraid to ask. Such inquiries reflect a desire to communicate across cultural boundaries and will be well received.

The concept of ***machismo*** is relevant here. *Machismo* probably exists in one form or another in almost every culture, including mainstream America. In many Latin American cultures, however, it is formally recognized and linguistically categorized in a particular way. *Machismo* refers to the valued male attributes of virility and manliness. Sex roles are clearly defined and the male is responsible for the well-being, honor and protection of the family. Traditionally, he is the person who is most likely to work outside the home and provide the main family income.

Women, by contrast, are traditionally assigned tasks related to childcare, cooking, and cleaning the house. Because they are considered spiritually superior, women are believed to better endure suffering, including that generated by the men in their lives. Police officers dealing with a Latin American or Hispanic man should try to avoid challenging his or his family's honor, undermining his sense of control over his family, or otherwise threatening machismo. Indeed, this rule also applies to your interactions with people from other backgrounds and is especially critical with immigrants from male-oriented societies.

### **Gender and Policing**

Problems may arise when men (or women) from cultures in which women are given little authority are given orders by a female police officer. In these situations, taking orders from a woman may be perceived as a humiliation and



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assault on their masculinity. Female officers should not take personally requests and comments which stem from differences in cultural views about gender. Instead, they should find a means to defuse the tension.

There are also situations in which it is preferable to have female officers direct the communication. This is the case for example, among traditional Arab Muslim families. In some of these cultures, it may dishonor a woman to be alone with a man who is not a relative. Modesty also dictates that a woman's hair is covered when in the presence of men. In the unlikely event that safety and procedure require you request that an Arab Muslim woman remove her headdress, she should be taken to a private room, accompanied by a female police officer. Gender issues may also mediate communications with police and members of the Western African community. Women officers responding to a family dispute, for example, are more likely to get truthful information from wives than are male officers who are not viewed as persons with whom one can confide private "female" matters.

### Respect and Trust

Cultural attitudes regarding appropriate behavior when facing authority figures also vary cross-culturally, and influence how people respond to police officers in different situations. Respect is an important notion in many cultures and, among immigrants from Latin America, individuals in positions of authority are perceived as deserving respect. Respect in the form of politeness and good manners is not the same as *trust* or *confianza*, however, which must be earned by police and other outsiders who do not share their cultural world. As a show of respect, therefore, individuals may thus agree with police and say what they think the police want to hear. However, only as trust is developed will they explain what they think actually happened.

### Honor and Shame

Cultural notions of honor and shame influence how people respond to police officers who are providing a service. The value of saving face and preserving one's own and one's family's honor are particularly strong motivators for many people from Latin America, Middle Eastern, and Asian cultures. Such notions may come into play when police officers interview a rape victim. As with other groups, initial attempts to inquire about what happened in front of the victim's family may lead to denial, distortion, or omission of factual details in order to preserve family honor. In such an instance, it may be useful to use an interpreter who is not part of the family to reduce feelings of disgrace for both victim and the family.



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Similar values may influence a police inquiry into a sexual assault on a member of an Arab American family from a culture in which virginity is highly valued. An unmarried daughter who has been raped may be perceived as bringing disgrace to the whole family. Concerns about family honor may also arise in the light of incidents of domestic violence, resulting in family member's hesitation about talking to the police. In order to gather information in these types of situations police must proceed very delicately. Failure to be cognizant of the relevant cultural issues can turn a well-intentioned investigation into an attempt by the family to protect their honor against perceived attack.

### **Cross – Cultural Perspectives on Law and Social Custom**

Laws, social custom and etiquette may vary according to nation and culture. In some cases, immigrants may violate American law, custom or etiquette unintentionally, out of ignorance of the way things are done in this country. In some cultures, for example, physical punishment of children is considered an appropriate form of discipline where among others it isn't. Views regarding domestic violence, and whether or not it is a public or private issue, also vary cross-culturally. In Western African households, for example, marital disputes are considered family rather than courtroom matters. In the event that help is needed, parties are likely to go to extended family members rather than police.

As a police officer, you will be required to enforce laws regarding matters crucial to the safety, health, and welfare of the population, regardless of the backgrounds or cultural norms of the people involved. In issues regarding domestic violence, for example, you have little flexibility and must make an arrest, regardless of how the problem is viewed by participants. In New York City, differences in cultural norms do not constitute grounds for treating wife beating or child abuse as less than major offenses. There are minor issues, however, in which you can use your discretion regarding what corrective measure you chose to utilize to resolve the matter effectively.

When a problem involves a cultural misunderstanding, it is important that you explain why the person's behavior is illegal, wrong, or offensive, particularly when an arrest is mandatory. This will help prevent similar occurrences in the future and will increase the trust between you and the community. When dealing with newly arrived immigrants, in particular, it's important to inquire why a person is acting in a way that seems wrong or odd to you. This will help prevent the kind of tragic occurrences such as what happened in the case of the Vietnamese



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father who was arrested for child abuse. It will also help to prevent or resolve conflicts that arise when one immigrant group acts in ways that are incompatible with the beliefs, values and customs of the other.

*"A 12 year –old girl steals money from family members (Laotian immigrants), and has even "borrowed" her parents' credit cards without permission. The parents fear using physical punishment, the only instrument of control they know, to discipline her, as they have been told it is illegal in this country. In desperation, they call 911, because they have been told that the police are here to help. The police refer the case to Juvenile Court. Juvenile Court officials deem the parents neglectful, remove the girl from her home and place her in foster care. There is no offer of counseling. The parents feel humiliated, angry and betrayed by the system that offered to help them."*

- *Bridging the Gap*, p. 35

Sometimes individuals may act in accustomed ways that are perceived as beneficial by the relevant immigrant community, but which contradict the law and community interests as defined by the larger society. An example is the informal taxi service – *dollar cabs* – which has arisen in some Brooklyn neighborhoods inhabited by people from areas of the British West Indies. If you have the opportunity to travel to Trinidad -Tobago, you will discover that an informal taxi service has arisen along specific routes and is considered a safe, viable and inexpensive means of transportation. This is similar to the pick-up trucks that transport members of the indigenous communities traveling from town to town along the Lake region in Guatemala. To work as a driver in West-Indian neighborhoods in the United States is perceived as a legitimate way to support families at home and abroad. This poses a problem for police officers that face the problem of enforcing laws that have little or no support in the communities involved. This will require a considerable degree of diplomacy from you.

### Language Issues

Some immigrants, particularly those who are newly arrived or first generation, may have limited English language skills. Others, who speak English, may prefer to communicate in their native tongue, particularly when feeling upset or talking to authorities. Learning a new language is difficult, particularly for



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adults. Trying to find the words to express the rapid flow of thoughts that enter our heads can be hard under routine circumstances and is nearly impossible under stress.

Language is also a part of a person's identity; with the result that some people may resist learning a new language because they fear that it will lead to an erosion of who they are. They will then be left in limbo, neither a part of mainstream American culture nor the one they left behind. Attempting to communicate with people who do not speak English can be a daunting task for police officers. Keep in mind the following tips, provided by Shusta and his colleagues in the book, *Multicultural Law Enforcement*. These tips are also cited in your chapter on "Policing Impartially."

- Speak slowly and enunciate clearly.
- Face the person and speak directly even when using a translator.
- Do not use jargon, slang, idioms or reduced forms (*gonna, wanna, etc.*).
- Use simple verb tenses.
- Repeat key issues and questions and phrase them in different ways.
- Use short, simple sentences.
- Pause between sentences.
- Allow the person time to translate ideas into words.
- Be patient.
- Do not speak louder: this will not help.
- Check comprehension by having the person repeat material or instructions.
- Do not conclude that a person does not understand English because he or she does not speak it well. Many times, listening skills are better than the verbal skills.



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It is also extremely useful to learn some of the basic phrases in the languages that may be spoken in the area to which you are assigned. The office of the Deputy Commissioner of Community Affairs provides some language training in its "Streetwise" program for new officers. You can develop additional skills by getting to know the people where you work and asking them about important words. Showing them that you are interested in communicating with them and their compatriots will do much to win their trust, as well as to help teach you the rudiments of their language.

### **Cross – Cultural Communication**

When you go on patrol, it will be important to learn about the meaning of different non-verbal and verbal communications among community members from different ethnic and cultural origins. This will facilitate your ability to interpret behavior, communicate with the people you serve and avoid behavior that is viewed as offensive, frightening, or inappropriately threatening.

### **Emotional Expression**

Rules regarding the expression of emotion vary cross-culturally making it difficult for police officers to accurately interpret meaning from facial expressions, tone of voice, and certain types of body movements. In Arabic and Iranian cultures, for example, people express grief more openly and out loud. In contrast, in China and Japan, people are reticent to show sadness, pain, happiness, and pleasure. In Cuba and Haiti, individuals may raise their voices and move their arms about as normal parts of conversation. In mainstream American culture, similar behavior could suggest overexcitement, agitation, or a threat.

In Vietnam, a smile is an appropriate way to respond to a sad or humiliating event and is considered respectful. In the U.S., a smile in the context of a sad or humiliating event is viewed as inappropriate or a mockery, depending on the circumstance. Perhaps some of you saw the movie *Platoon* about the war in Vietnam. In that film, there is a scene which depicts a cross-cultural confusion which costs a Vietnamese civilian his life. In this incident, an American soldier interprets the man's smile as mockery and kills him in rage and frustration. In fact, from his cultural perspective, he had responded respectfully and appropriately to a situation that was frightening and humiliating.



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### **Gestures and Movement**

Some gestures, which are viewed as acceptable, polite or reassuring in the U.S., may be viewed as troublesome, rude or threatening in other countries. Beckoning people to come to you by holding your palms up, for example, may be seen as obscene among Latin Americans. Pointing is seen as offensive and aggressive in most cultures, and should generally be avoided in dealing with anybody, especially individuals from Latin America, Haiti, Bosnia, Vietnam, and Korea. Probably it is best for police officers to avoid using hand gestures until they have acquainted themselves with what they mean to the community members whom they serve.

### **Eye Contact**

The meaning of eye contact varies considerably in different cultures. In Latino American, and Asian societies, strong eye contact with someone who is in a higher position of importance or authority is considered a lack of respect. Among some Latino men, forceful eye contact may be perceived as a challenge and result in the escalation of the situation in an effort to preserve honor and machismo. This is the case, for example, among some Mexicans who come from rural areas. If Mexicans avert their eyes when they see you or you begin to speak to them, do not assume they are being evasive. Among Cubans, in contrast, eye contact and handshaking are signs of respect and cooperation.

### **Touching**

Touching is also a sensitive cultural issue. In some cultures, the physical display of attention or affection is permissible, even between people who do not know each other well. In others it is taboo. Among Laotians, for example, touching, even to reassure or comfort, is considered disrespectful.

### **Personal Space**

There is considerable cultural variation in the definition of personal space, defined as the distance a person needs between him or herself and another person to feel comfortable. For the average American, personal space is about an arm's length. In certain situations, police officers will need a much greater distance – 20 or more feet, when possible, when dealing with potentially violent individuals – to maximize their safety and feel comfortable.



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### **Entering a Household or Religious Establishment**

Rules vary regarding the appropriate way to enter a household or religious institution such as a mosque. In some Arab-Muslim households, for example, it is respectful to take off your shoes before entering. As few police officers will feel comfortable following this rule, they should find an alternative way to show respect. For example, they might acknowledge awareness of the problem and honestly explain why they are unable to comply.

Etiquette also governs how individuals behave in a religious institution. If it is necessary to go in a Mosque, for example, police should avoid entering while prayers are taking place, never step on a prayer mat, never place a Koran on the floor or put anything on top of it, avoid walking in front of people who are praying, speak softly, and dress conservatively. Police officers should also invite a person out of a prayer room if they wish to question him. In certain situations, you may not be able to follow the rules of social etiquette. For example, appropriate behavior inside a mosque requires that individuals remove their shoes, a rule which may be impossible for you to follow, particularly in an emergency situation. In non-emergency situations, you should wait outside the Mosque and ask to speak to the administrator who will help you gain access to the relevant person or place.

### **Respect and Religion**

Different religions hold sacred different holidays. Appropriate religious behavior also varies cross-culturally. Strict Muslims, for example, don't just pray at night. Instead, they pray one hour before sunrise, at noon, midafternoon, sunset, and ninety minutes after sunset. They celebrate the holy month of Ramadan which occurs a different time each year, based on lunar cycles. You should be aware of the holidays that are relevant to the community you police and act accordingly.

## **CONCLUSION**

This chapter has introduced certain principles of cross-cultural communication that will help you safely and effectively police the multicultural environment of New York City. When you are assigned to a precinct or other command, you will learn about the specific sociocultural worlds of the groups whom you are assigned to serve. At this point in your career, it's important that you begin to develop an orientation to the world that allows you to suspend biases and see different cultural realities. You should also develop some





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familiarity with the kind of information you will need to know about the norms, beliefs and behaviors of different social groups to accomplish the diverse goals of policing. We have summarized some of the key areas below.

- The status, roles and names of community leaders.
- The definition of family and whether it extends beyond parents and children to include grandparents, aunts, uncles, etc.
- The status and roles of different family members, who you should address as the authority figure and how you should address them.
- The rules regarding appropriate behavior between persons of same and different sexes.
- The appropriate greeting (first name, last name, Ms., Mrs., Miss. or other relevant titles).
- The significance of facial expressions and facial expressiveness.
- The significance of different gestures.
- Appropriate way to enter a household, religious building etc.
- Sufficient knowledge of norms, values, lifestyles governing behavior so you can accurately interpret what is said and done.
- Where appropriate, try to find out the meaning of behavior in the context of the relevant culture before assuming it is morally bad or criminal (as in the example of the coining of the Vietnamese boy by his father).
- Find out persons' prior experience with police or military so you can accurately interpret avoidance behaviors.
- Take time to gather information from witnesses, victims and suspects even if the individuals do not speak English well.
- When in doubt about how to proceed in non-emergency situations, ask.



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- *Remember that the key to policing in multicultural communities – as everywhere else – is the formation of positive relationships with individual members.*



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### DETENTION OR ARREST OF FOREIGN NATIONALS

In the event that you detain or arrest a foreign national (an individual who is not a U.S. citizen), you are required to follow certain procedures regarding the consular notification (see also Authority to Arrest and PG 212-56). They are as follows:

1. Determine the foreign national's country. Normally, this country is listed in the individual's passport or other document used for identification and travel across borders.
2. If the foreign national's country is not on the mandatory notification countries list (Pg. 29), you should:
  - Offer, without delay, to notify the foreign national's consular officials of the arrest or detention.
  - If the foreign national asks that consular notification be given, notify the nearest consular officials of the foreign national's country without delay.
3. If the foreign national's country is on the list of **mandatory notification countries** (Pg. 29):
  - Notify the country's nearest consular officials, without delay, of the arrest/detention.
  - Tell the foreign national that you are making this notification (see Statement 2).
4. Keep a written record of the provision of notification and action taken.

### Suggested Statements to Arrested or Detained Foreign Nationals

#### **Statement I: When Consular Notification is an Option to the Foreign National:**

*As a non-U.S. citizen who is being arrested or detained, you are entitled to have us notify your country's consular representatives here in the United States. A consular official from your country may be able to help you obtain counsel and may contact your family and visit you in detention, among other things.*



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*If you want us to notify your country's consular officials, you can request this notification now, or at any time in the future. After your consular officials are notified, they may call or visit you. Do you want us to notify your country's consular officials?*

### **Statement 2: When Consular Notification is Mandatory**

*Because of your nationality, we are required to notify your country's consular representatives here in the United States that you have been arrested or detained. After your consular officials are notified, they may call or visit you. You are not required to accept their assistance, but they may be able to help you obtain legal counsel and may contact your family and visit you in detention, among other things. We will be notifying your country's consular officials as soon as possible.*

### **Questions about Consular Officers**

- Q: Should I treat a diplomatic officer the same as a consular officer?
- A: *Yes, for purposes of the matters discussed here. Consular notification can be given to a diplomatic officer if no consular officer is closer or available. A diplomatic officer should be permitted to conduct prison visits and to perform the other kinds of consular functions discussed herein.*
- Q: How can I be sure that someone who claims to be a consular officer, a consul, an honorary consul, or a diplomatic officer is in fact one?
- A: *Diplomatic and consular officers, which now include consuls and honorary consuls, have identification cards issued by the Department of State. If you have any doubt about the authenticity of a State Department's identification card, you can call the State Department's Office of Protocol at 202-647-1985 to have the identity and status of the official verified during business hours (8:15a.m. - 5:00 p.m., EST). Outside of those hours, you may call 202-647-7277.*



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### Mandatory Notification Countries

Algeria	Malta
Antigua and Barbuda	Mauritius
Armenia	Moldova
Azerbaijan	Mongolia
Bahamas	Nigeria
Barbados	Philippines
Belarus	Poland
Belize	Romania
Brunei	Russia
Bulgaria	Saint Kitts and Nevis
China (does not include Republic of China, commonly known as Taiwan)	Saint Lucia
Costa Rica	Saint Vincent/Grenadines
Cyprus	Seychelles
Czech Republic	Sierra Leone
Dominica	Singapore
Fiji	Slovakia
Gambia	Tajikistan
Georgia	Tanzania
Ghana	Tonga
Hong Kong	Trinidad and Tobago
Hungary	Tunisia
Jamaica	Turkmenistan
Kazakhstan	Tuvalu
Kiribati	Ukraine
Kuwait	United Kingdom
Kyrgyzstan	U.S.S.R.
Malaysia	Uzbekistan
	Zambia
	Zimbabwe



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### ETHNIC, RELIGIOUS, AND CULTURAL COMMUNITIES IN NEW YORK

This section provides are brief descriptions of some of the communities that exist in New York City. While reading this material, you should keep in mind the following:

- The descriptions are general.
- Within each community there is great diversity.
- There are individuals and families within every category who do not fit the general description of the community group.
- You should not let our effort to give you a general understanding of cultural diversity become a tool for promoting stereotyping. No material under *family organization, religion, or communication tips* is written in stone and does not necessarily apply to all individuals of the relevant culture.



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### NON-IMMIGRANT COMMUNITIES

#### African Americans

Between the 17<sup>th</sup> and 19<sup>th</sup> centuries, African people were kidnapped by Europeans and purchased by Yankee traders who took them to the United States and sold them as slaves. Slavery was justified in terms of a racist ideology that viewed black people as inferiors who could be owned, worked, and sold as animals. Slavery formally ended in 1863, but segregation – often written into **Jim Crow** laws that legalized inequality – continued in the American South until the 1960s. Although African Americans have long had the same legal and constitutional rights as other Americans, racism remains pervasive in many areas of the country and is evident in differential treatment of black and white citizens. The ideology of racism which supported segregation and slavery and continues to permeate American society has created great psychological and social problems for succeeding generations of black and white citizens. Here in New York, law has long made segregation and discrimination illegal. But, laws or not, racism and discrimination continue to exist. It is critical that we not be a part of it, that we do nothing that even gives the appearance of racism, and that we try to eliminate it wherever it exists.

Currently blacks, including African Americans, comprise about 12 percent of the population in the United States. Since 1980, the percentage of blacks living in the inner cities has remained steady (about 56% of the black population) while the percentage living in suburban areas has increased. The black population in New York is ethnically and culturally diverse, and cuts across all economic strata. Blacks are thus represented among the extremely poor and the extremely wealthy and have moved increasingly into the middle class. Like other ethnic and racial groups, therefore, African Americans and recent African immigrants vary widely in terms of education, wealth, and socioeconomic status.

The relationship of African-Americans and the police has been affected and complicated by a history that long predates your entry into this Department, and that is tremendously influenced by the actions of police elsewhere. In New York and other large colonial cities, the police had their roots in *watchman services* that were composed of ordinary citizens and that were created to guard the city's walls against outside invaders. In the South, where most blacks lived early in this country's history, the police were established not to guard cities, but to track down escaped slaves. Throughout the country, police were used as a method of keeping blacks in their disadvantaged place. In the South and other parts of the country, the police enforced racist laws designed to keep blacks from voting; owning property; attending the best schools and universities; riding in the



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front of buses; drinking from the same water fountains as whites; swimming at the same beaches and pools as whites; finding medical help from the same doctors and hospitals as whites; eating in the same restaurants and staying in the same hotels as whites. Between the end of the Civil War and the early years of the Twentieth Century, more than 3,000 black men were lynched in this country, and police frequently were complicit in these crimes. All of this terrible history was brought home to national audiences in the 1960s. Then, televised images of police brutality – dogs, high-pressure hoses, and beatings – against civil rights demonstrators appeared in living rooms across the country. Police in Mississippi were implicated in the kidnapping and murder of four civil rights workers. The condemnation of these acts helped to further the goals of the Civil Rights Movement, but the acts themselves have added to the sad legacy that already existed. Surveys of the public's attitudes toward the police almost invariably show that African-American blacks are more suspicious and cynical of the police than are other groups.

This view of police took centuries to develop and, fanned by events such as the beating of Rodney King and the brutalization of Abner Louima, it is likely to continue in many quarters for many years to come. Particularly over the last generation, the police have progressed a great deal. Still, despite this progress and our own good intentions, we need to remember that African-Americans – who have been a part of this country for centuries – have been given as much reason to be suspicious of the police as have many immigrant groups who have had negative experiences with police and military officials in their countries of birth.

- ***Family organization and gender roles***
  - African American families generally enjoy very strong ties among extended family members.
  - Female relatives often substitute for each other in filling family roles.
  - Fathers usually view themselves as heads of their households and major decisions regarding the family should include the father's participation.
  - In families constituted by single mothers and children, mothers should be treated with appropriate respect.





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- Communication tips – (see Chapter on Policing Impartially). Historically, the police have been used by dominant majorities to enforce slavery and racial segregation and discrimination in the American South, and to uphold racist policies throughout the country. Understandably, this sad history of police and official abuse has damaged the relationship between police and African Americans. Consequently, police officers should not take personally unfounded accusations or suspicions that their actions may be discriminatory.

### Native American Indians

Native American Indians are indigenous to this country. Some researchers claim that they arrived more than 40,000 years ago. Some theorists claim that they walked from Siberia to Alaska, and then down throughout North and South America. Others suggest that they were left here when the continents, which presumably were once all joined together, broke apart. Regardless of exactly how the Native American Indians arrived in North America, it happened so long ago that they can be considered the only true natives of the land we now occupy. In 1492, when European settlers began to colonize America, they began to engage in a genocidal war involving the massacre of entire tribes, usurpation of their land, and the establishment of small reservation communities. The occupation of Indian land was justified with reference to the “Doctrine of Discovery Use.”

In New York State, there were two main Native Indian groups, the ***Iroquois Confederacy***, consisting of five tribes (Mohawk, Oneida, Onondaga, Seneca, Cayuga) and the ***Algonkian*** speaking groups. Today there are eight reservations in New York State. Most of these reservations prefer to be called by the name of their nation (Mohawk, Cree, Lakota, etc.). We need to be aware that, like African-Americans, Native American Indians have plenty of reasons for being suspicious of the police and all other officials. It is not personal; it is historical.

- Communication tips
  - Respect for elders (elders should be included in discussions)
  - Individual's identity is related to family or tribe
  - It is extremely traumatic to separate children from family and, if at all possible, should be avoided.



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### **EUROPEAN IMMIGRANTS**

#### **The Irish**

The majority of the Irish immigrated to the U.S. during 1820 through 1920. The numbers were particularly high from 1840 -1850 when the Irish potato famine left the population starving. The poor immigrants who arrived on America's shores were forced to live in dirty, cramped conditions. Like immigrant groups to follow, the Irish faced employment discrimination and other types of bias. The Irish fled poverty, starvation, civil war and British repression.

In more recent years, Irish have continued to come to the U.S. and, in New York, have settled mostly in Northern Manhattan, the Bronx, Yonkers, and New York City's northern suburbs.

- Language – English, Gaelic
- Religion – Roman Catholic, Protestant, Presbyterian
- Family organization and gender roles – nuclear family most important
- Communication tips – The Irish have been in the United States a long time and are part of American mainstream culture.



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### Germans

The majority of Germans immigrated to the U.S. between 1846 and 1854. They came from a wide geographic area and for a variety of reasons. Most left great poverty and wanted to improve their economic status. The failure of the revolutions of 1848 to establish democracy also resulted in migration. Additional factors included the initiation of mandatory military service during World War I, crop failures, high rents, high prices, and the displacement of farmers as a result of the Industrial Revolution.

- Languages – English, German
- Religion – Catholic, Protestant, Lutheran, Jewish
- Family organization and gender roles – The nuclear family is an important economic and social unit for most Germans. In some families, the father may assume a strong authority role in relation to his wife and children, although this varies considerably.
- Communication tips – The Germans have been in the United States a long time and, generally, are part of traditional American culture and the American Establishment.



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### Italians

The peak period of Italian migration to the United States occurred between 1890 -1920. Most immigrants left Italy to escape poverty, which was particularly severe in Southern Italy and Sicily as a result of an economic system that encouraged the economic and social domination of Southern Italy by Northern Italy. The vast majority of immigrants came from the former independent and sovereign state of Southern Italy, the Kingdom of the Two Sicilies. Immigrants from these regions fled civil war and natural disaster. Like some immigrant groups that followed, most of the Italians who came to the U.S. did not plan to stay permanently. They hoped to save sufficient money to enable them to return to their wives and children who remained at home.

- Languages – English, Italian
- Religion – Catholic
- Family organization and gender roles– Italians have been in the U.S. a long time and have generally assimilated into mainstream American culture. Nevertheless, the family, defined in terms of both nuclear and extended, remains an important unit of social organization.
- Communication tips – Italians have been in the United States for a long time and are part of mainstream American culture.



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### Eastern European Immigrants (Poland, the former Soviet Union, Romania, Armenia)

The peoples of Eastern Europe are very diverse and their ethnic identity is important to them. When dealing with an Eastern European person, you should inquire as to their ethnic identity in a respectful, courteous tone. Many of us think of all the people from the former Soviet Union as *Russians*, for example, but this is inaccurate, and may cause friction. Latvians, Estonians, and Lithuanians all were part of the old Union of Soviet Socialist Republics, but are likely to resent being called or thought of as Russians.

- Language – Varies by country
- Religion – Five distinct religious groups are Jewish, Catholic, Christian Orthodox, Christian Protestant, and Muslim.
- General Communication Tips
  - Eastern Europeans tend to be expressive in terms of both words and gestures. Such behavior should not be misinterpreted as argumentative or aggressive.
  - Typically, personal space is defined as larger than required by most mainstream Americans.
  - May consider it rude and disrespectful to call someone who is not a friend or family member by his or her first name.



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### Soviet Jews

Nearly 325,000 Jews from the former Soviet Union have settled in the United States since the mid 1960s. From 1972 to 1986, the Soviet Jews came as refugees from the former Soviet Union. In the late 1980s, Prime Minister Mikhail Gorbachev introduced an open door policy that allowed increasing numbers of individuals to leave Soviet Russia. A new wave of immigrants began to arrive after the collapse of the Soviet Union in 1991. Soviet Jews have come to the U.S. for a variety of reasons. Some have fled the wave of anti-Semitism and violent crime that followed the fall of the Soviet Union. Others have come in search of educational and economic opportunities.

- Language – Russian
- Religion – Jewish
- Family organization and gender roles
  - The Soviet Jewish family has provided support, comfort, and motivation in an often hostile external environment
  - Soviet Jewish families are tight-knit.
- Communication tips
  - There is sometimes tension between the American and Soviet Jewish communities as a result of cultural and political differences.
  - Because they come from a country where the government, until recently, controlled all organizational life, Soviet Jews tend to regard any type of organization with a great deal of cynicism.
  - Soviet Jews care deeply about the traditions of their European way of life and while grateful to the U.S. for the opportunities and freedom it offers, they value their cultural and ethnic independence.
- Where they live in NYC
  - Brooklyn –Bay Ridge, Bensonhurst, Gravesend, Homecrest, Brighton Beach
  - Queens –Flushing, Rego Park, Jamaica, Forest Hills, Kew Gardens



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### LATINO AND HISPANIC COMMUNITIES

Different immigrant groups prefer specific terms to describe themselves. Some prefer **Hispanic** and others **Latino**. Some will be insulted if you use the term *Latino* to describe them. Others may find the use of *Hispanic* inappropriate. It is important that you learn the preferred terms of the groups who live in the precinct where you are assigned.

**Hispanic** – generally includes three groups of people from the Caribbean Islands who share their heritage with Spain: Puerto Ricans, Dominicans and Cubans.

**Latino** – generally includes all people of Spanish origin or their descendants who settled in the New World. This includes Central Americans and South Americans, although countries such as Guatemala, Ecuador and Peru have indigenous populations with distinct cultural, ethnic and linguistic traditions.

**Central Americans** – include persons from the following countries: Honduras, Mexico, El Salvador, Costa Rica, Nicaragua, and Guatemala.

**South Americans** – include persons from Columbia, Ecuador, Peru, Venezuela, Chile, Argentina, Paraguay, and Uruguay.



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### Puerto Ricans

Puerto Rico officially became a Commonwealth of the United States in 1951. Puerto Ricans living in the U.S. have full citizen status with the right to vote. The majority of the Puerto Ricans living in the U.S. migrated after 1950 in order to secure employment and improve their economic status.

- Languages – Spanish, English
- Religion –Catholic, born-again Christians, non-denominational
- Family organization and gender roles
  - Strong family and group organization. Extended family is important.
  - Children taught value of respect in their interactions with adults in positions of authority.
  - Gender roles may vary. In families in which both male and female parents are present, the father generally assumes the role as the head of the household.
- Communication tips
  - Cultural value of **personalismo** emphasizes the importance of the person involved in any interaction. The content, context and relationship of the communicator are important in any communication. Police may therefore need to provide contextual information explaining why a question is asked.
  - Strong eye contact with someone who is of higher position or authority may be considered disrespectful.
  - Police officers may expect “eye checking” between family members. This relates to the closeness of the family unit. Police should therefore not interpret eye checking as a sign of deception.
  - Very proud of their culture and heritage. They often have several parts to their name, reflecting both mother and father’s families.
  - Always shake hands with the right hand





# POLICE STUDENT'S GUIDE

## Policing a Multicultural Society

### Dominicans (Dominican Republic)

The majority of Dominicans arrived in the United States after 1970 when the government of the Dominican Republic lifted the sanctions for travel to the United States. Some came to the U.S. for economic reasons. Others came to the United States to avoid political repression.

- Language – Spanish
- Religion –Catholic, born-again Christians, non-denominational
- Family organization and gender roles – Strong family and group organization with male usually head of household. Extended family (grandparents, aunts, uncles) is important.
- Communication tips
  - Value of **personalismo** may influence communication with police
  - Strong eye contact with someone of higher authority may be considered disrespectful
  - Police officers should show respect to the father figure by not embarrassing him in front of family members.
  - Some Dominicans may be fearful of police officers in view of past experience with police/military in their home country.
  - Very proud of their culture and heritage. They often have several parts to their name, reflecting mother and father's families.
- Large Dominican communities are found in
  - Manhattan –upper Manhattan
  - Bronx –Tremont, University Heights, Highbridge, Morris Heights



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### Cubans

The majority of Cubans immigrated to the United States in the 1960s. The first groups of immigrants left Cuba for political reasons. More recent arrivals have left Cuba for economic reasons.

- Languages – Spanish, English
- Religion – predominantly Catholic
- Family organization and gender roles – Strong family and group organization with male usually head of household. Extended family is important.
- Communication tips
  - Value of **personalismo** may influence communication with police.
  - Unlike many other Hispanics, tend to regard eye-contact and hand-shaking as signs of respect and cooperation.
  - Police officers should show respect to father figure by not embarrassing him in front of family members.
  - Very proud of their culture and heritage. They often have several parts to their name, reflecting father and mother's families.



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## Policing a Multicultural Society

### Central and South Americans

Mexicans have been living in New York City for a number of years. However, the majority are recent arrivals, having migrated from Mexico and other parts of the United States since the late 1980's. Mexicans have come to the U.S. in search of work. El Salvadorans, Nicaraguans, and Guatemalans are also recent arrivals. Many El Salvadorans and Guatemalans were victims of political repression in their home countries which were immersed in civil war during the 1980s and 1990s. Some Nicaraguans are here for political reasons (fear of the National Guard under the reign of the Somoza dictatorships or loss of power and status after the Sandinista revolution). The majority of Nicaraguans have come to the U.S. in search of jobs, education, and economic opportunity.

The South American population in New York City is largely composed of people from Ecuador, Colombia, and Peru. Most have arrived since the 1990s. All three groups have come to New York in search of economic opportunities. Political violence in their native country has also been a factor for some Colombians.

- Language – Spanish, indigenous languages
- Religion – Catholic
- Family organization and gender roles
  - Strong family and group organization with male usually head of the household. **La Familia** includes the nuclear family, parents, grandparents, brothers, sisters, and cousins.
- Communication Tips
  - **Personalismo** may influence communication with police.
  - Eye contact with someone of higher authority may be considered disrespectful.
  - Show respect to father figure by not embarrassing him in front of family members.
  - El Salvadorans and Guatemalans, in particular, may be fearful of police as a result of prior experience with repressive military/ police in their homelands. Many have lost families and friends to state sponsored massacres and are, themselves, victims of torture.
  - Use caution with open hand gestures as many have sexual connotations.
  - Pointing is very offensive and considered aggressive.



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## **Policing a Multicultural Society**

- Very proud of their culture and heritage. They often have several parts to their name, reflecting mother and father's family.



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### CARIBBEAN COMMUNITIES

#### Haitians

The greatest migration of Haitians to the United States occurred in the late 1950s when Francois Duvalier (Papa Doc) assumed power and established a reign of terror. After the 1965 Immigration and Nationality Act was passed, Haitian immigration also increased. The 1950s wave fled political repression. More recent arrivals have been numerous and have come to the U.S. in search of economic opportunities.

- Language – French, Haitian Creole, English
- Religion – Primarily Catholic and Voodoo
- Family organization and gender roles – in Haiti, families live close together with many family members under the same roof. Extended family is therefore important.
- Communication tips
  - Haitians may appear to be excited or angry even when they are not. Loud voice and gesturing is part of normal conversation. They are accustomed to being in large groups.
  - Pointing is rude
  - Many Haitians, especially women, fear the police due to experiences with a corrupt governmental organization in their native country.
  - Haitians try to deal with community issues as a group and recognize community leaders who may be pastors and priests.
  - Being handcuffed is a particularly humiliating experience.



# POLICE STUDENT'S GUIDE

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### Jamaicans

The passage of the 1965 Immigration and Nationality Act opened the door to mass immigration by eliminating the quota. Large numbers of Jamaicans came to New York from 1966 -1984. Most Jamaicans have come to the United States in search of economic opportunities.

Since their arrival in New York, Jamaicans have had to deal with types of racial discrimination similar to those experienced by African Americans. For many Jamaicans, American racism was a new experience because, in their native country, socio-economic class was a far more important determinant of status than skin color. While many Jamaicans have settled in neighborhoods populated by other West Indian-Caribbean groups and also African Americans, they retain a strong sense of separate cultural and ethnic identity.

- Language – English
- Religion – Catholic, Rastafarian
- Family organization and gender roles
  - Nuclear family with grandparents and other extended family members playing important roles.
  - Woman's status within the family tends to be strong.
  - Men tend to be protective of the women in the family.
- Communication tips
  - It is important to respect Jamaican cultural and ethnic identity
  - Approach the man of the household first
- Large Jamaican communities are found in
  - Bronx – Norwood and Baychester
  - Brooklyn – Flatbush, Brownsville, Crown Heights
  - Queens – Cambria Heights, St. Albans, Rosedale, Springfield Gardens



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## Policing a Multicultural Society

### West Indians (Trinidad-Tobago, St. Vincent, Grenada, Barbados)

The majority of the West Indian population began to arrive in the 1970s and continues today. The factors influencing their migration vary depending on the country. The Trinidad-Tobago population comes in search of economic opportunities. Immigrants from St. Vincent and Grenada who migrated in the 1970s fled political instability and turbulence. Race is far less important factor than socio-economic class in the British West Indies. Immigrants from the islands have had to adapt to American racial relations as a result of their participation in the larger society.

- Language – English
- Religion- Catholic, Protestant, Christian Revivalist (Pentecostal). There also is an Indian population from Trinidad which is predominantly Hindu.
- Family organization and gender roles
  - The extended family – grandmothers, uncles, aunts and cousins-play an important role as may close neighbors.
  - In rural areas of Trinidad-Tobago, the division of labor is defined according to sex, with women doing most tasks related to cooking and childcare. Both men and women are often in the labor force. Gender relations are relatively balanced with authority distributed between both sexes.
- Communication tips – Ethnic and cultural identity is very important



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### ASIAN COMMUNITIES

**East Asians** include Chinese, Japanese and Korean,

**South East Asians** include Vietnamese, Laotian, Cambodian, and Thai

**South Asians** include Indians, Pakistanis, Bangladeshis, Sri Lankans and Burmese.

#### The Chinese

The California Gold Rush that began in 1849 and ran through the 1850s provided the impetus for the first group of Chinese men to immigrate to the United States. In 1882, the Chinese Exclusion Law was passed, barring the Chinese from entering into the United States. The 1975 Immigration and Nationality Act ended some 85 years of bias against the Chinese, and new groups of immigrants began to enter the country. Most recent immigrants have come to the United States to escape overpopulation, social and political unrest, and poverty.

- Language – Depends on region of origin. Mandarin, Cantonese, and numerous dialects are spoken.
- Religion – Buddhism, Confucianism, Taoism, Catholic, Protestant.
- Family organization and gender roles
  - Seniority is respected
  - Families tend to be tight-knit.
- Communication tips:
  - Chinese use a variety of naming systems. Children usually use their father's name. In order to address people correctly, you should ask what term is preferred.
  - It is exceptional for a Chinese person to seek assistance or information from anyone unknown to them or whom they are not properly introduced.
  - The man's primary duty is to take care of his whole extended family. If he puts himself in danger, he hurts his family.
  - Chinese community is group oriented
  - Saving face is vital to one's name and integrity. This should be kept in mind when communicating with East Asians.





# **POLICE STUDENT'S GUIDE**

## **Policing a Multicultural Society**

- Chinese have a traditional respect for authority, although they may be wary of it.
- Uncomfortable to maintain eye contact with authority figures
- Non-verbal displays of emotions may be controlled so as to appear flat by mainstream American standards.
- There is cultural variation between old and newer Chinese immigrants, depending on where they came from and whether or not their environment was rural or urban.
- The male head of the Chinese family should always be accorded respect and addressed politely.



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### The Vietnamese

There have been four waves of Vietnamese immigration since the end of the war in 1975. The first wave was composed of high ranking military and government officers. The second wave took place in the 1980s. This group was socially mixed and from both rural and urban areas. The third wave of immigration started in 1987 as a result of the Amer-Asian Homecoming Act which stipulated that the children of American servicemen were allowed to enter.

- Language – Vietnamese
- Religion – Buddhist, Catholic
- Family organization and gender roles
  - The male head of the Vietnamese family should always be accorded respect and addressed politely. It is advisable that you approach him before contacting female or younger members of the family.
  - The family, including the extended family members, is very important.
- Communication tips
  - There are three parts to a Vietnamese name, with the family name coming first, followed by a complementary name then a personal name.
  - It is unusual for a married woman to adopt her husband's family's name
  - It is exceptional for a Vietnamese person to deal with or seek assistance or information from anyone unknown to them or to whom they have not been properly introduced.
  - Saving face is vital to one's name and integrity.
  - Vietnamese tend to have a traditional respect for authority, although they are wary of it. They will not respect the authority of a person who does not show respect for their culture.
  - Seniority is respected
  - Approach the male head of the household first
  - Averting eyes, not touching and speaking in a low voice are ways of showing respect and recognition of authority.
  - It is considered threatening and disrespectful for an unrelated man to touch a Vietnamese woman. Be sure to have a family member come along if you have to take a Vietnamese woman with you for any reason.



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- Non-verbal displays of emotions may be controlled so as to appear flat by mainstream American standards.
- Smiles have different meaning in the context of Vietnamese culture
- Hand gestures should be avoided as they have particular meaning.
- Coining is a folk cure intended to draw illness out of the body. It involves rubbing heated coins on the skin.
- May fear and distrust law enforcement officers.



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### Koreans

Although a total of about 17,000 Korean immigrants came to the United States between 1903 -1924, and 1950-1964, the vast majority arrived after 1965. By 1990, 790,000 Koreans were living in the U.S., compared to 69,000 in 1970. Most of these recent arrivals have come to pursue educational and economic opportunities. Most Korean immigrants live in multi-ethnic or predominantly white neighborhoods rather than in Korean enclaves.

- Language – Korean
- Religion –Protestant, Catholic, Buddhist
- Family organization and gender roles
  - Mostly male-headed households
  - Extended family included several generations in a household
- Communication tips
  - Saving face is vital to one's name and integrity.
  - Seniority is respected
  - Approach the male head of the household first
  - Uncomfortable to maintain eye contact
  - Christian religion is very important
  - Formal organizations, such as the church, are very important in Korean immigrant culture.
  - Address elderly by their surname, such as "Mr. Kim" or "Mrs. Park."
  - Inappropriate gestures include eye-contact, pointing, touching, and using a raised voice.
- Large Korean communities are found in
  - Queens –Flushing, Murray Hill, Sunnyside
  - Manhattan –Trinity area in financial district



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### The Japanese

The Japanese began to arrive in the late 1880s when Chinese immigration was stopped. The success of Japanese immigrants angered many Americans and resulted in anti-Japanese legislation which ended further immigration and deprived the Japanese of the right to own land. Following the attack on Pearl Harbor, the war hysteria forced 110,000 Japanese into concentration camps on the West Coast. Nearly two thirds of the Japanese in the U.S. have emigrated since 1975.

- Language – Japanese, English
- Religion – Buddhism, Shinto, Confucianism, Taoism, Protestantism
- Family organization and gender roles – Seniority is important. While the father may be head of household who acts as family spokesman, he consults grandparents, wife, and others regarding major decisions.
- Communication tips
  - It is considered impolite to say *no* in traditional Japanese culture.
  - Elders and those in senior positions are shown particular respect
  - Loss of face is a serious matter.



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### Indians

The number of Indians immigrating into the U.S. was severely restricted until the change in immigration laws in 1965. With the 1965 amendment, highly skilled workers were given preference. Recently, opportunities in technology, engineering, and scientific skills have led to an additional influx of immigrants from South Asian countries.

- Languages –There are many languages and dialects used throughout India. The most common are Hindi, English, Urdu, Punjabi, Gujarati
- Religion – primarily Hindu, but also Sikhism, Jainism, Buddhism, Islam, Christianity, Parsis, Judaism
- Family organization and gender roles
  - Family life often consists of a joint or extended family, consisting of a mother, father, sons and sons' families.
  - Daughters tend to leave home on marriage to live in the home of their husband.
  - The joint family traditionally lives together and decisions are made by the head of the family in consultation with the other members.
  - While women from traditional, older generations are expected to be submissive to their husbands, women are active in national politics and pursue higher education.
- Communication tips – Indians are primarily Hindu. See section on Hinduism for communication tips.



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### Pakistanis

- Languages: Urdu, Sindhi, Pushtu, Punjabi
- Religion: Islam
- Family organization and gender roles
  - Family life often consists of a joint or extended family, consisting of a mother, father, sons and sons' families.
  - Daughters tend to leave home on marriage to live in the home of their husband.
  - The joint family traditionally lives together and decisions are taken by the head of the family in consultation with the other members.
  - While women from older generations are expected to be submissive to their husbands. Women are active in national politics and pursue higher education.
  - Pakistani women usually wear traditional clothing, such as loose trousers and a long tunic. Many also wear a sari over a short blouse and an underskirt. Some women wear traditional long dresses and cover their heads with a scarf.
- Communication tips
  - Since the creation of separate Muslim nations (Pakistan and Bangladesh), the animosity between Muslims and Hindus has increased.
  - Pakistan's social system is based upon a structure made up of levels of **Biraderi** - an association of people of similar status and often from the same occupational group. The purpose of Biraderi is to provide a system of common support for those who suffer poverty or sickness.
  - See section on Islam for additional tips.



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### Bangladeshis

- Languages: Bengali, English
- Religion: Islam
- Family organization and gender roles
  - Family life often consists of a joint or extended family, consisting of a mother, father, sons and sons' families.
  - Daughters tend to leave home on marriage to live in the home of their husband.
  - The joint family traditionally lives together and decisions are made by the head of the family in consultation with the other members.
  - While women from older generations are expected to be submissive to their husbands, women are active in national politics and pursue higher education.
  - Bangladeshi women may wear Muslim dress or a sari. Some women may wear loose fitting trousers and long shirt.
- Communication tips – See section on Islam for communication tips.





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### AFRICANS

The African immigrant population in New York City doubled between 1990 and 2000. An estimated 450,000 African immigrants currently live in New York City. The fastest growing immigrant group in New York City, the African-born populations has increased by 127% in the last ten years. The population is exceedingly diverse in terms of cultural, ethnic and linguistic orientations. The largest communities in New York come from Nigeria, Ghana, Senegal, Liberia, Sierra Leone, Guinea and Mali although no one group dominates the mix. Some African immigrants are refugees who have fled civil war, violence, and repressive governments. Many of these have witnessed massacres and experienced torture. Other African immigrants come to the United States seeking educational and economic opportunities.

- Languages include Somali, Amharic, Oromingna, Tigrinya, Swahili, Arabic, Zulu, Twi, African Creole, Mandingo, Fula, Ibo, Hausa, Yoruba, Bambara, Wolof, Ashanti, French, Italian, English and many more.
- Religion: Islam, Orthodox Christian, Animism.
- Family organization and gender roles:
  - Most households are comprised of extended families including grandparents, adult children and children.
  - Extended family members may have responsibility for raising the child. Sometimes an aunt, uncle or other extended family member may use the term parent to refer to him or herself.
  - Traditionally, African society is male-dominated. Men provide the financial support, but women have important roles within the family.
  - African women are increasingly gaining economic independence as they are leaving African countries on their own.
  - Africans look up to their elders. The elders are most respected and knowledgeable.
- Large African communities are found in
  - African culture emphasizes respectful and moral behavior.
  - Politeness is an important part of interaction.
  - Women may keep their heads and bodies covered and avoid direct eye contact with strangers.
  - Eye contact is generally considered aggressive.
  - An African handshake involves a light touch of palms rather than a firm grip and shaking of the hand as is common in the U.S.



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- When African men greet each other, they may touch hands and then place their right hand on their chest near their heart. This is an act of sincerity.
- Many American hand gestures are offensive to East Africans. It is recommended you use your right hand for passing things and avoid finger gestures of any kind.
- It is considered rude to call someone, particularly an elder, by a first name.
- Many people fear the police as a result of past experience with repressive and corrupt police and military. Some are victims of torture.
- **Tribe** is a linguistic term, similar to family, which has been used to describe a unit of social organization whose members share a common language, culture and common ancestor. Many Africans regard the term as degrading.
- **Headman** is a term that may be used to describe a recognized community leader.
- Respect for seniors is important in many African cultures. Assault or disrespect for older persons (even a few years older) is considered a serious matter.
- Individuals may define themselves in terms of a community and, in the absence of that community, may feel incomplete. Along these lines, it is not uncommon for two Africans in a foreign country like the U.S. to introduce each other as brothers or sisters, even if they come from two different countries in Africa.
- Naming is different in African nations than in the United States and two siblings by the same parents may have different surnames.
- Africans consider themselves different from African Americans.
- Where they live in NYC
  - Bronx – Highbridge, Tremont, Morrisania
  - Queens – Far Rockaway
  - Staten Island – Stapleton-Fox Hills
  - Brooklyn – Williamsburg, Bedford Stuyvesant, Fort Greene
  - Manhattan – Upper West Side, Harlem



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### ARABS

Arab immigrants to the U.S. are diverse, and come from several countries, including Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Emirates and Yemen. The first wave of Arab immigrants came to the U.S. between 1880 and World War II. They were largely from Syria and what is known today as Lebanon. Ninety percent of these were Christian, and many settled in Brooklyn Heights, and the Cobble Hill and Bay Ridge sections of Brooklyn. The Palestinians began to arrive in 1948 after a portion of Palestine was made into Israel. In 1996, more than 40,000 immigrants were admitted from a number of countries including Iraq, Jordan, Lebanon, Syria, Yemen, Palestine, Morocco, Tunisia, and Algeria. Arab immigrants have come to the U.S. seeking political stability, peace, education, and economic opportunity.

- Language – Arabic (various dialects)
- Religion – Islam is predominant, also some Christian
- Family organization and gender roles
  - Extended family members are often as close as nuclear family
  - Loyalty, protection and family honor very important
  - Male traditionally head of household. Wife, however, is the authority in family matters.
  - Wife may defer to husband in public.
  - Modesty is important for women. A traditional Arab woman may wear a head cover and also cover her face.
- Communication tips
  - Be alert to the enormous diversity among Arab American groups.
  - A person's dignity, honor and reputation are of paramount importance. Loss of face and honor bring shame and humiliation.
  - Loyalty to one's family takes precedence over personal needs.
  - Protection and privacy of family is important.
  - Criticizing one's family in public is not acceptable.
  - Too much directness and candor can be interpreted as impolite.
  - The religion of Islam is intimately tied to Arab culture and should be respected.
  - Be aware that newly arrived Arab Americans may get out of their car when stopped by a police officer as a gesture of courtesy. You may need to inform individuals regarding appropriate procedure in this country.



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- Words are very powerful. Swearing is not acceptable.
- If it is necessary to have a Muslim woman remove her head cover, have her do it in private and, if required, get a female officer to help.
- When Arab men greet each other, they may shake hands and then place their right hand on their chest near their heart. This is an act of sincerity and respect.
- Women usually do not shake hands.
- Arabs stand close to one another when speaking.
- Arabs may talk louder than you are accustomed. Do not assume an argument is taking place if you encounter a loud family discussion.
- Muslims may pray five times a day (see discussion of Islam).



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### RELIGIONS

#### Islam

Followers of Islam are called Muslims. Muslims believe in one God, **Allah**. Their Holy Book is the Quran (Koran). The religious duties of Muslims are described in the Five Pillars of Islam:

1. Declaration of Faith (**Shahadah**) –To testify that there is no god but Allah and that Muhammad is the Messenger of Allah.
2. Prayer (**Salat**) –five times daily
3. Charity (**Zakat**) – It is a social responsibility to redistribute wealth and to create a healthy economic environment on all levels of society. Zakat is paid once a year based on personal savings at the rate of 2.5 percent.
4. Fasting (**Sawn**) – Designed to cultivate human excellence within the individual. During the month of Ramadan, Muslims fast daily from sunrise to sunset, abstaining from food and drink.
5. Pilgrimage to Mecca (**Hajj**) – Muslims should perform the Hajj once in a lifetime. It commemorates the trail and sacrifices of the Prophet Abraham, his wife Hagar, and their son Prophet Ishmael.

#### *In the Mosque:*

- Avoid entering a mosque, or certainly the prayer room of a mosque, during prayers



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- A person should remove his or her shoes before entering a mosque. If possible, acknowledge the custom even if you are unable to abide by it.
- Never step on a prayer mat
- Never place the Koran on the floor or put anything on top of it.
- Avoid walking in front of people who are praying
- Speak softly as you would in a church or synagogue
- Dress conservatively
- Invite a person out of a prayer room to question him or her

### **Holidays**

- **Ramadan** – Muslims abstain from eating, drinking, smoking, and sex from dawn to sunset.
- **Eid al-Fitr** – Festival of Breaking the Fast immediately follows Ramadan. Prayers are held outside and communities celebrate with parties.
- **Eid al-Adha** – February – Festival of Sacrifice marks the final stage of the pilgrimage to Mecca. It lasts 4 days and is celebrated with outdoor prayer, parties, and sacrifice of an animal.
- **Prophet Mohammed's birthday** – May 25



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### Hinduism

Hinduism originated from the Indian subcontinent. It is one of the world's most ancient religions, and can be traced back at least 4,000 years to the Indus Valley civilization. Hinduism offers the teachings of many great religious thinkers who lived at different times and whose teachings have been incorporated into the Hindu religion. It is estimated there are some 650 million Hindus throughout the world. Within Hinduism, there are many different beliefs and practices. The main Hindu beliefs include:

- **Brahman** – the belief in one Supreme Spirit or God
- **Ahimsa** – the belief that it is wrong to hurt any living thing
- **Samsara** – the cycle of birth and death; the ultimate aim is to break the cycle to gain release and never to be born again
- **Karma** – peoples' behavior and actions in this life will decide their next life.
- **Dharma** – a person has certain duties to family, class, and God

Hinduism is made up of hundreds of small groups called **castes** that influence family matters, such as marriage, food, and dress customs. There are the **Brahmins** (priests) who are at the highest level; **Kshatriyas** (rulers and warriors); **Vaishyas** (merchants and businessmen); and **Shudras** (manual workers and servants). Expanded through 2,000 years of changing demographics and religious evolution, further distinctions were made in each of the groups. Today, there are 3,000 castes and sub-castes in India.

- Family organization and gender roles
  - Traditionally Hindu families are extended or joint families with grandparents, aunts, uncles, and children living under one roof.
  - Women traditionally have responsibility for looking after the home and family.
  - The man, as head of the family, normally takes financial responsibility.
  - Arranged marriages are common and are normally organized by the parents with the consent of the couple. Backgrounds of the two individuals are taken into account. Often they will be from the same caste group. Arranged marriages can be a source of great tension



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if parents and children do not agree on a partner. Also, nowadays, some Hindus wish to choose their own partner.

- The couple will usually live with the groom's family.
- Marriage is both a civil contract and a sacrament. Divorce is allowed although it is relatively uncommon and seen as shameful and stigmatizing, especially for women.
  
- Communication tips
  - Upon meeting, Hindus may put their hands together in the **namaste** gesture which means: "May that which is of God in me salute that which is of God in you."
  - If offered refreshments, it is polite to accept.
  - A guest, who is invited to look at the family shrine, should remove his or her shoes. You should acknowledge this custom even if you feel you cannot abide by it.
  - In traditional households, it may be preferable for a man not to speak to a Hindu woman alone. Her husband or other family member should be present.
  - On entering a Hindu temple a person should remove his or her shoes. Where appropriate and possible, you should acknowledge this custom even if you feel you cannot follow it.
  - On leaving the temple, a piece of fruit or sweets may be offered; it is polite to accept.
  - In general, there is quite a lot of variation in the diet, but it is advisable to ask what a Hindu can eat. Hindus may also fast, and many do not drink alcohol or smoke.
  - Hinduism does not require any particular type of dress. Hindus may wear either Western or Indian style dress.
  
- Holidays
  - **Dussehra** – October –celebrates the victory of the Goddess Durga over evil.
  - **Diwali** – October-November –called Festival of Lights because small lamps are lit to guide the God Rama to his kingdom. This also marks the end of the Hindu year.
  - **Holi** – March – spring festival where all barriers of caste and rank are forgotten.
  - **Raksha Bandhan** – August – festival of protection. Sisters tie a symbol on a brother's wrist in return for his protection.





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### Sikhism

Sikhism was founded in India over 500 years ago. Sikhism emphasizes the truth and creativity of a personal God and urges union with him through meditation and surrender to his will. Sikhs follow the teachings of the 10 **Gurus**, the best known being Guru Nanak, the founding guru. The teachings and messages of the gurus are set out in the Guru Granth Sahib, the Holy Scriptures. The main Sikh beliefs include:

- There is one God who is omnipotent.
- All human beings are equal.
- Earn one's living by honest means and working hard.
- Give to charity
- **Sewa** –selfless service, to God and other human beings.
- Family organization and gender roles
  - Sikh families are traditionally extended or joint families where many relatives live together.
  - Family relationships are extremely important, particularly relationships between parents and children.
  - Very important to respect elders.
  - Men and women are equal in both secular and religious life.
  - Arranged marriages are common.
  - Modesty is a valued quality for women.
  - Most men and some women wear turbans.
  - Sikh men and women dress modestly.
  - Women may wear loose trousers with a long top and scarf or western dress.
- Devout Sikh men and women wear the **five Ks**:
  - **Kesh** – uncut hair, normally worn underneath a turban.
  - **Kangha** – small wooden comb used to keep hair tidy. Keeping clean and tidy is very important.
  - **Kirpan** – a sword which reminds Sikhs it is their duty to fight against evil. In the U.S., this typically is a small knife.
  - **Kara** – a steel bangle worn on the right hand to remind Sikhs to be strong in standing up for what is right.



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- **Kachera** – a pair of shorts which remind Sikhs that it is prohibited to cohabit with a person other than one's spouse.
- Communication tips
  - Sikhs are known for their hospitality. The **gurdwara** (house of worship) is often also a guesthouse with free food and shelter for travelers.
  - A large room in the gurdwara containing the Holy Book is used for prayer and worship. One must remove his shoes and cover his head prior to entering the room.
  - Sikhs worship every day, in mornings and evenings.
  - The turban of a Sikh man and the scarf of a Sikh woman must never be touched by anyone. It is very disrespectful and offensive.
  - Any search of the head of a Sikh must be conducted in private. Sikhs should never be forced into a public area with their heads uncovered.
  - Many Sikhs are vegetarians. Those who do eat meat must only eat **chatka** meat, from animals that have been killed quickly, humanely, and without religious or ritual ceremonies. Sikhs do not eat **halal** (animals slaughtered according to Muslim law) or kosher meat.
  - Alcohol and tobacco are forbidden.
- Holidays
  - **Vaisakhi** – April 13 or 14 – Sikh New Year.
  - **Diwali** – October and November – festival of lights which celebrates the release from captivity of the sixth guru.
  - **Hola Mohalla** – March – festival marked with sports events, music, and poetry competitions.



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### Buddhism

Buddhism originated in India. It is based on the teachings of **Siddhartha Gautama**, known as **Buddha**, or "**The Enlightened One**." Buddhism seeks to give a person peace of mind and encourage and develop loving compassion toward all living things. The goal of the Buddhist religion is enlightenment, which means to be fully awake to the reality of life—to have an understanding of why there is suffering in the world and of how it may be overcome. Buddhists do not believe in a god or gods, but in the power of prayer to Buddha and in reincarnation. Today there are about 330 million Buddhists worldwide, the majority living in the Far East. All Buddhist philosophical elements relate to the **Four Noble Truths**:

1. Life is fundamentally disappointing and suffering
  2. Suffering stems from one's desire for pleasure, power, and continued existence
  3. To stop suffering, stop desiring
  4. The way to stop desiring is the path of right conduct
- Family organization and gender roles
    - Traditionally, parents help their children find a suitable partner.
    - Divorce and re-marriage is rare among Chinese Buddhists.
  - Communication tips
    - It is best not to shake hands with a Buddhist unless a handshake is offered.
    - A person should remove his or her shoes before entering a Buddhist temple. If possible, acknowledge the custom even if you are unable to abide by it.
    - Buddhism emphasizes the avoidance of intentional killing.
    - Many Buddhists are vegetarians.
    - When a person enters a shrine room in a temple or home, headgear and shoes should be removed. You should acknowledge the custom even if you are unable to abide by it.
    - Statues, pictures, the shrine, and other religious objects should be treated with respect. Buddhist statues should be lifted or held by the base and never by the head or top of the object.



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- Police officers should explain clearly and fully the purpose of their actions if they intend to move religious objects. They should also apologize for any offense that this may cause.
  - Buddhist teachers should not be touched as a general rule. Should this be necessary in extreme circumstances, caution and sensitivity should be employed. Unless absolutely unavoidable, monks and nuns should never be touched on the head.
  - The common greeting gesture for Buddhist is to place both palms together, and then bow gently. However, some sects have their hands folded over their heart in greeting.
- Holidays
    - **Vaisakha Puja** – month of **Vesak** (usually May) – commemorates the birth, enlightenment, and passing of Buddha. Captive birds are released, lanterns and flowers are hung, candles and incense are lit.



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### Judaism

The Jewish people, unlike people of other ethnic groups, are not part of a particular nation. Instead, their identity is derived from their faith in the 5,000 year old Jewish religion. Jewish people believe that a single transcendent God created the universe and continues providentially to govern it. God's will for humankind is expressed in the Ten Commandments.

The first large wave of Jewish immigrants came to the United States in the 1830s and 1840s, when Polish and Bavarian Jews fled to the U.S. to escape heavy taxes and restrictions placed upon them. The Revolution of 1848 brought more Jews from Germany, Austria, and Hungary. Between 1881 and 1924, persecution and war drove more than one-third of the Jewish population of Eastern Europe to the U.S. The anti-Semitism prior to and during WWII and the ensuing atrocities by the Nazis brought thousands of Jewish people to the U.S., with the majority eventually settling in New York City.

There are three main sects of Judaism: **Orthodox**, **Conservative**, and **Reform**. Orthodox Jews believe that the Jewish laws and teachings of Torah and Talmud (the Jewish Bible and Set of Laws) must be followed exactly as they were laid down in the time of Moses. Conservative and Reform Jews believe that some of the Torah's teachings may be adapted to make them more relevant to modern life.

- Family organization and gender issues
  - The home and family have a central position in Jewish society. Jewish families tend to be nuclear with father, mother, and children living together.
  - Women and men are equally expected to fulfill their potential. Women can pursue both a career and raise a family.
  - Traditionally the women pass on the beliefs and customs of their faith to the children.
  - Orthodox Jews tend to advocate early marriage.
  - Orthodox Jews wear traditional clothing – usually long black coats for men and long dresses for women. Orthodox men keep beards and long curled side locks. They keep their heads covered at all times. Orthodox women dress modestly and keep their hair covered at all times.



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- Communication tips
  - Among Orthodox Jews, work is prohibited during the Sabbath. Work includes phoning, writing, cooking, turning on electricity, and traveling by car and public transport. Exceptions are made to these restrictions only if it is necessary to save life.
  - Orthodox Jews recognize modesty as a high moral value. Any search of a member of the Jewish community should be conducted with care and sensitivity. A search of a religious Jew must be carried out by an officer of the same sex.
  - Certain items have immense religious significance. Officers searching premises should take great care if they need to handle religious books, candlesticks, silver cups, and other artifacts.
  - If you wish to go to a synagogue, it is best to call beforehand. Officers wishing to enter a synagogue should wait to be approached. This will normally be by a **Shamash**, or **Beadle**. Officers should keep helmets or other headgear on when entering.
  - Some Jews are very strict about following dietary laws. Few professing Jews will eat pork, bacon, or lard, and some will eat only food brought in from a trusted source, such as home, or a kosher restaurant with intact seals.
  
- Holidays
  - **Shabbat** (Sabbath) – sundown Friday to sundown Saturday – a day of rest to be spent at home with the family. Traditionally, the family will visit the synagogue and then return home for a special meal.
  - **Passover** – March or April – spring festival that lasts for eight days and celebrates the Exodus of the Israelites from slavery in Egypt. It is celebrated by a meal called a **Seder** where the story is told and special food is eaten.
  - **Rosh Hashanah** – September – Jewish New Year
  - **Yom Kippur** – September – Day of Atonement – fast for a day as a sign of repentance and desire to do better in the year to come.
  - **Sukkot** – September – Harvest festival
  - **Hanukkah** – December – Festival of lights



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### Hasidim

Hasidic Jews are primarily Orthodox Jews who trace their traditions to a movement that was started in Europe in the 18<sup>th</sup> century. Each group is headed by a Rabbi or Grand Rabbi. The beliefs of some fifty Hasidic sects range from extreme to moderate in terms of keeping of traditions. The three largest Hasidic sects in New York City are the **Lubavitch**, the **Satmar**, and the **Stolin Hassidim**.

- Where they live in NYC
  - The Lubavitch of Crown Heights (71 precinct) believes their mission is to convert nonobservant Jews into observant Jews. A common sight in New York is the Lubavitch "Mitzvah Tanks," vans filled with young Hassidim who approach Jews on the streets and invite them to pray. The worldwide headquarters of the Lubavitch movement is in Brooklyn at 770 Eastern Parkway.
  - The Satmar of Williamsburg (90 precinct) is home to 30,000 Satmar Hassidim.
  - The Stolin sect lives in the Borough Park area of Brooklyn (66 precinct). This area also houses the largest group of other Hassidic sects.
- Family organization and gender issues
  - Parents arrange all dating within the community. Couples date for approximately three or four months before committing to marriage.
  - Families tend to be large
  - Women are required to wear skirts or dresses.
  - Men and women do not touch in public.
- Communication tips
  - While all Hasidic Jews may appear similar, there are subtle differences between the various sects.
  - See communication tips under Judaism



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### Rastafarians

**Rastafari** originated in Jamaica in the 1930s as a response to the oppression of the ruling colonial powers and as an expression of the original African identity of the people. It became popular with the poorer sections of Jamaica. Today it is a worldwide movement. Most Rastafarians are of African-Caribbean descent and identify with the struggle of reclaiming their African ancestry. Rastafarians believe that Haile Selassie I, the late Emperor of Ethiopia, or **Ras Tafari**, is the true and living God regarded as fully incarnate. They believe that salvation can come to black people only through repatriation to Africa after liberation from the evils of the western world. Rastafarians are guided by the culture and traditions of Africa; their faith teaches peace, love, truth and right.

- Language – Rastafarians communicate in their own lyrical manner based on Jamaican patois. It is extremely dynamic and varies by speaker. They have developed this partly to disassociate themselves from the language of the oppressors.
- Family organization and gender roles
  - There is no formal marriage. A man and woman who co-habit are automatically viewed as husband and wife.
  - The lion is a symbol of Haile Selassie (God) but also represents the dominant maleness of the movement
  - Rastafarians often keep their heads covered. Men may wear knitted, leather, or cloth tams. Women normally cover their heads with wraps.
  - Their hair is often worn in dreadlocks, symbolic of a lion's mane. If a Rastafarian's hair is not in dreadlocks, it tends to be worn long, obeying the biblical command not to use sharp instruments on the body.
- Communication tips
  - For many Rastafarians, smoking marijuana (ganja) is an important part of their worship and a ritual aid for meditation
  - Colors often associated with Rastafarians are red, green, gold, and black. Red symbolizes the blood shed in Rastafarian's historical struggle; green represents the land; gold is for the faith, prosperity, and sunshine of the Rastafarian people and the produce of Africa; black symbolizes the color of the people.





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- Most Rastafarians are vegetarians. They may not drink alcohol, coffee, tea, or milk, but may drink herbal teas or anything made from natural herbs and roots.
- Holidays
  - Ethiopian Constitution Day – July 16
  - Birthday of Haile Selassie I – July 23
  - Birthday of Marcus Garvey – August 17
  - Ethiopian New Year's Day – September 11
  - Anniversary of the coronation of Haile Selassie I – November 2



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### Christianity

Christianity was formed about 2,000 years ago in Asia. It is the world's most widespread set of religions and has about a billion followers. Most followers of Christianity are members of one of three major groups: Roman Catholic, Protestant, or Eastern Orthodox. These groups have different views about Jesus and his doctrine but all groups consider Jesus central to their religion. Some groups worship God in terms of "The Holy Trinity," the Father, the Son, and the Holy Spirit.

- Communication tips
  - Christians have respect and reverence for the name of God. Casual or careless use of "Jesus" or "Christ" in conversation may be offensive.
  - It is very important for Roman Catholics to be given their last rites.
  - Some Roman Catholics don't eat meat on Fridays. Restrictions on eating meat apply to all practicing Roman Catholics on Ash Wednesday and Good Friday.
  
- Holidays
  - Baptism and Holy Communion are the most widely accepted rites of the Christian church.
  - Most Christians celebrate Sunday as the day for worship.
  - Christmas – December 25 –celebration of the birth of Jesus
  - Easter – April – commemoration of Jesus' resurrection
  - Pentecost – celebration of the coming of the Holy Spirit



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### LESBIAN, GAY, BISEXUAL AND TRANSGENDER COMMUNITIES

New York City is diverse not only in terms of the racial, ethnic, and cultural identity of its population but also in terms of their sexual orientation and gender identification. Every cultural, racial, ethnic, and occupational group contains gay, lesbian, and/or bisexual members. Most also contain individuals who define themselves as part of a transgender community. In order to enhance your cultural competence in dealing with members of the Lesbian, Gay, Bisexual and Transgender (**LGBT**) communities, it is important that you understand something about their experience and address personal biases which may interfere with your ability to communicate professionally and effectively.

#### Lesbian, Gay and Bisexual Communities

There are a number of myths floating about mainstream culture which fuel the homophobic attitudes that underlie some of the anti-gay prejudice which exists in our society. One myth claims that people choose their sexual orientation (whether or not their sexual partner is of the same or opposite sex). In truth, **people do not choose their sexual orientation**. An individual does not decide to be "straight," "gay" or bisexual.

At present, there is no conclusive scientific evidence to explain how a person's sexual orientation develops. It is uncertain whether it is dictated by genetics, fetal development, environment, or a combination of factors. There is no evidence that particular parenting patterns influence sexual orientation. There is, however, broad professional agreement that a person's sexual orientation is established early in life. Nevertheless, adolescence is a period of flux in which childhood conflicts may be unconsciously revived. During this time, some girls may experiment with bisexuality who later commit themselves to men as sexual partners.

Historically, members of the LGBT community have been mistreated by different segments of society, including the police, and instances of harassment and violence have occurred in the U.S. While New York City tends to be more tolerant of differences than some other parts of the country, acceptance of LGBT individuals varies, depending on culture, occupation, political and religious beliefs and personal biases. The result is that the stigmatization of individuals within the LGBT community continues to affect how they feel about themselves and their membership in the larger society.



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Fear of negative labeling on the part of family, friends, and representatives of public institutions, such as the police or the church, may lead some individuals to deny or try to hide their feelings about their gender identity (male or female) and/or sexual orientation (homosexual or heterosexual). Their anxiety may be heightened in the light of their own unresolved conflicts about gender issues and “internalized homophobia.”

Many gay and lesbian individuals who are raised in social worlds that disapprove of homosexuality will internalize (render unconscious and a part of themselves) those negative attitudes and values. In their book, *Sexual Orientation and Psychoanalysis*, for example, authors, Richard Friedman and Jennifer Downey discuss a depressed patient who identified with and internalized his parents' abusive homophobia. His engagement in dangerous behaviors in adult life resulted from his unconscious self-hatred.

Denial of one's sexual feelings does not change one's sexual orientation, although it may protect individuals from excessive anxiety while they work to resolve inner tensions. However, consciously attempting to keep one's sexual orientation hidden can also exacerbate anxiety and conflict. This is particularly likely when the individual lives or works in an environment which rigidly defines itself along traditional gender lines (such as the military, police, and sports organizations). In these situations, exposure of one's sexual orientation and/or gender identity is more likely to result in humiliation, ostracism and/or punishment.

Fear and hatred of gay and lesbian individuals is heightened by shared myths and stereotypes that have no basis in fact. The popular media as well as representatives of political and religious groups who have strong traditional beliefs about how families are defined may perpetuate these myths. As police officers, you are required to treat all people equally without regard to their sexual orientation. It is therefore important that you learn to separate myth from reality.

### Common Myths

- **Myth: Homosexuality is not natural.**  
**Fact:** *As previously mentioned sexual orientation is established early in life and is determined in large part by biological factors. There is no evidence that one sexual orientation is more natural than others. Heterosexuality may be more prevalent but is not more “natural.”*



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- **Myth: Gay and lesbian relationships involve dominance and subordination in which one partner is always assumes the traditional “male” role.**  
*Fact: Sexual preference among gay men and women is as varied as it is among those who are heterosexual. Lesbian and gay men seek egalitarian relationships based on principles of equality at the same frequency as heterosexuals.*
- **Myth: Children raised by gay or lesbian parents will become gay, themselves.**  
*Fact: Studies show that children raised by gay or lesbian parents are no more likely than children raised by heterosexual parents to be gay or lesbian. Indeed, the majority of gay men and lesbians today were raised by heterosexual parents.*
- **Myth: Gay men are actual or potential child molesters.**  
*Fact: 90% of all child molestation is done by heterosexual males against young girls. Child molestation, like rape, is about power and control, not sexual desire or orientation.*

### Transgender Communities

Gay, lesbian and bisexual individuals are as comfortable with their biological sex as heterosexuals. Neither heterosexuals nor homosexuals have a desire to change their biological sex to its opposite. This is not the case with many transgender persons. ***The focus of concern for members of the transgender community is not sexual orientation but gender identity.***

In contrast to persons who are gay, transgender people perceive a conflict between their biological sex and their gender identity. Some resolve the conflict by undergoing sex re-assignment surgery. Others live with the discomfort and try to conform to the roles expected of them by society. Still others deal with the tension by ***passing*** at work as one gender and assuming the other at home. In the context of the transgender community, passing refers to the ability of a person to move about in public as a member of their chosen gender without being recognized as transgendered.



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### *Communication Tips*

- A person who believes that he or she was born the wrong biological sex and who is taking steps to change this situation should not be referred to as a transvestite.
- Most transvestite persons do not identify as being lesbian, gay, or bisexual.
- Police will encounter transgender people in exactly the same situations as they would any member of the public, including as crime victims.
- In day-to-day encounters officers must deal with the person as members of the gender category which they present.
- It is important to respect an individual's need for confidentiality. Often wives, families, neighbors, and employers are not aware of the situation, and the person would be greatly embarrassed if such information were made known.

### **Terms and Definitions**

- **Biological Sex** – Being male or female as determined by chromosomes and body chemistry.
- **Gender** – Expressed in terms of masculinity and femininity. It is how people present themselves and how they expect others to behave.
- **Sexual Orientation** – Refers to an individual's "choice" of a same sex or opposite sex partner.
- **Homosexual** – Technical term for a person who prefers a sexual partner of his or her own sex.
- **Lesbian** – a female who prefers a same sex sexual partner.
- **Gay** – Male (or female) who prefers a same sex sexual partner.
- **Bisexual** – an individual of either sex who enjoys sexual partners of the same and opposite sex.



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- **Gender Identity** – The gender we identify with or feel that we belong to, i.e. male or female.
- **Transvestism** – The adoption, full or partially of the clothes normally identified with the opposite gender.
- **Transexualism** – A profound form of gender dysphoria, in which an individual believes that they do not belong in the sex in which they were born and who has changed or is in the process of changing to their chosen sex or gender.
- **Gender Dysphoric** – a technical term describing persons whose biological sex and gender identity are in conflict.



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### BIBLIOGRAPHY

Avon and Somerset Constabulary. 2000. *Faces of Britain: A Cultural Guide*. London, England: The British Publishing Company, Ltd.uk.

Foner, N. (ed). 2001. *The New Immigrants*. New York: Columbia University Press.

Freeman, J. 1995. *Changing Identities: Vietnamese Americans 1975-1995*. Boston: Allyn and Bacon.

Friedman, R. and J. I. Downey. 2002. *Sexual Orientation and Psychoanalysis: Sexual Science and Clinical Practice*. New York: Columbia University Press.

Gold, S.J. 1995. *From the Workers' State to the Golden State: Jews from the former Soviet Union in California*. Boston: Allyn and Bacon.

Lovell, W.G. 2000. *A Beauty that Hurts: Life and Death in Guatemala*. University of Texas: Austin.

Mahler, S.J. 1995. *Salvadorans in the Suburbs: Symbiosis and Conflict*. Boston: Allyn and Bacon.

Metropolitan Police. 2001. *MPS Handbook on London's Religions, Cultures and Communities Policing Diversity*: Metropolitan Police Service. London: Subject to the Crown.

Shusta, R.M, D.R. Levine, P.R. Harris and H.Z. Wong, 2002 (eds.) *Multicultural Law Enforcement*. Upper Saddle River, N.J.: Prentice-Hall.

Stepick, A. 1998. *Pride Against Prejudice: Haitians in the United States*. Boston: Allyn and Bacon.

Thriveikraman, J., C. Gwyn, D. Duchon and G. A. Hoffman. (eds.) *The Ethnographies of Recently Arrived Groups. Bridging the Gap Project, Inc.* Atlanta, GA: 1615 Peachtree Street NE. (unpublished manuscript).





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## **Policing a Multicultural Society**

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# POLICE STUDENT'S GUIDE

## Discretion

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT DISCRETION?

Discretion is the authority to decide how to resolve situations in different ways. Police officers need to know about discretion because they use it every day, and because the decisions they are authorized to make can have enormous impact on the lives, rights, and liberties of citizens; on the public; on the relationships among the public, this Department, and the entire City government; and on themselves. In fact, most of the riots in this country over the last half-century have been started by what, rightly or wrongly, were believed by citizens to have been abuses of police discretion. These riots have had lots of other, underlying, causes – racism, poverty, inequity, dissatisfaction with government generally – but it is sobering to reflect on all the damage that has been sparked by controversial decisions made by police officers on the street.

In recent years, some of the most serious allegations about police discretion are claims that it has been abused, and degenerated into *racial profiling*. It is also important that you understand discretion sufficiently to be able to distinguish between discretion and discrimination. *Discretion* will authorize you to choose among different alternatives in finding ways to deal with problems you will encounter on the job. Discrimination occurs when your decisions to take action – or to not take action – are based on person's membership in a gender, racial, ethnic, or religious group, or because of his or her sexual preference. The decisions you make while exercising discretion must be *objective and reasonable* and must be designed to achieve some legitimate police objective. The phrase *objective and reasonable* means that your decisions cannot be based on your personal beliefs or biases. You cannot make decisions solely on the basis of whether someone is white or black. The decision you make must be based on objective information and within the law and Departmental guidelines.

Scholars and judges have studied police discretion extensively, and have reached several conclusions about it. Most important, they have pointed out that street-level police officers exercise more – and more *irreversible* – discretion than does any other peacetime civil servant. Nobody but a police officer – not the Police Commissioner, not the President of the United States, not any senator or congressman or congresswoman – is given as much discretion as a police officer in deciding whether to use deadly force against other Americans. True, a judge and jury can decide that a convict should be executed but, before their decision is carried out, years will pass and many other people – appellate judges at the state and federal level right up to the U.S. Supreme Court, the Governor, perhaps even the President – will have the opportunity to review it and to change it. When a cop makes a decision to shoot someone, by contrast, he or she does so in an instant, with little or no opportunity for deliberation and with no chance for anybody else to reverse the course of the bullet. Instead, the person shot suffers the consequences of the officer's



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decision *immediately*, and the officer has to live forever with the decision to shoot. Such decisions should be made only as a last resort, and only after careful training and lots of personal reflection to prepare oneself for the instant where one might have to make such a decision. We begin this process of training and reflection right now.

### DISCRETION AND ACCOUNTABILITY

Discretion is not a license for police officers or any other professionals to do as they please. With the right of discretion comes a very high degree of *accountability*. In simple terms, this requires that one be able to explain why a particular course of action was chosen and how it is legal, ethical, and consistent with the standards of one's profession. To do this, police officers must always keep their eye on the prize: that ***our primary responsibility is to protect life***. Ultimately, every decision we make will be judged in terms of whether it was the best reasonably available way to accomplish this purpose.

The responsibility to protect life overrides all other police responsibilities. We also have obligations to apprehend offenders and to protect property, but these are not as important as the obligation to protect life. A police officer who chose to apprehend a car thief by pursuing him at high speed through crowded city streets would be acting improperly because he would be giving a higher priority to his obligations to apprehend criminals and to protect property (the stolen car) than to his obligation to protect life. If he chose to pursue in such a situation, he would not be able later to explain his actions in ways that were consistent with his obligation to protect life. It is for this reason that the Department has created policies on vehicle pursuits that tell him in advance that he should not endanger life by chasing cars at high speed, and that he will be held accountable if he violates them.

### Professional Accountability

All professions have some mechanisms for accountability. While every professional's decisions must be consistent with the law, the law usually only applies to the very worst abuses of discretion. A New York doctor, for example, was recently prosecuted for assault after he used his scalpel to carve his initials into a woman's body during surgery. This is terrible conduct that certainly deserves criminal treatment, but it is also possible for doctors to behave in unacceptable ways that are not so obviously criminal. It would be easy for a jury to decide that our initial carver should be convicted, but what about doctors who perform unnecessary surgery in order to line their own pockets? How would a jury know whether, in a particular set of circumstances, a doctor should have performed radical surgery to remove a diseased organ or, at far less cost to the patient and insurer, simply could have treated it with medication? This is a tough question, better answered by other trained and experienced doctors than by juries. Other doctors can look at the patient's history,



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illness, and any other information that was available to a doctor at the time she made a decision to operate, and can judge the reasonableness of her decision on the basis of what they would have done in the same circumstances. A jury untrained in medicine cannot do this easily.

It is for this reason that members of professions are held accountable for their decisions not through the criminal law, but through reviews conducted by other members of their professions. When doctors are accused of unnecessary surgery, their hospitals and professional medical associations convene committees to review cases and to decide whether doctors' decisions to operate were appropriate. When lawyers are accused of misconduct – like not doing everything possible for a client or engaging in a conflict of interests – their conduct is reviewed by their employers and by professional bar associations.

This applies to the police, as well. In rare instances, police officers have been held accountable for abusing their discretion through criminal prosecution. The Los Angeles officers who beat Rodney King and the Brooklyn officer who victimized Abner Louima acted so egregiously, and in such a clearly criminal way, that prosecution and conviction were virtually inevitable. There was no way that the officers who beat King could convincingly argue that what jurors saw on that infamous videotape was a legitimate way of subduing Mr. King. There was no way that the officer who assaulted Mr. Louima could convince anyone that Mr. Louima's injuries – a ruptured colon and bladder caused by the insertion of a wooden stick into his rectum – had been the result of reasonable force.

Like doctors and lawyers, police officers can abuse their discretion in ways that are not so clearly wrong or that are not even addressed in criminal law. For this reason, the NYPD has created policies and directives that guide officers' discretion in sensitive situations. These are enforced by the professional reviews of police supervisors and commanders. Examine your copy of the Penal Law carefully, for example, and try to find the section in which it prohibits police officers from firing warning shots or that limits the circumstances in which they may shoot at occupants of motor vehicles. You will not find any such sections because our state lawmakers have left such matters up to individual police agencies. Because these issues are not addressed in the criminal law, a prosecution of a police officer who fired a warning shot or who fired at the occupants of a moving vehicle would be highly unlikely unless it occurred in circumstances in which a prosecutor could show a jury that the shooting had been criminally reckless or negligent. If an officer fired a warning shot into the air in the middle of Central Park late at night, it is unlikely that he or she would be prosecuted. If the officer were to do the same thing in a first floor apartment – firing a shot into the ceiling and striking a second floor resident – he or she almost certainly would be prosecuted for recklessly causing an injury that, under the circumstances, was very likely to occur.



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### Policy Discretion and Operational Discretion

Because police have to make important decisions under the most stressful circumstances and because so many inappropriate decisions are not addressed in criminal law, the Department's policies and directives tailor officers' decisions to the circumstances of this City. It might be appropriate to allow police officers in the Adirondack Wilderness or other sparsely populated upstate areas to fire warning shots. Because of New York City's high rise buildings and densely populated streets, however, it would be wrongheaded to allow warning shots here.

When the Department issues policy statements (e.g., General Orders; Interim Orders; Operations Orders; Patrol Guide sections) that limit officers' authority to make decisions, the Department's administration is exercising *policy discretion*. When this happens, the Department removes some operational discretion from officers on the street and is saying, in effect, that *this* is the way officers should handle particular situations, and that the Department will hold officers accountable for doing so. The Department's policy on use of deadly force may be the best example of this. The deadly force policy limits officers' *operational discretion*, their authority to make decisions in the field.

Department policy governs officers' operational discretion in ways not addressed in the criminal law (as in warning shots and shots at vehicles), and establishes an elaborate investigation and review procedure to assure that officers abide by the policy. Similarly, policies on matters such as response to domestic violence and emotionally disturbed persons limit and guide officers' discretion on the streets.

The Department does not make policy arbitrarily. Instead, policy is made by the Department's administration only after lengthy deliberation about what officers should try to accomplish in certain circumstances and how they should go about attempting to do so. This relieves officers – who have to make decisions **right now**, in the worst possible circumstances – from having to pick a solution out of the air, and then having to live forever wondering whether they chose the right one. By the time you are done with this training program, you will know what the Department expects you to accomplish in sensitive situations, how to choose the alternative that appears to make the most sense, and how to explain why you did what you did.

### Finding the Right Answer

This raises the question of whether there is a single right answer to every situation. Unfortunately, there is not. As you proceed through your career, you will find that the answers to most of the problems you encounter are obvious and clear-cut: some people should be arrested; some disputants should be asked to separate and leave the scene; some noisy kids should be simply chased off the corner; some people



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should be transported to hospitals or mental health facilities. In some circumstances, the best way to meet the primary responsibility to protect life will jump out at you because it will be the *only* way to protect life.

In other circumstances, the right choice may not be readily apparent. Consider these situations:

1. My partner and I came to this apartment because the neighbors reported hearing a woman screaming for help inside it. Now we're here, and nobody answers the door. Should we leave? See if we can get the key from the superintendent? Kick in the door?
2. My partner and I came to this location because the neighbors reported hearing a woman call for help from within an apartment. When we knock on the apartment door, a woman yells at us from inside to go away and that everything is okay. She refuses to open the door. What now?
3. We have a description of a young man who just mugged a woman on the street. Five blocks away, we came across a person who matches the description, except that he is about five inches shorter than what the radio dispatcher told us. He is angry, refuses to identify himself or to cooperate with us, and tells us that he'll sue us if we don't let him go immediately. What do we do?
4. Its one o'clock in the morning and we have just come across a disheveled young man who is carrying a television set on a dark street. He says it's his, but gives weird answers about what he's doing with it ("It's my TV. I decided to give it to my mother so I was taking it over to her place. She doesn't know about it. It's a surprise"). He says he's been ducking in and out of the shadows because it's a "high crime neighborhood" full of people who might steal it from him if they saw him with it. What now?
5. We just stopped a young guy who ran a red light. He looks like he's had too much to drink but he lives right around the corner and he is waiting to be appointed to the NYPD, and that his father is a lieutenant "on the job." A summons or a DUI arrest would probably disqualify him, but maybe that would be a good thing: who needs a cop like this? What now?

Not all police work is clear-cut and easy. To prepare for situations like these, you need to be thinking about them in advance. The first question you should ask is



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whether the situation involves your obligation to protect life. If it does, the appropriate course of action should become clear.

Situation 1 clearly involves protection of life. If the neighbors who made the call about the screams for help are present and they tell you what they heard, you must assume that they are truthful and that there may be somebody inside who has been hurt or whose life is in danger. Even if there are no neighbors present and the dispatcher has no call-back number, you have to assume that the call was valid. This means that, one way or the other, you will need to get into that apartment, and that you should get a supervisor and Emergency Service to the scene. This course of action is the correct one because you can also explain it in ways that make sense. On the other hand, if you left the scene without checking the interior of the apartment, you would never be able to explain why you walked away from the possibility that, inside, there was a dead woman or, worse, a woman you had left to die.

Situation 2 also involves your obligation to protect life. Consider how this obligation is manifested here, and what you would do to meet it. Most important, consider why you would take the course of action you choose and how you would explain it later.

In Situation 3, questions about your obligation to protect life are less obvious, but they are there. Would letting this fellow go without knowing whether he was the mugger protect life? How would you feel about it if you let him go, and it turned out that he was the mugger and that, next time out, he killed or seriously injured another woman who had fiercely resisted him? How would you explain that? But what if you detained him and it turned out that the victim said that he was not the mugger? He'd be annoyed and might file a complaint against you. If that happened, could you explain why you did what you did?

Situation 4 may involve other responsibilities besides the obligation to protect life. These include your obligations to detect crime, to protect property, and to apprehend offenders – against your competing obligation to protect citizens' rights. Consider how you would resolve these conflicts. With no way to know for sure whether this television is stolen, you might detain this young man until you found out that it was indeed his set, and then you would have to release him. On the other hand, if you released him and it later turned out that the set was stolen, it might turn out that you'd have to explain to the television owner that you had caught the guy who took his set, and that you let him go. Which would you prefer?

Situation 5 involves your obligation to protect life. Can you see how? Think about what it would mean to allow this young man to go on his way and to become a police officer. Would this send him – and others he would tell about it – a message that the rules and laws don't apply to cops or to those who want to be cops? That it was acceptable for police officers and officer candidates to drive drunk and to violate



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traffic laws? It's nice to be able to extend courtesies to those who want to join the NYPD family, and there are no doubt cops who would disapprove if you took action against this young man. So what? Unlike our blood families, we do get to decide which people become our brothers and sisters in blue. In this case, shouldn't we be thinking about whether we want to make it easy for someone who is reckless enough to drink and drive to join this family? It takes maturity and a sense of responsibility to be a good police officer: If this fellow behaves like this while he's waiting for a gun and shield, what will he be like after he gets them? Would you want him sitting next to you in a patrol car? Driving home in the neighborhood where your children or younger brothers and sisters live?

Situation 5 raises another issue that we will touch on later in this chapter. The American system of justice is founded on the principle that all people should be treated equally. In practice, this means that, where your decisions about enforcement are concerned, you should never be treating people differently because of who they are. To do otherwise is to pervert your discretion and to change it into *discrimination*. Your decisions on the street – to arrest, issue a summons, warn, or do nothing; to stop and question people or to let them walk on their way unmolested; to help some people and to refrain from helping others – must never be based on who they are. Instead, these decisions must be based on an objective reading of the circumstances and the evidence, and the actions. You must not make your decisions on the basis of anybody's gender; race; ethnicity; age; religion; culture; sexual preference; legitimate, but different, political views; occupation; social class; or membership in any other class of people.

### Accountability Mechanisms in the NYPD

**Supervision.** On a day-to-day basis, the major check on your discretion will be your supervisors: mostly, the sergeant. He or she should serve as a trainer and as someone who reviews your work, compliments you on your strong points, and encourages and helps you to correct weaknesses. The sergeant should also inform you when you act wrongly.

**Discipline.** Many people think of discipline as punishment. This is incorrect. Punishment is only one form – *the final form* – of discipline. Discipline is the art and science of getting the members of an organization to behave in appropriate ways. Thus, a well-disciplined organization – a police department, an army, an athletic team – is one whose members know what is expected of them and how to accomplish it. The members of disciplined organizations also try their best to do what is expected of them.

Training is a positive form of discipline. This Department's training will make you disciplined because it will teach what is expected and how to do it. We teach you





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what to do in our classes, and will teach you how to do it in our role-plays and other training. We will review and correct your mistakes with you. If your mistakes are honest errors, we will show you techniques of improving them. If that doesn't work – if it turns out that you are simply incapable of doing police work – we will reluctantly let you go. If you cannot control your temper or emotions or if you let your attention wander when it should be carefully focused on what's going on, we will stop training you and start using punitive discipline to bring your conduct into line. If punishment like fines and suspensions does not change your behavior, we will reluctantly give up and separate you from the Department.

The Department also disciplines its members by conducting professional reviews of their most serious decisions – to shoot; to use force. In these reviews, like professionals in medicine and the law, we consider issues not examined in criminal prosecutions. The way most authorities read it, Penal Law Section 35 (on justification for the use of force) focuses only on the circumstances that existed at the instant an officer uses force, whether via a gun, baton, or any other mechanism. For example, if, at the instant the officer pulls the trigger, the officer reasonably perceives that his or her life is in imminent danger and that he or she has no other alternative way to defend him or herself, a prosecutor would have no interest in bringing a case against the officer. But, in its review of the officer's actions and the circumstances in which they occurred, the Department will ask other questions:

- How did the officer get into the circumstances that made it necessary for him or her to shoot somebody?
- Was this unavoidable, or did the officer unnecessarily put him or herself into circumstances that left the officer no alternative but to shoot?
- Did he or she use bad tactics? Did some other police officer put the officer into this situation by using bad tactics?
- If so, what should be done about it?
- Should the officer be retrained? Should others at the scene be retrained?
- Were the officer's actions so far out of line that he or she should be punished for them?
- Did the officer use force in an unnecessary confrontation with a person who obviously was emotionally disturbed, provoking that person into actions that made it necessary for the officer to shoot?
- Did the officer approach this situation in some other reckless way that created the circumstances that made shooting necessary? If the officer



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was in plainclothes, for example, did he or she properly identify him or herself so that the shooting victim knew that the officer was a police officer rather than merely a threatening person with a gun?

- Does what happened indicate that there is a training need that may affect all officers and that should be addressed in everybody's training?
- Does what happened show a need for a policy change to avoid such shootings in the future?

These questions typically are not at issue in prosecutors' reviews of officers' actions but they, and others like them, do come into play when the Department reviews shootings, use of force, and encounters with emotionally disturbed persons, and domestic violence, vehicle accidents, and other controversial actions. They are also very similar to the kinds of questions that get asked in civil suits against police officers and the Department. In civil court, as in Departmental reviews, the inquiry and allegations go far beyond the issue of what was going on at the instant the officer pulled the trigger or used his baton. Usually, it consists of attempts to show that officers' actions hurt somebody because *everything* the officers did was wrong and actually created the circumstances in which people suing the police were hurt.

A clear message should come out of this discussion of professional discretion and accountability so far:

- You will soon have enormous power to affect the lives and liberty of the citizens of New York City.
- This power is not a license to do whatever you want to do. To do your job as a police officer, you will need to know in advance what is expected of you in different circumstances and how to accomplish it.
- To know what is expected of you, it is not enough to be familiar with the criminal law standards that may apply to police work. In policing, as in other professions, the major controls on members' decisions are the professional standards developed and enforced internally
- You will also need to know how to explain why you did what you did, and you are likely to have to make such explanations to your supervisors and, in especially sensitive cases, to review panels or even to the civil courts.
- These explanations must demonstrate that your decisions were reasonably based on the objective information available to you at the



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time you made them, and that they were not based on the fact of who the people affected happened to be.

### THE DISCOVERY OF POLICE DISCRETION

For generations, police administrators denied that police officers even exercised discretion. Instead, they argued that their officers enforced all the laws all the time, and used phrases like *firm, but fair* to describe their philosophies of policing. *Firm, but fair* may be neat-sounding but, in practice, it can mean anything you want it to mean.

Police chiefs did not acknowledge that officers exercised discretion because it was easier to do this than to attempt to formulate and explain policies that could guide officers' decisions on the street. Take an example: a person complains that an officer ticketed him for parking on a fire hydrant, and then drove right by his neighbor's car even though it was parked in a no parking zone. In years past, police chiefs in most places would write back to the complainant that the officer was wrong to ignore the neighbor's illegally parked car and that the officer had been instructed to enforce the parking laws more *firmly and fairly*.

This, of course, was nonsense. It got the chief off the hook of having to explain that parking on a fire hydrant is an extremely dangerous violation and that, given limited time and resources, officers frequently exercised some discretion in enforcement by ticketing for only the most serious violations. It was also believed that telling citizens that the police regarded some violations more seriously than others would give the public the idea that the minor violations would *never* be enforced. Some also suggested that acknowledging that police exercised discretion would open them to accusations that they were acting as unelected lawmakers, taking it upon themselves to pick and choose the laws they would enforce. So, instead of acknowledging and addressing the need for discretion, police chiefs typically resolved complaints about it by slapping their officers on the wrist. This was unfortunate because it also gave cops the idea that police discipline was arbitrary rather than reasonable.

During the 1960s, people from outside policing began to study discretion for the first time. They did so mainly because the police had become the source of great controversy. The Civil Rights Movement had begun in the South and, through television, showed much of the American public for the first time the brutality that had been long used to enforce racial segregation. In the North, riots broke out and, as

noted above, were usually sparked by police action. All over the Country, crime rates soared despite the best efforts of the police. Suddenly, government commissions and scholars found the police very interesting.



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When scholars and commissions began to study why the police behaved as they did, they found that, because police chiefs had not been willing to admit that officers exercised any discretion at all, they had not made any rules or written any policies to guide officers' discretion. In the absence of rules and policies, the only limits on what police did in the street often were only found in criminal law. This Department, for example, did not enact a policy on use of deadly force until 1972 and, even then, was one of the first in the country to do so. Prior to that, NYPD officers' decisions to shoot or not to shoot were based only on the Penal Law's *Justification* sections. Further, before the adoption of the current Penal Law in 1967, the old Penal Law's Justification statutes allowed police officers to shoot to apprehend any and all fleeing felony suspects, regardless of whether they were armed and regardless of whether they were a danger to anybody. This had effects that would not be accepted today. In recent years, this Department's officers have shot and killed 10 to 15 people every year. Compare that to 1971, the year before the Department adopted its first deadly force policy, when NYPD officers shot and killed 93 people. During the 1960s and early 1970s, it also was not unusual for officers to receive Departmental Recognition for shooting fleeing teenaged car thieves and unarmed commercial burglars. In those years, there were no policies that governed what officers did at virtually any dangerous event: there was no policy or training for handling hostage or barricade situations, domestic disputes, domestic violence, or motorists who would not pull over when signaled to do so. Instead, officers were basically left to do the best they could and, as long as their actions did not violate the criminal law, they were considered acceptable.

### Varieties of Police Behavior

One of the pioneering studies of the police was James Q. Wilson's *Varieties of Police Behavior*, which was published in 1968. Until this, most people – including the police themselves – seemed to assume that there were not many differences in the way that officers in America's 20,000 or more police departments operated on the street. To see if this was so, Wilson – a political scientist who suspected that local policing was very much influenced by differences in local politics – studied the police in eight communities. Six of the communities are in New York State: Albany, Amsterdam, Brighton, Nassau County, Newburgh, and Syracuse. The others are Highland Park, Illinois and Oakland, California.

Wilson's research had four very specific goals; First, to describe how most police officers behave with respect to frequently applied laws such as those governing assault, theft, drunkenness, vice, traffic and disorderly conduct. Second, to analyze the problems facing police administrators both in deciding what police officers ought to do and how they should be made to do it. Third, to discover if and how police officers on patrol in various cities differ in performing their functions. The fourth reason was to look at whether differences in policing among these places are based on explicit



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community decisions. This last issue is very important: if cops acted in pretty much the same ways everywhere, especially in the six New York communities, it would be fair to say that they truly were *law officers*, whose behavior was determined mostly by state laws. On the other hand, if Wilson were to find that officers in different communities operated in very different ways even though they were all working under the same state laws, he would conclude that police were affected primarily by factors in their communities rather than by what state lawmakers had written into the books.

Wilson found that police departments and their police officers varied significantly, and that there were three distinctive police styles or strategies, and three functions of police work:

### Functions of Policing

Order Maintenance  
Law Enforcement  
Public Service

### Styles of Policing

Watchman Style  
Legalistic Style  
Service Style

### **Functions and Styles of Policing**

Although most people thought the police officer's role mainly involved law enforcement, Wilson concluded that the police officer's role is defined primarily by his or her responsibility for *maintaining order*. He reached this conclusion because the police he studied spent less than 15 percent of their time doing law enforcement work. Wilson did not study New York or other big cities, but our experience is consistent with what he found in smaller places. Indeed, Wilson observed, police officers in big cities encounter far more problems of order maintenance than opportunities for law enforcement. A noisy drunk, a rowdy teenager shouting or racing his car in the middle of the night, a loud radio in the apartment next door, a panhandler soliciting money from a passerby - these are all examples of order maintenance situations. Although the police officer may use the law to make an arrest, just as often he or she will do something else, such as tell someone to *knock it off, break it up, or go home and sober up*.

Another situation that requires police to give a higher value to order maintenance than to law enforcement would be mass demonstrations and parades. At large City Hall labor demonstrations or big parades, the police – including the NYPD – are more interested in maintaining order and assuring that everybody gets home safely than in enforcing the letter of the law. Indeed, attempts to make certain that everybody at such an event obeys every law and ordinance all the time often turn orderly and happy crowds into disorderly and angry mobs.

Wilson found that some police departments – those in certain ethnic, blue collar, working class cities such as Albany, Amsterdam, and Newburgh – placed a very



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high value on order maintenance and, basically, allowed officers a free hand in deciding how to do it. As long as the community remained quiet, people in power in these places paid little attention to the police or what they were doing. In such circumstances, the police adopted a *Watchman* style: keeping an eye on the streets, coming when they were called, and investigating crimes that were reported to them, but engaging in very little proactive work.

Because the police in such places had few limits on their conduct, some fell into sloppy and corrupt practices. This was certainly the case in Albany and Newburgh, both of which suffered major corruption scandals shortly after Wilson finished studying them. In both these cities, it turned out, some police were maintaining order by taking bribes in exchange for allowing vice operations – gambling, prostitution, illegal liquor sales, and drug sales – to stay in business. On occasion, these scandals would result in the election of reform mayors, who won their offices with promises that they would free the police from local politics, and would create strong and independent police departments that would enforce all the laws all the time, *firmly and fairly*. This is what happened in Oakland and Syracuse, two ethnic, blue collar cities that elected reform mayors after corruption was exposed.

In both these places, the police became what Wilson call *legalistic* departments. They focused their efforts almost exclusively on *law enforcement*, and measured their productivity primarily in numerical terms – arrests, calls handled, response time – rather than in terms of whether their communities remained peaceful and orderly. The officers in these places were expected to enforce the law at every occasion and were so closely monitored that there was no opportunity for them to develop corrupt relationships with criminals in the community. These reforms also drew more highly qualified people to police ranks, and resulted in police agencies of great integrity. According to Wilson, the emphasis of these agencies on law enforcement weakened their relationship with many in the community and created a tension and accusations that they were insensitive and unresponsive to community needs. In cities with watchman police departments, people who were stopped for traffic violations had a good chance of talking, or even bribing, their way out of tickets; in places with legalistic departments, they had no chance to do this because officers were under orders to ticket everybody they stopped. Officers in watchman police departments usually chased noisy kids off their street corners; in legalistic departments, noisy kids wound up in police stations, with arrest records. In short, the legalistic departments Wilson studied were honest, but they did not win a lot of friends.

Wilson argued that the people who regarded these *legalistic* agencies as the best that one could expect were misguided. In Brighton, Nassau County, and Highland Park – all very prosperous and mostly middle class suburbs at the time – Wilson found what he called *service* police agencies. These were departments that recognized that, especially in leafy suburbs, most policing consisted of rendering non-enforcement services to law abiding people – settling family disputes, delivering



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babies, taking injured or sick people to the hospital, finding lost children, giving directions to lost tourists, informing families of the deaths of loved ones, and consoling them afterwards. Most police officers do not think of this *public service* as *real* police work, and would much rather spend their time catching crooks. When they feel this way about their jobs, they are likely to treat this service work with contempt and to act in ways that let citizens know that they would much rather be doing something more important.

That would be a bad attitude in this Department because, even in this big and complex city, much of the work of patrol officers involves non-enforcement services. The table below shows the nature of the radio calls to which our officers responded during three recent years. Certainly, the table shows that officers respond to many suspected crimes every year. But every year they also are called to more than 300,000 aided cases, more than 300,000 vehicle accidents, and more than 130,000 domestic disputes. If officers were to treat these jobs as distractions from the real police work of enforcing laws, they certainly would alienate a lot of people who called the police because they needed help. This is unacceptable to the Department. Like Wilson's *service* agencies, you will find that we work hard to make sure that you and all our officers understand that these service tasks are a real and critical part of your work. If you don't do them right, treating our clients with the *Courtesy*, *Professionalism*, and *Respect* they deserve, you will offend and break trust with the people whose support makes it possible for us to function.

# RADIO RUNS FOR:	1999	2000	2001
10-54S Aided Cases	309,195	312,319	325,792



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10-54 E.D.P. Runs	65,219	64,592	65,219
10-52 Domestic Disputes	131,396	133,500	140,369
10-30 Robbery in Progress	27,531	23,968	23,044
10-31 Burglary in Progress	38,963	32,626	30,219
10-10 Suspicious Persons	721,462	683,928	681,090
10-34 Assault in Progress	149,262	147,358	151,672
<b>10-53 Vehicle Accidents - ALL BY CATEGORY</b>			
Disputes	37,315	35,144	29,281
Hit By Auto	28,698	27,257	27,317
Injury	60,795	63,784	58,309
Property	131,223	173,247	195,756
Other	89,265	76,983	60,655
Pinned	11,299	11,060	10,628
<b>Total Accidents</b>	<b>358,959</b>	<b>387,475</b>	<b>381,946</b>
10-11 Ringing Alarms	431,667	436,759	418,725
<b><u>Total Radio Runs</u></b>	<b><u>3,951,000</u></b>	<b><u>4,082,000</u></b>	<b><u>4,453,485</u></b>

So What? By now, you may be wondering what all of Wilson's academic theorizing has to do with you and your work on the streets of New York. The significance of his work is as follows:

1. Wilson showed that not all police departments were the same, and that local politics and culture have greater effects than state law on what the police do. In a big city like ours, this means that you can expect that you will find varying styles of policing as you move from community to community. Despite our Department-wide policies and training programs, each of the Department's precincts and units has its own culture and way of doing things that is slightly different from every other one. This is so mostly because the City is so diverse and because we have tried to be responsive to the whole range of cultures and populations found in it. This does not mean that either the law or Department policy is meaningless: the key police decisions – to arrest, to shoot, to use force – must be consistent across the City. But, in other areas – Do we tolerate noisy street corner groups? Do we give the highest enforcement priority to double parking? How well do our officers get to know local residents? – There are some noticeable differences. These differences result from a variety of factors, including history, immigration, and local geography. Officers who work in highly transient high rise neighborhoods have to work much harder to get to know the neighbors than is true in long-established neighborhoods of one and two family houses. Some officers work in neighborhoods populated by people who speak other languages and who come from countries where they have learned not to trust the police. It is





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much harder for such officers to get to know local residents than in neighborhoods where cops are trusted and every resident seems to have a cousin or uncle who is “on the job.”

2. Even in the busiest areas, it is more accurate to think of police officers as order maintainers than as law enforcers.
3. When police departments allow officers too much discretion, officers may lose pride in their work, and misconduct and corruption is likely to develop. But when police departments try to govern officers' every move and decision, they run the risk that officers will become such vigorous enforcers who will alienate much of the public.
4. It is not enough for the police to be merely honest. The best police departments and officers are honest. They also are sensitive to the needs of the public and try to meet them in every legal and ethical way they can. This is relatively easy in nice, middle class neighborhoods where almost everyone comes from the same background and culture and has pretty much the same expectations of the police – note that Wilson found service *policing* only in prosperous suburban communities. It is not so easy to meet the community's needs in cities like New York, where different communities – people with different cultures, expectations, and needs – live side-by-side. This is where policing and the exercise of discretion become a real challenge, because meeting one group's needs may anger other groups. By chasing noisy kids, police may satisfy the people who are annoyed by the kids; but they make no friends among the kids, who complain that they have no place but the streets to spend their time. By tagging double parked cars and trucks, the police satisfy the needs of motorists who complain that they can't get to work on time because the streets are always clogged; but they surely do not satisfy merchants who complain that the overcrowded streets leave their customers and delivery people no choice but to double park.

This last lesson of Wilson's work illustrates why police work is such a challenge in this City. In places where the population all look alike, are prosperous, share the same histories, belief systems, ambition, and desires, and have trust in the police, it is pretty easy for the police to figure out how to do their work in a way that responds to community needs. In many parts of this City,

however, life is not like this. Here, police at every level are faced with the challenge of trying to meet the conflicting needs of different communities all at the same time. The following examples make the point.



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### SPECIAL STREET PROBLEMS OF ORDER MAINTENANCE

#### Clinics and Shelters

The establishment of drug clinics or homeless shelters in populated, mostly residential areas, throughout the city has caused tensions between the community and those administering and receiving treatment. The community believes that the presence of these places will bring drug users and disturbed people into the area who would not normally be there. The community believes that the drug users are **very** likely to commit crimes in order to obtain funds for their drugs. Residents believe that they will be the victims of a dramatic increase in crime.

Conversely, the operators of the drug clinic and shelters believe they have the right to administer to the needs of addicts and the homeless in order to restore them to a normal life-style. They also believe that operating in this type of a location is more conducive to rehabilitation, because it exposes their clients to what life is like for drug free people and those with their own residences. Further, those receiving treatment believe that they have a right to try to salvage what is left in their lives, and that the nearness of a clinic or shelter is an important factor in their cure.

Police officers are in the middle of this. We must respond to the community's complaints, and at the same time, respect the rights of those who need help. It is a difficult problem because each group has valid arguments. It is our role as police officers to strike a balance, and work out a compromise that, though not perfect, will improve the situation. The following approaches to this problem have been effective:

1. Be the catalyst for compromise: try to get the community and the service agency personnel together to discuss the problem and possibly come up with some solutions to it. Perhaps a clinic could change its operational hours or give out appointments to cut back on the number of people hanging around in front of the clinic. Possibly, the community could form a neighborhood committee to monitor the situation and present their complaints to the manager of the clinic/shelter.
2. While on patrol, give special attention to the specialized clinics, shelters, mental health facilities, and the surrounding area. On the day tour, stop in or park your RMP near the locale. Let your



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presence be felt; see if there are any complaints from either the manager or adjoining stores or residences.

### Street People

How do we, as police officers, handle street people? The general public does not usually approve of their behavior or appearance. They are often dirty and/or drunk in public, and ask for money from passersby. At the same time, however, these people are usually not breaking the law. Public intoxication is no longer a violation of law. Yet, the public feels that the presence of derelicts, especially in large numbers, as on the Bowery, is an eyesore that we should do something about.

Once again, the dilemma is this: How can we regulate the conflicts between different individuals and groups who share the same neighborhood?

Our options are limited. The one thing we shouldn't do is ignore the problem. Often, there are charitable agencies and public shelters that are willing to take in these unfortunate people. There are also "sobering up" shelters located in each of the boroughs, and we, as police officers, should use these whenever necessary. For example, a radio run of "a disorderly person" often turns out to be an alcoholic with no place to go. We have two options: to "send him or her on his or her way," or to transport him or her to a hospital or shelter. The former is easier, but the latter is the professional, humanitarian choice. This is so because, as we pointed out earlier, our primary responsibility is to protect life, and we best serve this obligation by helping to put these people into situations in healthy environments.

### Quality of Life Offenses

Quality of Life offenses include street level gambling, aggressive panhandling, street prostitution, graffiti, illegal dumping, and loud music. These are treated in relatively minor ways by the criminal justice system, but have terrible effects on communities and the people in them. At a police-community meeting, an elderly woman rose to speak. She said:

"Officer Morton, I'm 65 years old. I live alone, and it's hard for me to walk a long way. For the past three years I have not bought any groceries at the corner supermarket because of those men shooting dice in front of 122 West 127th street. I'm just afraid to go near there - with them drinking like they do, and the fighting and cursing that goes on. Instead, I walk down to 125th street, two blocks more than I have to. That's a



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long way for these tired legs. But since the last meeting when we told you how much of a problem that dice game is to all of us here on the block, I no longer see them out there, and I want to tell you that for the first time in three years I bought my groceries on the corner. Thank you, Officer Morton, for doing something that no other police officer has ever done—put an end to the dice game that made all of us prisoners on our own block."

At this point, the forty or so people who were present gave the officer a standing ovation. It was a moment the officer would recall as one of the high points of his career, and a source of self-motivation when things got tough.

**Quality of life offenses do not get anybody long prison sentences, but they are important!** They affect the lives of many people. The quality of life degenerates for those who must endure violations. The potential for violence, among the offenders themselves, is another aspect of the problem: in one precinct alone, at least one or two homicides and numerous felonious assaults were the direct result of street gambling each year.

As police officers, we can't ignore street level gambling or other quality of life crimes. They are not indigenous, or "part of the culture," of any neighborhood. The vast majority of people, as expressed by the woman on 127th street, are afraid of dice games and suffer in silence. We have two basic options: to just break up the game, or break up the game and take summary action or arrest. Your decision will depend on the particular situation: Is it a chronic condition, a large crowd, or something else?

In either choice, we should remember two things, both of which relate to our obligation to protect life. The first is our own safety. Sometimes hundreds of dollars are riding on the outcome, some participants are armed, and some have been drinking. It's an explosive street condition and we must not get careless in our approach and tactics. Second, use tact and restraint, don't come on so strong that you force the group into the loyalty dynamics of a crowd with one common enemy. Do what has to be done, but do it with finesse and professionalism.

### Three Card Monte

This form of street gambling was popular even back in the times of the old



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west. In recent years inflation has skyrocketed leaving less money in our pockets and everyone looking for a quick, sure and easy way to double his or her money. The *three card monte* games have popped up in all areas of the city especially near business districts. This game is no more than a swindle, leaving the operator of the game a sure winner, the players sure losers, and another problem for the police to handle.

The game is usually set up in business areas, where a lot of people are constantly passing. The person running the game needs a cardboard box or anything that could be used as a table, two red aces, and the queen of spades, a lookout person and another to place bets to make it appear that you can't lose.

The dealer keeps shuffling the three cards bending the queen so that all can see it. As the game begins he or she reshuffles the cards straightening out the queen and bending one of the aces. Those watching believe it's so easy to pick out the queen that they will pick the bent card, an ace.

The outside person in the game is used to bet on the queen by a prearranged signal. He or she will win, thereby taking the money on the game. This is done to safeguard the money in the event the dealer is arrested and his or her possessions vouchered. If by chance someone not involved in the swindle bets on the queen (the winning card), the outside person will place a bet on two cards and the dealer will begin to scream that you can't bet on two cards. That game will end with the dealer handing back all monies bet without ever showing the cards. The lookout will watch for police and signal all involved in the game. At the end of the day, all meet and divide up the profits.

One reason to break up three card monte games is that it is consistent with your responsibility to protect life. It's not unusual for these games to explode into violence between their operators and their marks that suddenly realize they are being swindled.

### **Peddlers**

Peddlers have traditionally been a part of the New York City scene. When we speak of peddlers, the first types that come to mind range anywhere from the hot dog vendor, to the fellow at the parades with his or her buttons, banners and flags for sale. Today, however, peddlers have branched out and in various locations throughout the city one may observe whole tractor trailers parked on the side of the road with merchandise piled up for sale. It is not uncommon to drive in lower Manhattan and observe people selling suits, shirts, and dresses from clothes racks in the front of clothing stores. In some instances, these street peddlers set up such large displays that they appear to be an extension of the



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store in front of which they have chosen to set up. Many peddlers are licensed, adhere to the numerous rules and regulations surrounding their occupation, and don't become a bother for either the store owners and/or the police. Many, however, are unlicensed and sell various off brand names as the expensive quality merchandise. Some peddlers get into arguments with legitimate store owners about setting up in the front of their store. Certainly, when they are operating illegally, they are unfair competition for the legitimate merchants whose taxes help to pay your salaries.

### Squeegee Men

Often, police officers are confronted with a problem that places them in the middle of a political/social fire-storm. One issue that has created controversy in recent years relates to the squeegee-men who attempt to wash/wipe automobile windows at the corner of city intersections. While some people believe that these windshield wipers are just trying to eke out a living (thus keeping them from committing violations of law), other people feel they are a major annoyance. They disrupt the flow of traffic, affect the quality of life in a neighborhood, and intimidate motorists who fear their aggressive and intrusive efforts.

### Strategies for Quality of Life Offenses

The fear, disorder, and degraded social conditions that result from Quality of Life offenses have led the Department to develop practices responsive to specific conditions and policies that apply to low-level criminal behavior generally.

How does this affect the average patrol officer? For many officers, it means an emphasis will be placed on *enforcement* of existing laws, regardless of the level of judicial severity/penalty. Precinct commanders have developed decoy operations, peddler task forces, and enhanced Intelligence Report programs. Active legislation led to changes in many of the Quality of Life statutes, such as re-establishment of the *Boom-Box Law* in the Administrative Code. These should be enforced.

## ORDER MAINTENANCE AT DEMONSTRATIONS

*Congress shall make no law .... abridging freedom*

*of speech or the right of the people to assemble peaceably.*

First Amendment to the United States  
Constitution.

Our Country believes in the dignity of the individual. We have a tradition, an omnipresent pride, and the envy of millions who share this planet with us. As a police



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officer, you will have the difficult job of maintaining a balance between freedoms that could come into conflict with one another. Specifically, as a police officer assigned to a demonstration, you will have two responsibilities that closely follow your primary obligation to protect life. *First to protect the constitutional rights of the demonstrators to free speech and peaceful assembly.* Second, to protect the constitutional rights of those who are not demonstrating - the public. The demonstrators should be able to obtain from the police both protection and assistance should there be any attempts by others, either individuals or groups, to interfere with what they are legally permitted to do. The public can expect the police to protect their rights: free movement, personal safety, protection of property and privacy.

Demonstrators feel strongly about their cause. So intense is their commitment that they are gladly willing to sacrifice their time and the comforts of home to go to the streets to let the people of a neighborhood, a city, a country, or even, in the case of the United Nations, the world, know what their position is on a particular, usually controversial, issue.

**We, as police officers, must recognize this intensity, treat it objectively and professionally, and not allow ourselves to be "hooked" into the emotion of the moment.** Each demonstration has its own pattern, its own rhythm; some are extremely volatile, others are less so. But at almost every demonstration, strong emotions are at work. We, as police officers, must be aware of these feelings. Our demeanor, our bearing, our conduct, must be completely appropriate and in tune with the sensitive nature of our assignment. If we appear even slightly apathetic, or disdainful to the demonstrators, or appear to favor either the point of view of the demonstrators or those against whom they are demonstrating, it will be quickly picked up and magnified to the point where it could become a rallying cry for the group and the impetus for a confrontation

The New York City Police Department has a tradition of restraint and great success in handling the most sensitive demonstrations with respect for the rights of both demonstrators and the general public. Time and again, we have earned our reputation as the finest police department for handling demonstrations. Indeed, one of the major reasons that New York City is so frequently selected as the site for National Conventions is this Department's reputation for handling demonstrations by communicating with all parties. This has been a dramatic change from the practices of some other police departments, which have emphasized the deployment of SWAT teams and aggressive crowd control techniques.

### Zero Discretion

The exception that proves the rule that police officers exercise broad discretion



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is that, at some demonstrations, you may be directed to follow orders scrupulously and to exercise no individual discretion whatsoever. **Do as you are told.**

There are good reasons for this. From the Department's point of view, each demonstration has unique requirements. For example, there are occasions when a particular demonstration is just one of a series that are either going on simultaneously or are scheduled for later on in the day in various parts of the city. Or, a particular demonstration might have international considerations (the Jewish Defense League demonstrating in front of an Arab mission). A demonstration that takes place during the summer might rightfully demand a large commitment of police personnel. However, as a result of the heavy workload during that time of the year, only a few officers are assigned. Before every demonstration, the Department's operational and intelligence experts try to find out everything possible about the demonstrators and their cause, and how they intend to get their point across. Based on this analysis, the Department develops a very careful strategy for policing the demonstration. At times, this may require that every officer play a precisely defined role, as part of a highly coordinated team effort that allows for no variance.

At some demonstrations, you will find that the Department expects that certain laws will be scrupulously enforced. At others, in the interests of maintaining order and protecting life and people's rights, they will be largely ignored. In either case, the decision has been made based on an analysis of the overall situation, and it will be your job to follow it. **When this is the case, you will be told what to do, and you will do it. You will put your discretion in your back pocket and leave it there until the demonstration is over. When it ends, and you go back on patrol, you may take it out of your pocket and put it to good use. But when, as part of a large group of officers who are policing sensitive events like demonstrations or disasters, you are given very specific directions, it is your job to follow them.**

## CONCLUSION

There are many reasons that police exercise discretion. Most important, it simply is not possible to come up with a textbook solution to every problem that officers are asked to confront on the street. This means that you will have to make choices when you begin to work on patrol. Your training and the Department's policies should guide your choices, but frequently will not point to a precise course of action. When this occurs, you should keep the following principles in mind:

**YOUR PRIMARY JOB IS TO PROTECT LIFE, AND EVERY DECISION YOU MAKE SHOULD GIVE HIGHEST PRIORITY TO THE PRESERVATION OF LIFE – INCLUDING YOUR OWN.**





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**YOU MUST NEVER BASE YOUR DECISIONS ON THE FACT OF WHO A PERSON IS.**

- **A FUNDAMENTAL PRINCIPLE OF AMERICAN JUSTICE IS THAT IT DOES NOT ALLOW POLICE ACTIONS ON THE BASIS OF A PERSON'S MEMBERSHIP IN A CLASS. YOU CANNOT TAKE ACTION OR REFRAIN FROM TAKING ACTION BECAUSE OF A PERSON'S GENDER, RACE, ETHNICITY, SEXUAL PREFERENCE, OR RELIGION.**
- **INSTEAD, YOU MUST BASE YOUR ACTIONS ONLY ON SUCH OBJECTIVE CONSIDERATIONS AS THE INDIVIDUALS' ACTIONS AND/OR INFORMATION YOU MAY HAVE RECEIVED FROM SUCH SOURCES AS CITIZENS, OTHER OFFICERS, AND THE RADIO DISPATCHER.**

When you are put into positions requiring quick decisions, you should know something else. The Department will certainly review your actions but, in doing so, it will not play *Monday Morning Quarterback* or *second guess* you on the basis of information that becomes available after you have taken your action. This Department's standard for holding officers accountable takes into account only whether officers' actions were reasonable based on information that was known to officers or that was reasonably available to them at the time they took their actions.

The NYPD is known worldwide for carefully reviewing officers' actions, especially when they have resulted in death or injury.

### DISCRETION WORKSHOP



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**Case Studies:** Complete the following exercises, so that they can be reviewed in class.

### 1. Arrests

A police officer responds to the scene of a dispute. The two participants are shoving and pushing each other. The officer, working her last 4x12 tour, decides to make an arrest because of the overtime involved. What kind of discretion did the officer use in this case? Proper or improper? Explain your answer.

### 2. Noise Complaint

On Tuesday morning, 0200 hours, while on patrol in a sector car, you are directed by communications to "see about a loud and noisy party." You arrive at the scene and ascertain there is a loud and noisy party in an apartment. What would you do?

### 3. Noise Complaint – Second Assignment

One (1) hour later, you are directed by communications to the same location for the same condition. Now what?

### 4. Parking Lots

Upon turning out for your tour of duty, you have been directed by your commanding officer to keep all bus lanes free of parked vehicles. While on patrol, you observe an attendant at a parking lot parking his excess vehicles in the bus lane. What would you do? Explain.

### 5. Street Condition

On patrol, you observe numerous double-parked cars. You realize that "alternate side of the street parking" regulations are in effect for this city block. You also observe that all the drivers have left their telephone numbers on their dashboards in case anyone wants to leave. What would you do? Explain.

## HOMework

In the following scenarios, indicate whether the officer's use of discretion was **proper** or **abusive**. Be ready in class to be held accountable for your answer.



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1. Police Officer McKay is walking her beat, on a hot Sunday afternoon, in a residential area of her precinct. She waves to a middle-aged man who is drinking from a can of beer on his stoop. The officer continues on her way without mentioning the open beer can.\_\_\_\_\_.
2. Police Officer Smith stops a milk truck that ran through a stop sign. The officer, after reviewing the driver's credentials, issues a summons for an unrelated violation, concerning the truck's expired registration. The officer does not issue a summons for the initial offense\_\_\_\_\_.
3. Police Officer O'Neill encounters a teenager on the "A" Train. The girl has the volume turned up on a large music radio disturbing some of the riders. The officer tells the youth to turn it off, which she does. However, the girl then says "UP YOURS" to O'Neill when he inquires about the cost of her radio. The police officer then confiscates the radio and writes a summons.\_\_\_\_\_.
4. Police Officer Mantle, the precinct traffic officer, needs another summons to meet his daily standards of productivity. He discovers three illegally parked cars at a bus stop. He takes one summons from his pouch and issues it to the Cadillac. He disregards the two compact cars and proceeds on his way\_\_\_\_\_.
5. Police Officers Brett and Young are patrolling in their sector when they observe two (2) young men wrestling on the sidewalk, obstructing passers-by. They exit the RMP and tell the two men, who are brothers, to "KNOCK IT OFF." The brothers explain that they were just joking with each other and that no harm was done. The officers then re-enter their RMP and leave the scene.\_\_\_\_\_.
6. Later on, during the same tour the officers again spot the two brothers punching each other near a school yard. The oldest brother, Charley, runs up to the officers and wants his younger brother arrested for assault, and shows the officers his black eye. Officer Brett tells Charley to "Take boxing lessons," and drives off. \_\_\_\_\_.
7. Mr. Clark is playing his accordion, with his pet monkey, in front of a shopping mall, which is upsetting some of the store owners. One of them stops an officer when he walks by the scene. He complains that, "The monkey is dirty, and Clark is obstructing and disturbing shoppers." Mr. Clark states, "There is no problem, every thing is hunky-dory". The officer feels the same way and leaves the scene.\_\_\_\_\_.



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8. Officer McGuire, while operating his RMP, is stopped in traffic after a rainstorm. When the light changes, a vehicle passing by splashes water through McGuire's open window. The water soaks the officer. Officer McGuire chases the motorist, and after stopping him, proceeds to scold the motorist.\_\_\_\_\_.
9. Officer Caban notices three youths playing tag inside a fenced-off park that closes at dusk. She also notices the park house is still open. Since the youths are entering the park house, she jumps the fence, grabbing the youths and arrests them on a Juvenile Delinquent charge of Burglary.  
\_\_\_\_\_.
10. An officer sees an 82 year old woman strike a teenager on the head with her cane, after the youth was harassing her for money. The youth is bleeding, so the officer calls for an ambulance and takes the youth's identification for the necessary forms. Noticing that the woman is nearly blind, and also hard of hearing, he allows the woman to leave the scene and classifies the situation as an aided case.\_\_\_\_\_.



# POLICE STUDENT'S GUIDE

## Policing Professionally

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT PROFESSIONAL POLICING?

*Professionalism* is a term that is frequently misunderstood when discussed in relation to policing. For some, it means equipping police officers with state of the art equipment and sharper looking uniforms. Others maintain that professionalism requires every officer to have completed college or have other educational or military credentials. Most officers would agree that these items are image boosters, helpful in giving the Department a professional image but that they are not what makes policing professional.

The *professional police officer* is the one who can competently size up and handle any situation that may arise on the street. The professional police officer respects and works well with subordinates, peers and supervisors, regardless of race, ethnicity, gender, sexual orientation or other differences. The skills used by professional police officers are not usually taught in university classrooms. Professional policing is not automatically accompanied with the issuance of firearms, uniforms or the possession of advanced degrees. Professional policing involves the willingness and ability of the officer to employ a wide range of verbal, nonverbal, tactical, and physical methods to deliver a full range of police services to members of the community. On the pages that follow are skills that you, as a new officer, should develop in order to become a *professional police officer*.

### DISCRETION

Proper exercise of discretion is a major part of professional policing. You will read several definitions of discretion in this volume, but they all boil down to the same thing: *discretion is the ability and authority to select the tools to solve a problem on the basis of training and experience*. For us, discretion means troubleshooting a situation - an aided case, a family dispute, a traffic violation, a man with a gun - and selecting from our toolbox the appropriate measure - a call for an ambulance, soothing words, a summons or warning, a firearm or baton - to resolve the matter satisfactorily and safely. Professional policing involves the use of *unbiased* discretion.

All police decision-making must occur within limits imposed by the United States Constitution, federal, state and local ordinances, and precedents set forth by court decisions. Still, police personnel possess a wide array of discretionary powers. According to sociologist Egon Bittner, "police officers have a greater degree of discretionary freedom in proceeding against offenders than any other public official." This is why it is so important that a police officer use common sense when enforcing the law. For example, an elderly man is unable to completely cross the street before the



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light changes due to his slow gait. Strict adherence to the law could justify the issuance of a jaywalking summons. The use of discretion would call for common sense to prevail, causing the officer to aid the gentleman rather than take police action.

While discretion is a necessary and important part of policing, police officers must be careful not to abuse their discretionary power in ways that violate the public trust or compromise the ethical standards of the Department. *Discretion is not discrimination*: it should not involve invoking cultural, ethnic and racial biases in an attempt to resolve a situation. Discretion does not entail the use of force to gain compliance when alternative means are available. It also does not entail using police authority (e.g., issuance of summonses, or use of arrest powers) to punish individuals who are discourteous or who give officers a bad time. Discretion is legitimate only when it is used in good faith to accomplish legitimate police goals.

### ORAL COMMUNICATION

The professional police officer's main tool is the ability to communicate effectively with the public. An officer's ability to listen and talk, and to control a situation with minimum resistance is the key to successful community/police interactions. In all enforcement encounters, as well as certain self-initiated stops or calls for service, what is an officer attempting to achieve? **VOLUNTARY COMPLIANCE!** Whether you are requesting a motorist's license, ordering an emotional person to drop a knife, commanding a fleeing suspect to stop, or simply requesting information from a witness, voluntary compliance is the goal!

#### Verbal Judo

Veteran street cops have always known that the best officers were cool and outwardly emotionless under pressure, and were able to talk some of the most out-of-control people into voluntary compliance. Dr. George Thompson, a former police officer and an expert in communication, systematized this general wisdom, and developed the theory and practice of *Verbal Judo*. This is a form of tactical speech that highlights the verbal, emotional, and positional aspects of gaining control and managing people. According to Dr. Thompson, police officers who are most successful in dealing with difficult encounters are adept at deflecting verbal abuse, while still receiving voluntary compliance from their verbal attackers. These officers are able to side-step criticism and blame, and to reduce resistance without getting into an emotional confrontation that could result in the use of physical force. By responding to people *tactically* rather than emotionally, they disarm the other person and encourage him or her to think and act in a reasonable manner. A *tactical* response is one that is thoughtful and carefully planned to achieve voluntary compliance; an *emotional* response occurs when a police



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officer has lost sight of what he or she was supposed to achieve, and becomes interested only in *putting down* the other person regardless of whether or how the legitimate goal of the encounter is achieved.

Verbal judo is based on the concept of *Mushin*, the judo term for "*Habit of Mind*." One dimension of *mushin* involves emotional control. According to Thompson, each of us has a *personal* face and a *professional* face. The personal face is ruled by emotion. The professional face is ruled by reason. Although we may be affected by a critical comment or an explosive situation, we must control our features and reflect the professional face if we want to project an unbiased, knowledgeable, and capable image. In essence, *we must control our emotions before they control us*.

A second aspect of *mushin* involves mental openness. The mind should be open, flexible, and unbiased. You should ignore the attitudes coming from another, whether negative or positive, and concentrate on behavior. Dr. Thompson describes the *Golden Rule of Verbal Judo*: "**Let attitudes float downstream like a boat, and focus on behavior.**"

The practice of verbal judo involves learning a combination of verbal skills that will help you disarm the other person and gain voluntary compliance.

### Deflector Phrases

Deflector phrases are non-aggressive verbal responses that help redirect communication and enhance the control of the police officer. Use of these phrases is rewarding because they emotionally neutralize the other person and provide immediate, observable results. Deflector phrases are composed of three parts:

- **Strip Phrase**
- **Link Word**
- **Goal Phrase**

The **strip phrase** is an immediate, abbreviated phrase of recognition (not necessarily agreement). The **link word** acts like a "sword of interruption." For example, words such as "but" or "however." The **goal phrase** is the professional term for what is requested, desired, or explained.

The following are some common strip phrases (combined with the link word) that acknowledge the message of the speaker but ignore discourteous or rude language on the part of the citizen:



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- “Appreciate it, but...”
- “I understand that, but...”
- “I hear that, but...”
- “Interesting, but...”
- “I believe that, but...”
- “I got that, but...”
- “Okay, but...”

Below is an example of an interaction demonstrating the use of the strip phrase plus the link word followed by the goal phrase. Note how the use of verbal judo disarms the citizen and facilitates voluntary compliance. The citizen is allowed to say what he wants as long as he does what the officer says. In essence, *the citizen may have the last word but the officer has the last act.*

*Citizen:* "I didn't do anything and I'm fed up with **YOU PEOPLE** pulling me over!"

*Officer:* "I believe that, but... the reason I stopped you, Sir, is you drove through the steady red light at 12th Street and Elm."

*Citizen:* "I did? I was rushing to get to work..."

*Officer:* "Could I please see your license and registration? (The citizen quietly hands the officer his license and registration)."

### Trigger Phrases

Trigger phrases are words that instantly create animosity. Once those words ring in the ears, negative images come to mind. As a result, police officers, unless facing split-second life and death scenarios, should avoid using any of the following commands and phrases.

### The Ten Commands Never To Be Used

1. “Come Here.”
2. “Calm Down.”
3. “What’s your Problem?”
4. “I’m not going to say (warn you, tell you) this again!”
5. “Because I said so, that’s why!”
6. “Didn’t you hear what I said?”
7. “Get in the f----- car!” (Or any obscenity used in combination with a direct order).
8. “If you don’t do this, I’ll lock you up!” (or any emotional threat to the person).





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9. "That's ridiculous, stupid etc. You're not thinking logically" (or any command that includes references to the intelligence or logic of another).
10. "Don't do it; you better shut up; you'll be sorry; etc. (or any other short ultimatum).

### Active Listening

Active listening is an unbiased form of hearing what another person is saying to you. Pre-judging an individual or a situation results in you hearing what you want to hear. It is important to project a concerned and interested persona to the speaker particularly since in most police/community interactions the person involved was just involved in a stressful incident e.g. aided, victim of a crime, etc. Active listening involves focusing on another person's words without displaying nonverbal behaviors that indicate disinterest. Imagine talking to a friend about a painful experience. How would you feel if the friend yawns or is constantly looking up in the air while you speak?

### The Four Don'ts of Listening

1. Don't look at your watch.
2. Don't look at inanimate objects.
3. Don't position yourself near a door, an exit, or the sector car.
4. Don't shuffle, roll on your heels, or exhibit other nervous movements.

### Paraphrasing

The paraphrase is the necessary ingredient in reducing the verbal abuse, resistance, and misunderstanding in the communication channel. It is a way of putting the other person's meaning into your words and giving it back in order to ensure mutual understanding. For example:

*Citizen at a domestic call:* "Officer, this is all my wife's fault. She gets on my case, and I just lose it. She's a nag just like her mother."

*Officer:* "I understand. So she got on your case and then you hit her?"

### What Happens When We Paraphrase?

- **It Creates Empathy:** The other person will believe you are trying to understand, as you force the other to do the same.
- **You Regain Control:** By having the other person answer a question, you have shifted the burden onto the speaker of making sure their message



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was understood. The speaker will certainly listen because it's his or her words that are being re-stated.

- **Clarity and Modification:** In addition to benefiting your own understanding of what was transmitted immediately, it allows the initial speaker to hear exactly what was said, not what he or she thought they said. The person may not have even said what he or she intended. Often they will modify their initial statements after hearing your paraphrase.
- **Reduce Resistance:** Since the other person is forced to think in terms of meaning, they usually become more rational thereby decreasing verbal abuse.

### Appeals

As mentioned earlier, our goal is to gain voluntary compliance. Detailed below is a five step appeal process that can be used by the professional police officer to gain compliance. These steps are merely tips and are not meant to be a "conversation blueprint." Each scenario and each individual will require different styles and methods.

1. **The Appeal/The Ethical Appeal:** This represents the combination of factors alluded to earlier when we spoke of emotional control in tandem with a deflector phrase and a professional face. In essence, you respectfully greet them and professionally explain your wishes/requests.
2. **The Context/The Rational Appeal:** This is the explanation of why the incident and/or interaction occurred. It also sets the context of the law, policies, and regulations that are applicable in this particular situation. The professional officer reasons with the individual. Yet, there are two cautions: (1) *Don't tell the person to be rational*, and (2) *Don't tell the person, "I'm only doing my job."*
3. **The Options/The Personal Appeal:** People act out of selfish interests, so show empathy, and give them their options. The professional officer will fully explain the consequences of the individual's decisions and actions. When we personalize the encounter, we are reducing our police profile and enlarging the mediator image.
4. **The Confirmation/The Practical Appeal:** This involves the use of any innovative strategy that may gain compliance, providing there isn't any compromise to safety or professional ethics. At times, officers have integrated humor, trade-offs, or stories into the confrontation. Bear in mind however that



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this is not recommended! For the inexperienced officer, it may have the opposite effect of what was intended.

**5. The Act/Involuntary Compliance:** You must take police action.

### SAFER: The Five Conditions When Words Fail

Police Officers must protect life and limb, and enforce the law. Our goal is to gain voluntary compliance, but our mandates are to take action when words fail or when there isn't time to communicate. We must *act* when one or more of the following conditions are present.

- **Security** - Whenever others are in imminent danger or property under control is threatened.
- **Attack** - Whenever your Personal Danger Zone is violated based upon certain variables.
- **Flight** - Whenever a person unlawfully flees and refuses to stop.
- **Excessive Repetition** - Whenever you have exhausted all avenues of tactical and verbal controls and fail to receive compliance.
- **Revised** - Whenever a matter of higher priority requires immediate attention/presence.

### Eight Step Method and Tactical Control

*The Tactical Eight-Step Style* to communication is a professional procedural guide to traffic stops. Although the emphasis is placed on the car stops, this style can be used in most encounters where it is legal and justifiable for us to compel people to identify themselves. We will briefly highlight the main reasons for the required steps of this method. *The Tactical Eight-Step Style* includes:

1. Greeting
2. ID Self
3. Reason/Stop
4. Legal Justification
5. Collect License
6. Registration/Insurance Card
7. Decision Explained
8. Close



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By providing a greeting and your identity to citizens, you accomplish two things. You are imparting **respect**. You fill the needs of their ego gratification that psychologists and therapist identify as *positive strokes*. Secondly, you are creating the **contact** bond for further understanding.

When you move ahead and state the reason for stops or encounters, as well as the legal justifications, you not only give meaning to these events, you short-circuit their objections or any critical or abusive assumptions. In essence, "you beat them to the punch." Now the subject persons can only deny the allegations, rather than venture into emotional reactions or expressions concerning a presumed bias or attitude on the officer's part.

You should explain the final decision, whether it results in summary action, custodial arrest, or a warning. Then **close** the action in a courteous manner. There are certain *peace phrases* that may be appropriate such as "Drive safely." But whatever you do, don't end it with, "Have a nice day!" This could be perceived as sarcasm. This guide does not preclude using other controls if the stop escalates into a confrontation. Remember, however, that you must try to remain in emotional control.

The tips and techniques for professional oral communication outlined above deal primarily with one-on-one interaction. As a police officer, there are countless circumstances that will require you to speak with the public. Media interviews, court testimony, public gatherings, crowd control situations, radio transmissions etc., all require effective communication skills. *Professional police officers* must be able to interact with the public and represent the Department in a manner conducive to positive interactions. At the rear of this chapter are Patrol Guide sections that cover several of the most challenging interactions with citizens.

### WRITTEN COMMUNICATION

Communication is defined as "the exchange of ideas, messages, or information. Often times, this exchange is done via the written word. It is important that you take pride in the content and appearance of everything you put on paper. Your paperwork is a direct reflection of your abilities, and it is therefore important that you take the time to complete it properly. *People may forget what you say, but what you put on paper lasts forever!*

The proper preparation of police documents such as summonses, complaint reports, aided reports, and memo book entries may determine whether people are properly punished for their actions, reimbursed for losses, or otherwise assisted.



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Samples and directions for some of the common Department documents are included at the end of this chapter, and will be discussed at length later in your training.

### PERCEPTION

Professional police officers are aware that *perception is reality*. How the public *thinks* you are determines how they interact with you. Therefore, fostering better community relations requires that we explore the perception of both the police and the public and what each of us expects from the other.

#### The Status and Role of the Police Officer

When you accepted the position of police officer, you assumed both a new status and a new role. In order to understand how this change will affect you, it is important to understand just what status is, and how it is related to role. **Status is the position an individual holds.** In a family, status is conferred on a father and a mother; occupationally, status may be a police officer, a teacher, a doctor. A person usually holds a number of status positions at the same time. For example, you are a police officer, and are somebody's son or daughter; you may also be a brother or sister, husband or wife, uncle or aunt, niece, nephew, or cousin.

A **role is defined as what is expected of a person who holds a particular status.** When you show up in answer to a radio call, people will expect you do certain things because, for them at that time and place, the only status you hold in their eyes is that of *police officer*. Your role at that point will be very different from the role you might play when visiting relatives. Then, you are son, daughter, aunt, uncle, brother or sister, and people will have different expectations of you.

#### Public Expectations

Newly appointed police officers can better understand their new role if they realize what type of behavior the public expects. It is not enough, in the public's view, for a police officer to merely perform his or her duties. In addition to this basic obligation, the public expects police officers to have a neat appearance and a courteous demeanor. Activities that may be common for members of the general public are often not considered acceptable for police officers. For example, slouching may be acceptable practice in a private auto, but in a marked police car the public expects police officers to be sitting erect and attentive to their surroundings. Flirting with members of the opposite sex, eating a sandwich, smoking, or listening to a ball game on the radio, generally, are not unacceptable acts to members of the public; they do not serve to enhance the image of a professional police officer.



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The public usually has high expectations regarding the type of response they will receive when they require police services. This is especially true of complainants or victims who have never previously had occasion to call the police. What people know about the police typically is what they have seen on TV, in entertainment, and on the news. There, the police respond to help people in trouble in a very professional way, eager and prepared to help solve any problem. In real life, we can afford to do no less.

While the situations to which we are called may seem trivial to veteran police officers, they are likely to be traumatic experiences for complainants, victims, and witnesses. A police officer must realize that, although he or she may have handled numerous routine service calls, such as family disturbances, auto accidents, or home burglaries, these are unique and frightening experiences for citizens. Police officers need to understand that citizens typically call the police only when things have gotten beyond their own control. This in itself can be terrifying, thus, officers must always display concern and empathy for victims and witnesses. This is true whether the call for service involves a family dispute or a robbery.

Police officers must treat all citizens with respect, regardless of their age, sex, race, or socio-economic status. We are not expected to judge people by their social arrangements (e.g., common law marriage, same sex partnership, etc.), or their political beliefs. We are expected to treat all persons equally regardless of our own life styles or political convictions.

### **The Police Officer's Perception of the Public**

Consider the reading you have done thus far. You have seen that the public does indeed support the police and that their expectations of us are very high. Most police officers realize that they have the support of the general public. Sometimes however, the police officer's perception of the general population of a neighborhood may not always be accurate. Like a civilian who has had a negative contact with one police officer and generalizes that experience to all cops, we make similar assumptions about individuals. The negative aspects of police work tend to preoccupy our thoughts – the stabbings, shootings, disputes, and crime victims. We deal with the worst of people or with the worst moments suffered by the best of people. Too often, our perception of an area is based on the types of jobs we handle. It can be difficult to remember that other people, good people- who comprise the vast majority, live in the same neighborhood.

Another factor that further separates the police officer and the citizen is that our job necessitates that we be somewhat skeptical of people and their behavior. A police officer attempts to identify problems or suspicious behavior. To some extent, this



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encourages us to become distrustful of people and their motives. Sociologist Jerome Skolnick has written that because we work under a constant threat of violence, we create what is known as a *symbolic assailant*. This is your idea from past experiences of what a criminal looks like. We use this professional suspicion to assist us in our judgment. If used professionally, this occupational, *sixth sense* perception, is an important tool in policing. The danger is that over time, more and more people begin to fit this description, and we may begin to view any non-officer as a potential threat. This can lead police officers to use stereotypes and generalizations, and abuse their authority. When this happens, police divide the world into **us vs. them**, and to approach every encounter with the public in a way that indicates distrust. There is certainly a need for caution in our dealings with strangers, but this is no way to win friends or to build support among the public.

Keep this in mind: some of the people you meet in your work will have a *tainted* image of you because of unhappy prior contacts with the police. Keep in mind also that, as you spend time on patrol, your unhappy contacts with some people are also likely to taint your images and expectations of individuals you meet. When you understand this – that having gotten a hard time from the last young man you met does not mean that the next young man you meet will do the same thing – it becomes easier to step back, to judge people as individuals, and to treat them accordingly.

### ETHICS AND ABUSE OF AUTHORITY

**Ethics are established principles of conduct.** They are standards that guide our personal and vocational actions. Dan Carlson, Associate Director of the Southwestern Law Enforcement Institute, states that one way of defining ethics is “doing the right thing, when nobody will know if you do the wrong thing.”

Police abuse of authority constitutes unethical conduct. A police officer is employed to act as the protector of the public; to provide helping services and to preserve order. We take an oath to faithfully discharge the duties of our office, duties that reflect the moral voice of the community as embodied in its laws. At the very least, when we fail to perform these duties or when we perform them improperly, we commit grave breaches of professional ethics. At worst, we violate our oath of office, break our contractual obligation to the public, and negate the very reason for our employment. The nature of police contacts is so diverse that no listing or precepts of ethical conduct can encompass every possible situation. However, if you embody the doctrine of being a professional and act as such you will definitely be in accordance with the ethical standards expected of your position.



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What happens to some civilians when they become police officers that leads them to behave in ways which may constitute an abuse of their authority? Why do some officers resort to force when confronted with civilians who are discourteous? Part of the answer may lie in understanding what happens to some police officers after they receive their badges and guns and immerse themselves in the world of their police peers. As these officers begin to see themselves as part of a special group who are different from the people they police, they develop an arrogant attitude. Feeling superior, they become overbearing, self important, disdainfully proud, insolent, and even contemptuous of the public. After a period of time, a police officer might forget where his or her authority comes from-the people, and the reason why police exist- to protect and serve the public. A police officer may develop attitudes of thinking that:

- He or she has the right and the power to order people about.
- He or she can expect others to follow them without questioning.
- He or she is above reproach, and should not be questioned on anything related to his or her authority.

These attitudes are projected by an officer's verbal or nonverbal demeanor, and must be avoided. To do so, you need to be self-observant; to know about yourself and to be alert to the processes that are likely to work on you as your police experience grows. As time passes, take note of how you are changing. Strive to keep your behavior consistent with the ideals of professionalism. If you see contradictions between professional policing and what you see some officers do on the street, resist the temptation to join them.

### Street Clichés

Street clichés may affect a police officer's patrol performance. By adhering to the code of ethics, an officer can be sure to deliver proper police service and adhere to department guidelines. When new officers arrive at their commands, veteran officers around might make comments to confuse an inexperienced patrol officer. Negative behavior could result from the misinterpretation of their statements. We want to stay away from this aspect of policing and always reflect positive behavior. Below are some examples of how clichés may be subject to different interpretations.

**Cliché:** Many old-timers have advised rookies that *a good cop never gets cold, hungry, or wet*. There are two ways to interpret this bit of advice.

**The professional interpretation** is that officers should always be prepared for inclement weather and should have money available for a meal. In addition, the professional knows that it does not excuse him or her from leaving warm places – like a toasty radio car on a frigid night – to





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help people in need and it is not a justification for using the shield and uniform to freeload meals from local restaurants.

**The unethical interpretation** is just the opposite. It views this advice as approval of freeloading and finding comfortable warm and dry places, rather than preparing for and doing the job in a proper way.

**Cliché:** An old timer's advises a young officer to "*always have a story!*"

**The professional interpretation**, regardless of the intent of the person who gives such advice, it means that one should never engage in behavior that one cannot explain honestly and completely. It should, in fact, be read as a direction to act professionally, to follow department guidelines and to make clear reports and Activity Log entries.

**The unethical interpretation** is that this is an instruction to be prepared to lie to cover up one's wrongdoing.

### POLICE ACCOUNTABILITY IN NEW YORK CITY

The major methods of holding New York City police officers accountable for their conduct are internal, and are designed to prevent misconduct. These include careful screening of new officers, intensive training so that officers know how to do the job, and close supervision to correct their errors. In addition, officers' behavior may be subjected to review by a variety of internal and external agencies. These include the Civilian Complaint Review Board, the Board of Ethics, the Office of Equal Employment Opportunity, and the Internal Affairs Bureau. Brief descriptions of these agencies are outlined below.

#### Board of Ethics

The Department has established a Board of Ethics to review questions that deal directly with ethical considerations or possible conflicts of interest. The Board consists of the Deputy Commissioner of Legal Matters, a Department Chaplain and four officers, who range from police officer to the three-star Chief rank. Among the areas in their purview are the acceptance of gifts and testimonials and off-duty employment. If you have doubts about the propriety of a course of action, you should request a ruling from the Board by notifying your Commanding Officer.

#### Equal Employment Opportunity



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The Office of Equal Employment Opportunity (OEEEO) was established as a separate unit within the NYPD in 1978. The primary purpose of the OEEEO is to comply with a city-wide directive requiring all City agencies to ensure compliance with Title VII of the Civil Rights Act of 1964. The evolution of employment discrimination policies has brought about a continued series of developments affecting virtually every aspect of police personnel procedures. The OEEEO continues to advise, monitor, and train all members of the service in the area of employment discrimination, particularly with respect to City, State and Federal laws and Department policies. OEEEO reviews legal issues that arise in EEO complaints, evaluates Department practices and procedures to maintaining a bias-free work environment.

### **Integrity and Corruption Controls**

**The Internal Affairs Bureau (I.A.B.)** is responsible for recording and investigating allegations of corruption and serious misconduct, as well as other matters (e.g., unjustified use of excessive force or perjury) at the direction of the Police Commissioner. The Department currently has a number of mechanisms in place to identify and expose corruption. The Voluntary Assistance Unit enlists police officers to watch for signs of corruption. On the precinct level, the Integrity Control Officer (ICO), identifies and monitors corruption hazards located within their command. In addition many department commands and units have Inspection Units which assist I.A.B. in identifying and exposing corruption.

The Department's great emphasis on values and its organizational commitment to integrity are critical elements in the defense against corruption. Total commitment to the Department's values and increasing commitment by management and supervisors to enact these values provide a basis for dealing with corruption hazards.

**It is important that all uniformed and non-uniformed members of the Department clearly understand that corrupt acts of any nature will not be tolerated. All members of the service must be incorruptible. An honest member of the service will not tolerate members of the service who engage in corruption or serious misconduct. All members of the service have an absolute duty to report any corruption or serious misconduct of which they become aware. Members of this Department who engage in corrupt activities will be dealt with severely. They will not remain in the Department. If members violate the trust placed in them, they will be prosecuted to the fullest extent of the law.**

### **Civilian Complaint Processing**



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Misconduct complaints regarding members of the Department are reported **DIRECTLY** to the Civilian Complaint Review Board (CCRB). The recording and investigation of civilian complaints alleging misconduct by members of this Department is of great importance. Whether or not a complaint is substantiated, the public should be aware that a mechanism exists to investigate such misconduct.

Civilian complaints can be investigated by the Civilian Complaint Review Board or a member's command. The current structure of the Civilian Complaint Review Board (CCRB) emerged in 1993, under then Mayor David Dinkins who created an all-civilian, non-police review board. Their mission and purpose are as follows:

*It is in the interest of the people of the City of New York and the New York City Police Department that the investigation of complaints concerning misconduct by officers of the Department toward members of the public be made complete, thorough and impartial. These inquiries must be conducted fairly and independently, and in a manner in which the public and the department have confidence. An independent civilian complaint review board is hereby established as a body comprised solely of members of the public with the authority to investigate allegations of police misconduct.*

The legislation establishing the current CCRB created the first police oversight agency in New York City that was independent of the Department. The CCRB's membership and staff consist entirely of private citizens.

The Mayor appoints the 13 members of the Board, who must be residents of New York City and must reflect the diversity of the City's population. The City Council designates five members of the Board, one representative from each of the City's five boroughs, the Police Commissioner designates three members of the Board who may have previously worked as law enforcement professionals. Board members serve for three year terms. The investigative staff is comprised solely of civilians. Meetings are open to members of the public who are provided with an opportunity to make comments and express opinions.

The CCRB's jurisdiction extends to members of the service of all ranks. The CCRB is authorized to investigate and review complaints of police misconduct involving:



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- Force: Unnecessary Use of Force
- Abuse of Authority
- Discourtesy
- Offensive Language

Investigations are commenced only after a complainant has met with a CCRB investigator and given a complete statement concerning the alleged misconduct. Subsequently, the assigned investigator attempts to gather as much evidence as possible about the misconduct by locating and interviewing witnesses, collecting all pertinent Department reports (*e.g., roll calls, Aided Report Worksheets, Police Accident Reports, summonses, stop and frisk reports, and arrest paperwork*), obtaining other Department records such as tape-recordings of 911 calls, radio communications and gathering any related court documents. When relevant, the investigator also obtains medical records documenting any injury associated with the alleged incident.

The subject officer and other police officers identified as present during the alleged misconduct are also routinely interviewed. The officer is required to answer all relevant questions to the best of his or her knowledge. If the subject officer fails to answer a question, his or her failure can result in immediate suspension without pay from the Department and may subject the officer to formal charges of insubordination. The officer's failure to cooperate with the CCRB could lead to the officer's termination.

To ensure that civilian complaints are properly investigated, it is essential that the investigation be conducted as soon as possible. If you are working at a police facility and you are approached by a civilian who wants to make a complaint against another member of the service, you must notify the Civilian Complaint Review Board Intake Unit at 1-800-341-CCRB as soon as details of the complaint are known, without waiting for the preparation of typed reports. The Intake Unit is operable 24 hours a day, seven days a week. Complaints can also be made in person at precincts or other Department facilities. Be guided by the directions of the Supervisor accepting the complaint at CCRB.

Your CCRB history could have an effect on your career path. When you are considered for promotion, advancement, transfer, or special assignment, a routine check is conducted to evaluate your performance, attendance, and record within the Department. Your CCRB history is part of such a check. Further, most commanding officers are concerned about their subordinates' response to the community since they must evaluate



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these officers in that regard on their annual evaluation. Also, commanding officers are rated upon their subordinates' response to the community. Since commanding officers are notified when a member of their command receives a civilian complaint, they are able to monitor members on an ongoing basis.

It is clear that civilian complaints are a serious issue. The conduct of police officers must exhibit a respect for the people they serve. The Patrol Guide directs an officer to be "courteous and respectful" when engaging in public contact. This is required conduct. We must strive to achieve this in every interaction with the public.

The Civilian Complaint Review Board identifies trends which lead to civilian complaints. Some of these areas will be addressed in various parts of your training here at the Academy. This training will make you aware of these situations, and ways to avoid or control them.

### SUMMARY

We must understand that as uniformed police officers, we are under constant scrutiny. If we are to be professionals, we must act in a professional manner. Would you feel confident if your physician spoke to you in a discourteous and unprofessional manner filled with obscenities? Or if you called an electrician, plumber, or other craftsperson to your home to fix a problem that you could not, he or she ridiculed either you or the situation that led you to call?

It is of great importance to detect, identify and change unacceptable conduct which causes conflict between citizens and the police. Therefore, the Department places great emphasis on identifying and changing policy and procedures which underlie complaints. For these reasons, the processing of civilian complaints should be viewed as a positive tool of management rather than a negative instrument to punish officers' alleged derelictions.

All members of the service are **required** to carry the Courtesy, Professionalism & Respect Activity Log insert at all times while on duty.



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### HOMEWORK

1. What's more likely to produce voluntary compliance – the use of force or reasoned communication? If reasoned communication is more likely to work, can you see why the Department insists that we use force only when it is clear that reasoned communication will not work?

2. What kind of phrases are the following when uttered by a police officer?

“Do you people think we have nothing more important to do than straighten out your arguments?”

“Okay, guys, I understand it's fun to hang out on the corner, but we're getting complaints.”

“So, in other words, you'd like it if we just left so you and your wife could straighten it out yourselves?”

“You can plead guilty by mail and send in a check. But if you want to plead not guilty, you'll need to go to court. But if you do that, I'll be there and I've never lost a case yet.”

3. Which of the following fall within the scope of CCRB?

An off-duty officer shows his shield and tells a man to move his legally parked car so that the officer can take his space.

An arrestee alleges that an officer has stolen \$50 from him.

When a sergeant reprimands an officer for showing up late for work, the officer tells her to “get a life and buzz off.”

An officer issues a summons and allegedly tells the motorist that “If you hadn't mouthed off, I would have given you a break. Wise up.”



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## Policing Impartially

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT IMPARTIAL POLICING?

Police officers work in diverse communities among people who may not share their race, ethnicity, cultural background, or way of looking at the world. As a result, officers sometimes find their beliefs challenged by people who may or may not be breaking the law. In this context, hidden biases are likely to surface and sometimes threaten the officer's ability to professionally use discretion and communicate with the public. In a jurisdiction as diverse as New York City, such biases and the conduct they may produce can be disastrous.

This chapter explores what you, as a police officer, need to know in order to deal with a diverse population in a manner consistent with law and Department guidelines. We will begin by examining some of the psychological and social underpinnings of bias. We will go on to outline some tips that will help you to safely and effectively interact with the public and avoid both bias and the appearance of bias. We will conclude with a discussion of the relevant laws governing hate crimes.

### BIAS AND POLICE HISTORY

As police officers, you are required to enforce the law impartially without regard to race, class, ethnicity, culture, gender, and sexual orientation. At the same time, we are members of a larger society in which bias and discrimination against certain groups of people are matters of historical and statistical fact. The changing patterns of prejudice that are part of U.S. history are reflected in major organizations and institutions, including urban and rural police departments across the country. In 1805, African American "free men of color" were first hired as police officers in the City of New Orleans. Ironically, their major duties were to catch runaway slaves and to enforce the Slave Code. For generations thereafter, the conflicted and second-class status of African-Americans in policing took many forms that, today, appear equally bizarre and insulting. As recently as the 1940s, the City of Miami maintained a separate black police force comprised of African-American officers who patrolled Miami's black neighborhoods. The late Maurice Turner, the African-American former Chief of Police in Washington DC, often recounted what he found when he entered that department in the 1960s – he was not permitted to share patrol cars with white officers, and was not permitted to arrest white people.

Women were hired as police matrons in the 1920s and assigned to work in areas traditionally viewed as *feminine*, such as counseling juveniles and children, investigating missing persons and sex offenses, and performing clerical



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work. Because patrol was a prerequisite for promotions, police matrons remained at the bottom of the hierarchy, regardless of their skill and accomplishments. This began to change in the 1960s, when two New York City *Policewomen*, Felicia Spritzer and Gertrude Schimmel, sued the Department and won the right to compete with *Patrolmen* on promotional exams. Prior to their victory, policewomen were barred from supervisory and command positions in the NYPD.

Another major change came in the 1970s with the passage of the Equal Employment Opportunity Act and a United States Supreme Court decision called *Griggs v. Duke Power Company*. In *Griggs*, the Supreme Court ruled that publicly supported employers who used discriminatory standards to hire or promote people had to be able to show, when sued, that the standards they used were *job relevant*, and served to separate people who could perform the job from those who could not. In other words, a police department could insist on hiring only men for patrol officers' jobs only if it could show that men did the job better than women could. In addition, as the NYPD did at the time, a police department could insist on hiring only people who were 5'8" only if it could show that people more than 5'8" tall could be effective police officers while those less than 5'8" tall could not. No police department could show any of these things, of course.

The NYPD became one of only a few large urban departments that integrated women without the force of a lawsuit. They also changed its physical, strength, and agility standards to avoid discriminating against other groups. It was at this time – in 1973 – that women were first hired by the NYPD on the same basis as men, and that the former *patrolman* and *policewoman* job titles were eliminated in favor of today's *police officer*.

Gay police officers have been members of the service from the start, but their status was a hidden secret punishable by expulsion in many departments. While the reasons for such policies remain unclear, they seem to be based on irrational beliefs that gay men are unfit for combat and are likely to sexually harass their heterosexual partners. In 1981, New York City Police Sergeant Charles Cochrane set the record straight about gay men in policing when he publicly announced his homosexual status and declared that he was not alone.

The United States has made tremendous progress in overcoming discrimination. A generation ago, this was an agency composed almost entirely of tall men. Most were white, and all, publicly at least, professed to be heterosexual. If you look at the diversity of your class, you will see that much has changed since then. This Department is now far more diverse than it has ever been.





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The Department's efforts to overcome bias within its ranks have been accompanied by our attempts to treat the public in an evenhanded and bias-free manner. This is the most diverse and culturally rich city in the United States, and we take great pride in our responsiveness to its needs and demands. In doing so, it is important that we recognize that even open minded and well-intentioned individuals are likely to carry the burden of history on their shoulders, regardless of their education, political orientation, and color of their skin. Subtle and overt forms of bias and discrimination continue to live in our consciousness, no matter who we are and what our role is in the social system.

This point can be illustrated by a quick glance at the privileges that many members of the dominant social group take for granted. White middle class males can use checks, credit cards, or cash, and can count on the fact their skin color will not work against the appearance of financial stability. Those who are surgical residents can wear scrubs in the workplace without peers and strangers assuming they are nurses or technicians. When a white man obtains major advancement in rank, position or pay inside an organization dominated by people who look like him, no one whispers that he *slept his way to the top*, gained his status because of his race, or is an *exception to the rule* among people of his race. Typically, white men are treated as *individuals*, while men of color, gays, and women often are regarded in terms of their membership in those classes. It is critical that we are aware of this tendency, and that we do everything possible to avoid it in our own behavior.

### Perception and Bias

As New York City police officers, you will be exposed to a wide variety of people from a multitude of racial, ethnic, cultural and religious backgrounds. Those of you who are open to alternative ways of perceiving the world will welcome the experience and appreciate the diversity. Others may find the exposure unnerving. This also is a natural response, usually determined by one's background. We cannot do anything to change your background, and we cannot compel you to change how you may feel about people who seem different from yourself. However, you are required to keep from expressing your personal views in discriminatory words and actions.

This is not as easy as sounds. People are not always conscious of their biases. Without our awareness, cultural beliefs and stereotypes filter our perception and influence what we see. The result is that two rational people may interpret the same reality in very different ways. Alternatively, one person may view identical behavior differently, depending on the racial, ethnic or cultural



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identity of the actor. When ordinary citizens do this, it may be merely insulting; when cops do it on the street, it is both dangerous to life and damaging to our relations and our ability to do the job.

Here is an example: you and your partner are patrolling the streets in a precinct in Brooklyn at 2 a.m. You come across a black male, armed with a gun, holding a white man against the wall. Would you see this as a robbery in progress or as a plainclothes police officer in the process of arresting a dangerous suspect? Would your perception of what was happening be different if the man with the gun was white and the man against the wall was black?

Similar perceptual conflicts may affect contacts between the police and the public, resulting in words or actions that strengthen the stereotypes on the part of both the police and the public.

Here is another example: Imagine you and your partner receive a call that a black male, carrying a shotgun in a shopping bag, is heading towards an apartment building on 23<sup>rd</sup> Street. You arrive at the location and observe a man with a shopping bag, walking up the stairs to the building on 23<sup>rd</sup> Street. You approach the man and insist on searching his bag, which turns out to contain a quart of milk, a frozen pizza, a cold six-pack, and a pound of coffee. The man gives you a dirty look and whispers "racist" and "harassment" under his breath. Annoyed and bewildered, you utter your favorite expletive to your partner, slam the car door shut, and return the man's glare as your partner drives off.

Replay the tape. Ask yourself if there is a safe way to handle the situation, at one point or another, that might break the cycle of miscommunication, resulting in a more satisfactory conclusion for both parties. Can you understand why the man might react in this way? Can you think of things you might do in this circumstance to leave him feeling better about his contact with you? What could you do to make it easier for the next cop who encounters this individual?

### **Policing and Prejudice**

There are many reasons why you, as a police officer, must not engage in discriminatory behavior. For one thing, it is against the 14<sup>th</sup> Amendment of the U.S. Constitution, as well as Article 1, Section 11 of the New York State Constitution which states that no person shall be denied equal protection of the law: **as a police officer, you simply may not base your treatment of people on their gender, race, ethnicity, age, sexual preference, or membership in any class.**



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### Racial Profiling

Within this context, it is important for you to understand the difference between *racial profiling* and *criminal profiling*. **Racial profiling refers to those times when a police officer decides to stop and question a person when the sole rationale for the contact is the race, ethnicity, or national origin of the person being stopped.** By contrast, criminal profiling is a method by which officers, through careful observation of activities and environment, identify a suspicious person who, for perfectly legal and legitimate reasons, may be stopped. You cannot stop and question or otherwise intervene in the lives of members of a group merely because you believe that members of that group are disproportionately involved in wrongful behavior. You can stop people when you have very particular suspicions about the individuals you are stopping. For example:

- You would be race profiling if you stopped and questioned a young black man simply because he was walking in a neighborhood in which young black men reportedly committed most crime. But you would not be race profiling if, in the same neighborhood, you stopped and questioned a young black man who closely matched a reasonably detailed description (e.g., “male, black, early 20s, dark complexion, thin build, black pants, dark leather coat”) of a person who had just committed a crime in the neighborhood.
- You would be race profiling if you stopped and questioned a young white man in a car because someone had told you “the only white people who came into the neighborhood were there to buy drugs.” However, in the same neighborhood, you would not be race profiling if you stopped and questioned a young white man who slowly drove through the neighborhood, and made brief stops at locations that had a history of drug dealing.

Prejudiced behavior is problematic not only because it violates the law and Departmental guidelines, but also because it damages public trust and undermines the relationship between the police and the community. Citizens feel unprotected when they believe that those who they entrust with the responsibility for their safety are capable of using racist language and acting in discriminatory ways. The communication of biases by police officers also reinforces common stereotypes that designate *all* police as bigots. This, in turn, creates a dangerous atmosphere for the police, who cannot work safely or effectively without community support.



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### UNDERSTANDING BIAS

Understanding some of the myths that surround the concept of race may help correct some misconceptions that underlie bias. **Race is a cultural rather than a biological construct. There is no scientific evidence to support the idea that differences in personality, temperament, character, or intelligence are based on race.** In other words, the differences that we see in color generally are only skin-deep and do not translate into widespread biological differences that are unique to groups. The large groups that we characterize as races are too heterogeneous to lump together in a scientific way. The percentage of your genes that are reflected in external appearance, the basis by which we talk about race, seems to be in the range of .01 percent (one in 10,000). For this reason, most genetic scientists do not view race as a biological concept.

The human brain, however, is highly attuned to differences in appearance, leading people to exaggerate the significance of what has come to be called race. The false beliefs that come to be linked with race then take on a life of their own and are resistant to change. The reasons for this are complex. In any case, prejudice is attached to strong emotions that are often buried in past experience. The result is that we tend to accept new information *only* if it reinforces previous attitudes. Conflicting evidence is then dismissed as insignificant or untrue, or otherwise rationalized according to previous notions. For example, if a person has a negative belief about some group, he or she is likely to interpret any unpleasant behavior by a member of that group as “the way they all are.” However, if the same prejudiced person should encounter a member of the same group whose behavior is contrary to the prejudice, he or she is likely to write it off as an exception – “Yeah, maybe that guy treated me okay, but most of them are terrible.”

### The Development of Prejudice

Understanding where biased attitudes come from may help you recognize and overcome the ones that you have come to take for granted. Most of us adopt the beliefs and values of our parents and siblings, which probably reflect those of the cultural, ethnic, class and racial group of which they are a part. In addition, traumatic events occurring in childhood may also influence how you understand and react to situations arising in the world around you. If, as a kid, you had a bad experience with a member of a group your parents or neighbors stereotyped, it is likely to have convinced you that the stereotype was correct.

Experience with peers in school further refined or changed attitudes, reinforcing or challenging biases that were learned earlier in life. Prejudice is often based on unfamiliarity. If you have never had contact with a member of a



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group different from your own, you are likely to have expectations about them that are based on what other people say, or how that group is portrayed in the movies and the news. Many people have never been to New York City because of what they have seen on television – a city full of crime, violence, hustlers, and self-centered egomaniacs. Consider what you would think about New York City if the only things you “knew” about it were what you “learned” on *NYPD Blue*, *Law and Order*, *Third Watch*, and *Seinfeld*. As you consider this, think also about the accuracy of what you think you know about another city you have never actually visited. If you have never been to Los Angeles, your expectations of it may be based on what you have seen in movies and on television. What makes you think they portray life in L.A. any more accurately than *NYPD Blue* portrays life in Manhattan?

Nevertheless, people who have had the opportunity to develop friendships with groups from diverse social backgrounds may be more open than others to alternative ways of understanding humanity. Their experience overcomes the anxiety and confusion that are linked to the unknown, and teaches the falsehood of racial and ethnic stereotypes.

Occupational experiences also inform attitudes. When you began your career as a police officer, you entered a subculture with a unique set of values, rules, and language that define who is and who is not a member of the police family. In time, you will be able to recognize most police officers by the way they talk, act and, to some degree, think about the world around them. Police officers do not usually gain popularity by questioning the views of peers or challenging shared attitudes. The result is that biases are sometimes reinforced in group context and passed on to new officers who are eager to gain the acceptance of their veteran colleagues.

Some of the attitudes that may set police apart from others are partly determined by the highly selective exposure police have to the community they serve. Police officers tend to interact with specific categories of people, including crime victims; helpless persons, emotionally disturbed people, criminal offenders, and naïve or unwilling citizens who do not particularly want to do what you ask. Much of the time, these people are upset, angry or otherwise in a negative state of mind. As cops have observed, many of the people police come in contact with are emotionally upset; are in trouble; have committed crimes; have been victimized or witnessed crimes; they have had accidents; they are involved in arguments; they have lost their keys – or (even worse) their kids. As much as officers try to help these folks when it is appropriate to do so, dealing with them is not easy. When these individuals look different from officers – when they are



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from a different race or ethnic group, when they speak a different language or have a different sexual orientation – it becomes very easy to stereotype the entire group based on our experience with a few.

Further, because they are symbols of authority, police sometimes are blamed for events over which they have little control. This can be demoralizing and can alienate the police from the public. Because of their limited exposure, police tend to forget that most members of the community are good and upstanding people who appreciate their presence and the positive influence they have on children and young people. Police officers then begin to view the occasional instances of praise as aberrations.

Because of these distortions, police officers must work hard to maintain a balanced perspective about the people they serve and about humanity in general. Remember that a courteous, professional, and respectful police officer who illustrates the opposite of bias and discrimination helps create a partnership with the community and builds rapport with the people. The result is that the citizens become our allies and, in turn, policing becomes safer and easier. This enhances our effectiveness and increases our pride and pleasure in what we do.

### COMMUNICATION GUIDELINES

- **Explain yourself.** Telling people why you stopped them will help dispel the myth that stops are racially motivated and prevent altercations and misunderstandings from arising. Often, officers stop individuals because they match suspect descriptions or because they are acting in ways that do, in fact, look suspicious, only to learn that there is a perfectly legitimate explanation for what they were doing. These people do not know why you stopped them and, unless you tell them why you did, they are likely to believe that your actions were arbitrary. It takes only a few seconds to do this, and it usually turns an angry person into someone who appreciates your effort -- "I'm sorry, Sir. We were looking for a person who had just committed a mugging, and you matched the description. Let me ask the radio dispatcher to repeat the description, and you can listen to it. Then you'll know why we stopped you."
- **Do not assume that only criminals fear the police.** You will encounter people from countries in which oppressed populations learned the hard way that they could not trust the police in their city. Some New Yorkers came here from places in which police or military authorities have engaged in genocidal massacres and torture of the civilian population. These people will not always be able to distinguish you from the



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authorities who killed their families and friends. As a result, they may avoid contacts with you in just the same way that they would have in their native countries.

- **Be wary of ethnocentrism.** *Ethnocentrism* is the false assumption that one person's cultural beliefs and practices are inherently superior to another's. Unless you are dealing with people who practice a particular cultural activity that violates the law – like polygamy, cockfighting, drug use, or animal sacrifice – this is the wrong view to take. Unless people are violating the law, we are not in the business of making judgments about their beliefs and customs.
- **Understand the effect of proper tactics on innocent people.** The public may perceive proper police tactics as alienating and scary. Remember that many of the people you stop will be released without further action because it turns out that there is a legitimate explanation for their activity and/or because there is no evidence that they were doing anything wrong. Keep in mind that what is routine for you – stopping and questioning pedestrians or motorists – is far from routine for most of the people you are stopping. Keep in mind also that, when you stop and question people, you are letting them know that (in your judgment at least) they look wrong. This is a very negative assessment, so you need to expect that the people you stop may resent it. Be aware of that, and do what you can to ease their resentment.
- **Be sensitive to individual's language preferences.** Do not take it personally if an individual of another gender, race, ethnicity, or from another country wants to speak with your partner who shares his or her characteristics. Even individuals who speak English may prefer to speak their native language because it makes them more comfortable or they are afraid that police will be critical of their grammar and pronunciation.
- **Be wary of being intolerant.** Intolerance may exist among police officers that are members of minority groups as well as those who are not. Indeed, sometimes minority police officers may feel more intolerant towards certain behavior on the part of members of the racial, ethnic, religious, or gender group with which they identify. Such feelings may result from a concern that other officers will assume the behaviors are representative of the group as a whole. No matter who you are or where you come from, your job as a police officer is to deal with people as individuals, not as members of groups, whether those groups are your own or another.



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- **Do not engage in racial profiling.** It is against the law. It violates fundamental democratic precepts and freedoms. It violates this Department's policies. It is offensive. It violates your responsibility to treat people equally. It diverts us from catching real criminals. It alienates us from people who need us, and hurts our ability to do our job. It makes things more difficult for every police officer who will subsequently encounter its victims. It breeds disrespect and distrust of every level of government. It embarrasses and humiliates people. It can get you disciplined, fired, sued, and prosecuted. You can probably think of other reasons not to do it, but the point is that you **will not** do it.
- **Avoid assumptions based on a person's minority affiliation.** Do not overlook a witness because you do not believe that a member of his or her particular group could possibly have valuable information. Do not let your feelings about a particular class of people affect your recognition of a victim.
- **Be aware of miscommunications resulting from language.** Language differences can lead to serious problems for non-English speakers. In one case, a man was arrested for agreeing that he molested his daughter. It turned out that the man had only confessed that his drinking bothered his daughter. In Spanish, the verb "molestar" means, "to bother." This is very different from the English meaning of "molesting;" what father has not *bothered* his daughter?
- **Be aware of cultural notions of space.** Notions of personal space and behavior are cultural and indicate respect. Nigerians, for example, have a proper social distance – the range at which people talk to each other – and it may be less than 15 inches. If you are like most Americans, you may think that anyone who stands this close to you while he or she talks is trying to get "*in your face*." This is not the case, however. In many parts of the world, standing close up is a sign of respect. Similarly, most Americans look people in the eye when they talk to them. Natives of many Third World countries, however, show respect by averting their eyes when talking to authority figures like police. Be conscious of both of these cultural habits, and take them for what they are: signs of respect and attention, rather than disrespect and inattention.





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- **Do not imitate the speech patterns of others.** Police officers should not imitate speech patterns of other racial, ethnic and class groups when communicating cross culturally. They appear disingenuous, artificial and, possibly, racist.
- **Do not use terms or words that devalue groups of people** or stereotype them. We have already told you that, when you are dealing with people, you must treat them as individuals, not as members of groups. Therefore, you should never use the derogatory terms used by ignorant people to devalue members of groups. You know what they are – they are gender, racial, and ethnic slurs and insults about people's sexual orientation. They have no place in your vocabulary. When you use them on duty, you demean people and yourself. When you use them off-duty, you build habits that are not easy to turn off at work.
- **Do not tell or tolerate ethnic, racial or sexist jokes,** even if you think they are not offensive. In this area, what one person sees as harmless, politically incorrect fun, may be deeply insulting to others.
- **Avoid expressing stereotypical assumptions that spotlight** minorities or other groups, or that set them apart from others. Examples: "For a woman cop, she did a good job" (implying that this is the exception rather than the rule; or that female cops should be judged by different standards than males); "He's Latino, but he works hard;" "She's black, but she really knows her stuff;" "He's gay, but he'll leave you alone;" "He's Colombian but not involved with drugs;" "She's Italian, but I don't think her family has any mob connections;" "He's Irish, but I've never seen him drunk." No matter who you are, you can think of some negative reference to one or more of the groups of which you are a part. You can also think of how disrespected you feel when you have heard them. Keep that in mind, and do not make any such references about anybody else.
- **Do not take unfounded accusations of racial or ethnic bias personally.**
- **Be courteous.** People are offended when the police are rude and discourteous. They will become angry when they believe that law enforcement officials treated them "like criminals" because they were poor, or persons of color. For good reasons, the poor and people of color are sensitive about the way they are treated by police: do not feed into this by turning their worst fears about the police into reality.



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- **Be self-aware.** Understanding ourselves and what makes us tick helps us to shape the way we interact with others.

### Officer Self – Awareness

- Self-awareness about one's early life experiences that helped to shape perceptions, filters, and assumptions about people.
- Self-awareness about how one feels toward someone who is "different"
- Management of assumptions and discomfort in dealing with people who are different (e.g., do we try to deny that differences exist and laugh differences away, or imitate "them" in order to appear comfortable?)
- Ability to be authentic in communication with others while modifying communication style, when necessary (Shusta et al. 2002: 118)

- **Follow these directions when dealing with people that use English as a second language.**

### Tips For Communicating When English Is A Second Language

- Speak slowly and enunciate clearly.
- Face the person and speak directly even when using a translator.
- Avoid concentrated eye contact if the other speaker is not making direct eye contact.
- Do not use jargon, slang, idioms, or reduced forms (e.g. "gonna", "gotta", "wanna", "couldja").
- Avoid complex verb tenses (e.g., "If I would have known, I might have been able to provide assistance.").
- Repeat key issues and questions in different ways.
- Avoid asking questions that can be answered by "yes" or "no" rather, ask questions so that the answer can show understanding.
- Use short, simple sentences; pause between sentences.
- Use visual cues such as gestures, demonstrations, and brief written phrases.
- Use active rather than passive verbs (e.g., "I expect your attention" [active] rather than "Your attention is expected" [passive]).
- Have materials duplicated in bilingual format.
- Pause frequently and give breaks. Monitor your speed when you speak.
- Use only one idea per sentence.
- Respect the silence and pauses that non-native English speakers need to formulate their sentences and to translate them in their minds.
- Check comprehension by having the other speaker repeat material or instructions, and summarize frequently.
- Encourage and provide positive feedback on the person's ability to communicate.
- Listen even more attentively than you do when communicating with a native speaker of English.
- Be patient. Every first generation of non-English speaking immigrants' struggles with the acquisition of English.
- Do not speak louder. It will not help. (Shusta et al. 2002:124)



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## **Policing Impartially**

### **RACIAL PROFILING AND THE LAW**

#### **What is Racial Profiling?**

Racial profiling may be defined as the stopping of motor vehicles, the stopping and questioning of individuals and the frisking and searching of persons without individualized suspicion or legal cause to justify such conduct, but instead based solely upon a person's actual or perceived racial, ethnic or national origin status.

#### **Why Racial Profiling is Illegal**

The 14th Amendment to the United States Constitution, as well as Article 1, Section 11 of the New York State Constitution, contain equal protection clauses, which state that no person shall be denied equal protection of the law. This means that all persons must be treated fairly and equally by administrators of the law, including the police, in all jurisdictions of the country and New York State. Additionally, New York State has afforded increased protection to its citizens under its Civil Rights Law, Section 40-C. This law states, "No person shall be subjected to any discrimination in his civil rights, or to any harassment because of race, creed, color, national origin, sex, marital status or disability, by any other persons."

Many of the actions taken by police officers are governed by statutory regulations and requirements. When we stop a person on the street, stop a motor vehicle, or arrest an individual, there are specific standards of proof that must be met for our actions to be considered lawful. These standards are a composite of both federal and state constitutions, as well as state procedural law. Harsh consequences follow when police officers disregard these guidelines. If it is determined that a police officer has not followed the prescribed guidelines the following situations may result:

- The law enforcement action (summons, arrest, etc.) taken by the police officer is dismissed.
- The police officer may be subject to Departmental discipline or termination.
- The police officer and/or the Department may be subject to civil and/or criminal penalties (monetary fines and/or imprisonment).



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The New York State Assembly has introduced legislation that specifically defines racial profiling and prohibits law enforcement agencies from engaging in its practice. Additionally, this new legislation would give individuals and the State Attorney General the right to seek damages from a law enforcement agency, including particular employees and their supervisors.

### NYPD Policy Regarding Racial Profiling

The New York City Police Department has always had a strict prohibition against racial profiling because of its inherent unlawful nature and societal effect. Individual citizens can become subjects of Police Department action based only upon actual, perceived, or suspected violations of law. Can race or ethnicity *ever* be a factor in determining when a police officer takes action? The answer is yes. However, an officer's decision to encounter a citizen should be based upon objective, credible facts, and not on a whim or personal bias. Again, you can stop citizens because of *what they are doing* or because they match descriptions of people who have done something wrong – but you cannot stop people because of *what they are*.

### BIAS INCIDENTS (Patrol Guide 207-10)

#### Hate Crimes

Prejudice can distort our interpretations of external reality. Prejudice is often unconscious and linked to powerful emotions. Membership in peer cultures that share biased attitudes will reinforce and help excuse or justify prejudiced acts.

Prejudices are most likely to be acted out during hard economic times or periods of great social change. When jobs become hard to find, economic competition grows among groups and hidden prejudices come to the surface. When formerly powerless groups start to gain economic and political power and the ability to break out of geographic and social ghettos, competition for housing begins; neighborhoods *change*, and prejudices are acted out. Conversely, when formerly poor and working class neighborhoods become stylish, *gentrified*, and expensive, the class prejudices of people who can no longer afford to live in them may turn nasty. When this happens, bias incidents – including hate crimes – may occur.



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### Handling Bias Incidents

The best way to deal with bias incidents and hate crimes is to prevent them. As a Department, we try to do this every day by building relationships with the communities we police, by learning as much as possible about them and their relationships with other groups, and by trying to anticipate and mediate differences among them.

Created in 1980, the Department's Hate Crime Task Force is specifically charged to assist patrol units in these tasks. It monitors and investigates any offense or unlawful act that is motivated in whole or in part by the identification of a person or group or location with a particular race, religion, ethnicity, sexual orientation, or disability as determined by the Commanding Officer, Hate Crime Task Force. The Unit also handles bias issues that arise for persons with disabilities.

The definition of a *disability*, for the purposes of this procedure, is when a person possesses or is perceived to possess any of the following: a physical, medical, mental or psychological impairment, or a history or record of such impairment. This includes individuals who have sustained any injury or damage to any system of the body including muscular, sensory, respiratory, speech, heart, reproductive, digestive, blood, immunity (i.e., AIDS), and skin. Also included are recovering alcoholics, drug or other substance abusers who currently are not using alcohol or drugs.

As the first officer on the scene of a disturbance, you must be aware of the possibility of a bias incident, in order to provide a proper referral and maintain order in the community.

### Types of Bias Incidents:

- Harassment.
- Property Damage.
- Physical Violence.



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### HOMEWORK - BIAS INCIDENTS

Which of the following assignments would constitute a suspected bias incident? Explain your answer in each case.

1. Two officers respond to a Jewish cemetery on a complaint of burglary. At the scene, the head grounds keeper tells the officers that the copper gutters were stolen from the main building sometime during the night.
2. An officer patrolling the "F" train observes two teenagers spray painting *swastikas* on advertising posters near the main entrance at the Utica Avenue Station in the heavily populated Hasidic area of Crown Heights of Brooklyn.
3. Upon entering the main lobby of a Housing building, an officer observes two male Hispanics clubbing a male black, with a baseball bat, while yelling racial obscenities at him. The officer knows all three youths, since they play on the same baseball team in the PAL, and they are always hanging out together.
4. A male who seems very upset approaches an officer patrolling her foot post. He asks her if he can do anything about the threatening phone calls and letters he is receiving concerning his sexual orientation.
5. Two officers respond in their RMP to a motor vehicle accident at a parking garage. Upon their arrival at the scene, they see the two apparent operators, a man and a woman, yelling obscenities at each other.
6. An officer walking his post observes a male attempting to scrub some painted words and designs off a car. Upon initial inquiry, the man tells the officer that since he moved into the neighborhood, unidentified people have been damaging his car and home, by painting white supremacist designs and slogans on his property. The man tells the officer he does not understand it, since he is not black, and emigrated to the U.S. from India.
7. An officer hears a 10-85 for a backup unit coming over her portable radio. She runs to the scene, since the location given is only a couple of blocks away. Arriving at the scene, she sees two of her fellow officers with three men in custody, and under arrest. The men were caught attempting to burn down a gay men's community center. The officer notices that a large crowd of people is gathering, and they are yelling anti-police and anti-gay slogans.



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8. Two officers are on meal at a diner in their patrol car sector, and overhear an argument between two customers and a waiter. The waiter suddenly screams, "You Jews are all the same!" She then throws a tray of food at one of the customers.
9. Two officers respond to a robbery in progress at a grocery store. Arriving after the suspect has fled, they find that the complainant, a black man, who is obviously shaken. The complainant explains that the suspect, a male white, teenager, said "Give me all your money," using several ethnic slurs. The suspect then fired a shot from a 32-caliber revolver into the ceiling.
10. An officer takes a report of criminal mischief from Imam Muhammad, for the vandalism to the doors and widows of his mosque.



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### BIAS HOTLINE FACT SHEET

**Q. What is a Bias Incident?**

A. *A bias incident or hate crime is an act motivated by prejudice against people because of their race, religion, ethnicity, age, gender, disability or sexual orientation. Bias can involve criminal activity, or may be non-criminal in nature such as name-calling, harassment, and intimidation.*

**Q. What is the Bias Hotline?**

A. *The Bias Hotline is a 24-hour, 140 Language response and referral phone service operated at the Commission on Human Rights. It operates 7:00 a.m. - 11:00 p.m. with live operators and 11:00 p.m. to 7:00 a.m. with a tape and referral suggestions.*

**Q. Who should call the Bias Hotline?**

A. *If you are a victim or a witness to a Bias incident, or an observer of tensions between groups in your community, call the Hotline number **NO-2-Bias** (212-662-2427). If a crime is in progress, call 911.*

**Q. What is the purpose of the Bias Hotline?**

A. *The Hotline has been established to address the widespread problem of bias incidents and hostile inter-group relations. It will provide community residents with an alternative to the police when reporting bias incidents and community tensions, particularly when they may be non-criminal in nature. The Bias Hotline will provide immediate referrals (including legal, health and police services) for bias victims, witnesses and concerned residents.*





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### References

Brown, B., and W.R. Benedict, 2002. "Perceptions of the Police." *Policing: An International Journal of Police Strategies and Management*. Vol 25. Issue 3: 545–580.

Carlson, Daniel. P. 2002. *When Cultures Clash: The Divisive Nature of Police–Community Relations and Suggestions for Improvement*. Upper Saddle River, NJ: Prentice Hall.

Shusta, R.M., R. D.R. Levine, P.R. Harris and H. Z. Wong, 2002. *Multicultural Law Enforcement: Strategies for Peacekeeping in a Diverse Society*. Upper Saddle River, NJ: Pearson Education, Inc.

Stoutland, S.E. 2001 "The Multiple Dimensions in Resident/Police Relations in Boston." *Journal of Research in Crime and Delinquency*, Vol. 33 No.3:226–256.

Weitzer R., and S.A. Tuch. 2002. "Perceptions of Racial Profiling: Race, Class and Personal Experience." Vol 40, Issue 2. *Criminology*.



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## Investigation and Report Writing

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT INVESTIGATION AND REPORT WRITING?

Investigation is the process of finding the facts about a particular subject, event, or problem. It should be designed to eliminate as much uncertainty as possible about what happened during an event, or about what caused or is associated with a problem. The report of an investigation should complete this process – after readers have reviewed it, they should know everything the writer knows, and should have very little uncertainty about the facts.

When most of us think of police investigation, we think of crime and detective work. Certainly, criminal investigation may be the most important of all the investigative tasks we perform, but it is far from the only one. The Department conducts investigations to determine whether or not its policies are effective; to design policies and training; to determine whether citizens' complaints have any merit; to determine whether units function as they should, and on and on.

In almost all these cases, the key component of investigation is the patrol officer, who is the Department's front line, the first person on the scene of most incidents that become subjects of investigation. For the most part, it is through the patrol officer that the Department becomes aware of *complaints*, and most other matters. Consequently, it is critical that patrol officers collect all the relevant information and that they report it thoroughly, clearly, and to the right people and units.

*Complaints* are allegations of crimes, violations, and conditions, which require an investigation. These are officially recorded and processed using the complaint reporting system. The process through which complaints are investigated begins with the preparation of a written report. If this is not done right, a complaint may not be investigated or may be investigated incorrectly. In addition, precinct statistics compiled from Complaint Reports are used to make decisions regarding deployment, specifically, assignment of Radio Motor Patrols (RMPs), foot posts and specialized units (such as Anti-Crime). If these statistics are inaccurate, serious criminal conditions can go unchecked, and both the public and your fellow officers may be endangered. Not caring or not taking the time to conduct a proper preliminary investigation reflects negatively on the entire Police Department. Most importantly, it can greatly reduce the Department's ability to do its job.



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For you personally, sloppy or incomplete reports can cause embarrassment, lost criminal prosecutions, and acquittals of guilty people. Whenever you make a shoddy report related to a crime or arrest, you are almost certain to be cross-examined intensely by the lawyers for the people you have arrested. When lawyers can point out to the jury all the errors and omissions you have made in your official reports, the credibility of everything you say sails out the window and guilty people are likely to walk out the door.

One of the most important Department forms is our *Official Letterhead*. This is white bonded paper with the Department seal and title preprinted on the uppermost portion. It is used for official communications between this Department and all outside agencies, departments and persons not connected with the New York City Police Department. We use typed letterhead as our official correspondence within the Police Department. It is commonly referred to in the field as a *49* or *UF-49*. You also need to know how to prepare reports on these forms, as well as how to prepare internal Department reports on blank sheets of paper. This chapter will provide guidance and instruction in these important areas.

### INTERVIEWING TECHNIQUES

The most important investigative information usually comes from people. Therefore, it is critical that you learn how to communicate with people in ways that are most likely to produce the maximum amount of information. Every excellent investigator is an excellent interviewer.

A very important part of interviewing technique is that interviews should be conducted as soon as possible after the incidents that are the subjects of investigation. This is so for two reasons. First, people's memories fade quickly. Second, people's recollections of events become contaminated over time. When people witness a dramatic street event – a robbery and shooting, for example – it usually happens so quickly and with so little warning that they do not have time to digest it. But as time goes by, they think about the event – or, even worse, talk about it with others who have seen it from other angles. Invariable, they forget what they actually saw and come up with a composite based on information they develop later.

*Here's an example:*

*Charley hears shots and sees a man, later identified as Joe, run out of a store, chased by*



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## Investigation and Report Writing

*another man, later identified as Jim. Jim has a gun in his hand, and is pointing it in Joe's direction. Joe starts to turn on his pursuer, and Charley hears more shots. Joe falls down, and a car parked nearby suddenly takes off, accelerating away from the scene. Jim starts to run after the car, but then turns and runs back into the store. This whole episode lasts no more than four or five seconds.*

*Charley waits for the police and starts to talk with other people, some of whom were on the scene when the shooting occurred and some of whom were drawn to the scene by the shooting. It is evident that Joe is dead in the gutter, and that there is a small gym bag near his body. Someone tells Charley that Jim is the owner of the store. Charley had never seen Jim before, but this makes sense to him. Someone tells him that Joe was trying to rob Jim and had fired shots at Jim inside the store. This also makes sense, although Charley never noticed whether Joe had a gun. Someone tells him that Jim then pulled his own gun, and chased Joe from the store, firing shots at Joe only when Joe turned and fired at him first. Another person tells Charley that Joe was running toward the "getaway car," and that its driver escaped.*

*Officers and detectives arrive, but do not interview Charley for an hour or more. He spends the time talking with other people. Finally, an officer asks Charley what happened. He says:*

*"It was a stick-up. Joe, the dead guy, pulled a gun and fired shots at Jim, the storeowner. But the storeowner pulled his own gun and shot back. Then the dead guy ran away with the storeowner chasing him. He turned on the storeowner and fired again, so the storeowner shot him. The guy in the car who was with the dead guy got away."*

*The officer looks at Charley strangely. "No," the officer says. "This was not a stick-up. It was a drug deal gone bad. Joe owned the store, but he was*



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*a drug dealer. He sold the other guy bad dope and, as soon as the other guy realized it, he lost his head and shot Joe. That car was with Jim, but the driver took off because he hadn't bargained for a murder. We're looking to find Jim now, but we didn't find any evidence that Joe had a gun."*

*Assume that Jim is caught and tried for murder: how useful would this eyewitness's testimony be? What would he have said if he had been interviewed earlier, before his account had been contaminated by exposure to other witnesses?*

When we can get to witnesses immediately after the event and interview them as soon as possible, we are likely to get the most accurate and useful information from them. The importance of responding quickly, but safely, to the scene of a police incident cannot be overemphasized. This becomes extremely important when responding to a possible crime scene. By arriving as soon as possible, you will be better able to preserve the integrity of the scene and any evidence left behind by the perpetrator. Witnesses are more likely to be present, and the victim will most vividly recall what occurred during and after the crime. Conducting a good interview is vital to a preliminary investigation. Knowing how and when to ask the right questions is a skill that you will develop through experience and good police work in your career. Properly preparing an accurate complaint report worksheet will assist you, as well as investigators, in the process of identification and apprehension of perpetrators and case presentation to the District Attorney's Office.

You will face a difficult task when attempting to interview victims of crimes in crisis situations. The emotional state of the victim must be addressed to restore a sense of normalcy. When obtaining information in an interview for the necessary reports to be prepared, the officer must be both supportive and sensitive to the needs of the victim/ complainant. Maintain **Courtesy, Professionalism and Respect (CPR)** when interviewing victims or potential witnesses.

### Interview Steps

**Develop a plan of action.** You should review pertinent data and develop questions that will elicit information. For example, questions posed to witnesses of a crime should be designed to obtain facts to complete an accurate report.



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**Conduct the interview privately if possible.** While this basic rule is often difficult to follow, depending on the circumstances, every effort should be made to minimize distractions.

**Put the person at ease.** Emotions and stress play a big part in any type of interview, and you will have a difficult time evaluating a nervous person. Starting the interview casually with non-threatening conversation can have a calming effect. By defusing negative feelings and reinforcing positive ones, you can address the emotions exhibited by the interviewee in an effective manner.

**Let the person being interviewed do the talking.** One of the biggest mistakes you can make is to talk too much. Gathering crucial information regarding a crime depends on letting the interviewee talk under controlled conditions. You should control the interview, not dominate it.

**Perfect questioning techniques.** Knowing how to ask questions is just as important as knowing what questions to ask. Also, making questions easy to understand is critical. This allows the person being interviewed to concentrate on answering the questions, not on trying to understand what they mean.

**Select your questions carefully.** Use close-ended questions (yes/no answers) sparingly because they only require a short answer and usually only confirm factual data. Open-ended questions force the interviewee to talk and elaborate on the matter at hand. For example, when interviewing witnesses to a crime, you should ask the witnesses to relate in their own words what they saw. This allows you to better assess the reliability of the information obtained. Leading questions, which contain the answer, and loaded questions, which ask the person interviewed to choose the lesser of two evils, should always be avoided.

**Don't challenge answers given.** You must keep emotional reactions private and should not let personal feelings interfere with the interview. There is time to document problems after the interview.

**Stay in control.** During an interview, some people try to stray from the questions asked. Proper preparation is the key to maintaining control of the interview and to ensuring that it doesn't go off course.

**Take good notes.** Notes allow you to recall important details revealed during the interview. However, while making notes, you should not lose eye contact with the person. Excessive note taking causes the person being questioned to slow down responses in order to accommodate you.



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**Conclude the interview properly.** It is your responsibility to signal the end of the interview.

**Learn from experience.** Critiquing helps to identify areas that need improvement and develop interviewing techniques. Seek assistance from veteran officers or trained investigators.

These basic rules are merely guidelines to follow when conducting an interview. While they will not alleviate all the problems that can arise during an interview, they will assist in developing the skills required of a successful interviewer.

### Preliminary Investigations

In conducting a preliminary investigation, there is usually a need to perform most of the following basic tasks:

- **Proceed promptly and safely to the scene.**
- **The greater the delay before you arrive at the scene, the greater the possibility of destruction or contamination of evidence.**
- **While traveling to the scene, mentally review the problems usually associated with the type of event to which you are responding: Are people likely to be hurt? Overcome with emotion? Angry?**
- **Survey the entire scene as you enter it, making a mental note of the conditions you observe.**
- **Assist the injured.**
- **Make a *probable cause* determination: Is there reasonable cause to believe that an offense has been committed?**
- **Do not rely on your memory: make notes in your Activity Log.**
- **Arrange to obtain all necessary assistance.**
- **Determine whether you need a search warrant.**
- **Collect evidence as required.**



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- **Identify, isolate, and interview any victims, complainants, and witnesses.**

**Note:** When several witnesses are present, do not keep them waiting while you spend too much time with one. Obtain sufficient information from each, and let them know that they may be asked to undergo follow-up interviews with detectives. As you complete interviews, ask witnesses not to discuss what they have seen with other people. Such discussions contaminate their information.

- **Identify, isolate, and arrest, any suspect(s).**
- **Submit any required reports.**

***Note: Refer to Patrol Guide Section 207-7 for more information on report preparation.***

Include all particulars about a case – do not exclude anything because it seems irrelevant. The case you are investigating may be part of a pattern, and the information you develop may fit together with pieces from other crimes and reports.

Your original complaint report will be important to the ensuing investigation because much of the information is utilized to identify crime patterns and clusters. Precinct crime analysts, Robbery Apprehension Module Units, and detective squads rely heavily on initial reports when determining crime patterns and identifying offenders.

### **Canvassing**

This term can be defined as a methodical, door-to-door investigation to identify witnesses or persons with information concerning any crime or other occurrence of police interest. The need to canvass depends upon the seriousness of the case. If appropriate, you should canvass the immediate area to determine if there are any witnesses. The need for a canvass, however, may not be immediate. If extenuating circumstances exist, a ranking officer or detective assigned may direct that a canvass be conducted.





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### Forms and Reports

Forms and reports will be prepared whenever Department policy mandates or other needs arise. A police officer on patrol will prepare Department forms such as Aided Report Worksheets, Complaint Reports, etc. These reports involve filling in applicable captions and completing a short narrative describing the event. A good report should be concise, complete and correct; it also needs to be easy to interpret by the reader. Use simple language to avoid misunderstandings.

### Department Reports Must Answer The Following Questions:

- **WHEN?** State the date and the time(s) when the offense was committed and/or the suspect(s) apprehended.
- **WHERE?** Describe the geographical location of the crime scene, property or evidence.
- **WHO?** Record information regarding the victim(s), suspect(s), witness(es), owner(s) and property.
- **WHAT?** Record information as to the type of property damaged, lost, stolen, or offense committed (e.g., Robbery, Burglary).
- **HOW?** Describe the general manner in which the offense was committed.
- **WHY?** Set forth what you believe motivated the offense.

**Note:** An easy way of remembering these six questions is to memorize the acronym **NEOTWY**, which stands for the last letter in each of the questions.

### DEFINITIONS

**Omniform.** The *OMNIFORM* is a software program installed on Local Area Network (LAN) workstations designed to permit information from a complaint to be entered and stored on Department computers. This data is stored centrally in the Department's mainframe databases for subsequent crime analysis, mapping and auditing purposes.



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## Investigation and Report Writing

**Complaint.** An allegation of an unlawful act *OR* omission *OR* improper act *OR* other condition that requires an investigation to determine if an unlawful act or omission has occurred.

### COMPLAINT REPORT FORMS AND PROCEDURES

**Complaint Report Worksheet** - Used by reporting members to record all complaints.

**Complaint Report** - A report generated by OMNIFORM and prepared from information received from complainants at the precinct of record or prepared from the complaint report worksheet submitted by reporting members.

**Omniform Index** - A report generated by OMNIFORM used to chronologically record complaints received and also serves as a catalog of complaints for a particular precinct.

**Complaint Follow-Up** - used by reporting/investigating officers to report additional statistical data after the original complaint report has been forwarded. The complaint follow-up, often referred to as a *DD-5* or a *blue*, is used to record information after the complaint report is prepared and signed off. It is normally completed by Detective Bureau personnel assigned to an investigation, however, there are occasions where you may be filling out a DD-5. This report will be filled out for the following:

- Offense classification changes
- Unfounded cases
- Voided complaints
- Additional stolen property not previously reported
- Serial numbers obtained for property previously reported
- Recovered lost/stolen property
- Initial arrest

**Complaint Follow-Up Informational** - Used by reporting/investigative officers to report information of no statistical value. These reports are filled out for the following:

- Case progress reports
- Case closed, no results
- Results of interviews



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- Canvasses
- Additional arrests on the same complaint
- Address changes, telephone numbers

As is the case with the complaint follow-up, it is rare that a uniformed member of the service on routine patrol fills out a complaint follow-up informational; Detective Bureau personnel normally prepare it. Procedures pertaining to the complaint follow-up and complaint follow-up informational can be found in Patrol Guide section 207-09.

### Where Are Complaints Recorded?

Except in certain situations, complaints are recorded in the precinct of occurrence. Officers must be aware of those times when complaints are recorded elsewhere. Complaints occurring in the Transit or Housing Bureaus have a separate set of guidelines to follow. Complaints are not always recorded on complaint reports. The officer should be aware of which complaints are recorded on a complaint report and which are not. Refer to Patrol Guide procedures 207-01 (Complaint Reporting System), 207-02 (Complaints Not Recorded On Complaint Report), and 207-04 (Reporting of Complaints Occurring In Another Command).

### Separate Complaint Reports

There are certain times when separate complaint reports need to be prepared for the same incident. The following is a list of these incidents:

- Each homicide victim;
- Each victim of a sex offense;
- Each person killed or injured and likely to die as a result of a motor vehicle accident;
- Each perpetrator of a crime who is killed;
- Each victim of an assault, **except if incidental to a sex offense or robbery**;
- Each additional person injured in an arson (assault by fire/explosive).



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## Investigation and Report Writing

### PROPER PREPARATION OF A COMPLAINT REPORT

The following are the captions that you will find on a complaint report worksheet. Not all captions are completed for every complaint. While reading this section have a copy of the complaint report worksheet with you to better understand the captions and the required information.

#### Command/Precinct Taking Report

- This box is used for the precinct/command where the crime is being reported. For example, if a crime occurred on Union and Court Streets within the 76<sup>th</sup> Pct. and it is being reported in Transit District 34, TD 34 will be the command of report, and the 76<sup>th</sup> Pct. will be the precinct of occurrence.

#### Jurisdiction of Complaint

- This box refers to the jurisdiction in which the incident occurred. Only one box will be checked. NYPD will be listed as the jurisdiction of the incident unless:
  1. Incidents occurring in the NYC Transit Subway System will be recorded under the NYPD Transit Bureau jurisdiction.
  2. Incidents occurring in the NYC Housing Authority property will be recorded under the NYPD Housing Bureau jurisdiction.
  3. Jurisdiction codes are recorded as follows:
    - a. NYPD – “00”
    - b. T.B. – “01”
    - c. H.B. – “02”
  4. Incidents occurring in jurisdictions other than NYPD, or NYPD Transit, or NYPD Housing will be recorded accordingly. For example, incidents occurring in JFK Airport will be recorded under the “Port Authority Police” jurisdiction.

#### Location of Occurrence

- The cross streets should be included when an address is entered. The cross streets must be entered if a location with no address number is entered.



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- The “Intersection of \_\_\_\_\_ & \_\_\_\_\_” will be completed if the incident occurred at an intersection. The person taking the report must indicate the appropriate corner (n/e, s/e, n/w, or s/w). This is extremely important because specific corners can determine precinct boundaries and Housing Authority jurisdictions.
- The curb lane adjacent to Housing Authority property is considered under the jurisdiction of Housing.

### Report Classification.

- If multiple offenses are being recorded, list the most serious first.
- Also indicate if the most serious offense is a felony, misdemeanor, or violation, and if the most serious offense was attempted or completed.
- Generally, the “Seven Major Felony Rule” is applied for serious felonies. This means murder/robbery will be classified as murder.
- The “Seven Major Felony Rule” order of offenses, starting with the most serious, is as follows:
  1. Murder and Non-Negligent Manslaughter
  2. Forcible Rape (Rape 1<sup>st</sup> Degree only)
  3. Robbery
  4. Felonious Assault
  5. Burglary
  6. Grand Larceny
  7. Grand Larceny Motor Vehicle (A grand larceny motor vehicle coupled with a grand larceny from the vehicle will be classified as a grand larceny motor vehicle.)

**Note:** The attempt to commit an offense will be counted as the completed offense, **EXCEPT** Attempted Murder, which will be counted as Felonious Assault.

### Gang Information

- Indicate if incident is gang related. If yes, Gang Intelligence log number and name of gang (if known) must be entered.



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## **Investigation and Report Writing**

### **Arson**

- If the crime is arson, indicate if building or motor vehicle was occupied or unoccupied and damage caused by explosion, fire or unknown.

### **Domestic Incident**

- Indicate if Domestic Incident Report (DIR) is required. If appropriate, insure that the Domestic Incident Report is prepared, and appropriate notifications are made. The DIR number will be entered in the details section.

### **Child Abuse**

- Indicate if child abuse is suspected. If yes, include aided number in the aided number box and insure that appropriate forms are completed and notifications are made.

### **Premises Type**

- Only ONE premises type may be checked (residential, house of worship, public transportation, commercial or other).
- If the jurisdiction is NYPD Housing Bureau, the premises type must be Residence - Public Housing.
- If the jurisdiction is NYPD Transit Bureau, the premises type must be Public Transportation - Transit NYC Subway.
- If the jurisdiction is Amtrak, Conrail, Staten Island Rapid Transit, LIRR-MTA or Metro North-MTA, the premises type must be Public Transportation - Transit Facility Other.
- If a licensed livery car driver is robbed in his car, the premises type must be Taxi (Livery Licensed), regardless where the incident occurred.
- If a person is assaulted on a NYC Transit Bus, the premises type must be Public Transportation - Bus (NYC Transit), regardless where the bus was located. Incidents on a NYC Transit Bus are NOT recorded under Transit Bureau jurisdictions.



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- If a student is assaulted in a NYC Department of Education elementary school, intermediate school, junior high school, high school or special education school, the premises must be "School - Public NYC Department of Education."
- If a person is robbed while using, attempting to use or immediately after using an ATM machine, the premises type must be Commercial - ATM, even if the robbery occurred on the street.
- "Street" will be used for incidents occurring on the street, unless there is a more specific premises type.

### **Exact Location within Premises Type**

- Only one caption may be checked off. This section can be completed for any incident, but must be completed for each incident in a NYC Housing Development. Indicate the location within the premises type. If a person was sexually assaulted in a car, the location will be Motor Vehicle - Car. If a person was assaulted in the elevator of an office building, the location will be Elevator.

### **Burglary Section**

- Describe the type of premises (vehicle-truck, building-commercial, building- residential, watercraft, garage, or building other).
- Location of entry will be entered.
- The point of entry will be entered.
- Indicate if alarm was bypassed.
- Indicate if the alarm company responded and the alarm company name, address, and telephone number.
- Crime prevention survey requested (conducted by the Crime Prevention Officer).



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## **Investigation and Report Writing**

### **Supervisor, Canvass, Interpreter**

- Indicate if a supervisor was on the scene. If yes, indicate rank, name and command.
- Indicate if a canvass was conducted. If yes, indicate interviews and results in "Details."
- If an interpreter was used to assist in the interview of the complainant/witness during the preliminary investigation, indicate name, address, and telephone number (if available).
- If a member of the service was the interpreter, indicate rank, name, & command.

### **Details Section**

- Include reconstruction of the incident and results of preliminary investigation.

### **NYC Board of Education Schools**

- This section has been designed to record incidents related to New York City Department of Education elementary schools, junior high schools, intermediate schools, high schools, and special education schools.
- Do not include incidents occurring in private/parochial schools or public colleges in this section.
- A Department of Education school incident includes incidents occurring on school grounds, while traveling to and from school or at school-sponsored events.
- Complete all required information, including notification to the School Safety Division Operations Center to obtain a control number.

### **NYC Transit Subway System**

- This section has been designed to record incidents related to New York City Transit subways, elevated lines, or on trains.





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## **Investigation and Report Writing**

- The jurisdiction NYPD Transit Bureau must be checked off.
- Indicate if a NYC transit incident.
- Train routes within the NYC Transit System are designed north or south, even if the line actually runs east/west.
- If the incident occurred on the train, indicate n/b (northbound) or s/b (southbound) and if it occurred in the front, middle, or rear car. Indicate the car number, if available.
- Incidents occurring on a moving train will be recorded as occurring at the next station where the train stops, regardless of precinct or borough boundaries.
- The station of occurrence must match the location of occurrence on page one.

### **New York City Housing Authority**

- This section has been designed to record incidents occurring on NYC Housing Authority property. This section must be completed if the jurisdiction NYPDHB was checked off.
- Indicate if a NYC Housing Authority incident and include name of Housing Development and PSA number, if known.
- The Housing Bureau PSA incident number will be entered in the appropriate caption.

### **Victim**

- Only one victim will be recorded in this section.
- Additional victims will be recorded on the Victim/Witness Supplement.
- Indicate if the victim is disabled. If so, specify whether the disability is physical or mental.
- If the victim is a business, use the business information in the appropriate boxes.



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- The employee reporting the incident will be listed as the reporter.
- Indicate if victim is a NYC Housing Authority resident.
- Specify if an interpreter is needed for further investigation and language used.
- Include the victim's permanent address. Indicate if the victim resides in NYC, outside NYC but within New York State (NYS), outside NYS (other), or if the victim is homeless.
- The Temporary Residence section will include, but is not limited to, tourists temporarily residing in hotels/other residences or a homeless person residing at a homeless shelter.
- Additional means of communicating with the victim should be included (business telephone number, beeper number, cell phone number, and/or e-mail address).
- Gang affiliation, gang name and gang identifiers have been added.
- There are check-off boxes "shot" and/or "cut/slashed/stabbed," which will be completed as appropriate.
- If the person/business was a victim of a similar incident (EXCEPT SEX OFFENSES), so state and indicate where and when.

### **Reporter/Witness**

- Only one reporter/witness will be recorded in this section.
- Additional reporters/witnesses will be recorded on the Victim/Witness Supplement.
- The same guidelines as above will apply to this section.
- The reporter/witness and position/relationship to the victim must be included.



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### Wanted Suspect and Crime Incident Data Sections

- The total number of perpetrators/suspects, the number of wanted, and the number of arrested will be listed on the top of the form.
- Only information of the wanted suspect will be indicated in this section. Arrests will be entered on the On-Line Booking Arrest Worksheet.
- The Suspect Supplement will be used to record information about additional wanted suspects.
- The remainder of the Suspect section will be used to record any information available about the suspect.
- There may be times when there is little or no information available to identify a suspect.
- However, any information available will be recorded. Indicate "unknown" in those boxes for which no information is available.
- If an arrest is being effected at the same time as the complaint is being reported (example: officers respond to a robbery in progress and the perpetrator is arrested), the section titled "Suspect" will **NOT** be completed for the arrested person.
- The arrest will be recorded on the arrest report, which will include detailed pedigree information.
- Always include the Wanted Suspect # \_\_\_\_\_ of \_\_\_\_\_.
- If an Order of Protection is in effect, so state, and complete the additional information re: issuing court, docket #, and expiration date.
- The caption re: Order of Protection will be completed only for the suspect against whom the Order of Protection has been issued.
- Guidelines regarding completion of the address captions, telephone numbers and interpreter correspond to the instructions in the Victim Section.



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- In all cases, indicate if the victim and the suspect are living together, if the victim can identify the suspect, and the victim/perpetrator relationship.
- Information regarding suspect status as NYCHA resident, NYCHA employee, and NYC Transit employees has been added.
- Additional captions regarding weapons have been added to record gun discharge. The captions for Physical Force, Weapon, Gun and other weapons must be completed for crimes against a person.
- Include any gang information available.
- If the suspect used the NYC Transit System, so state, and include the station entered and time, if known.
- If the suspect used or possessed only a metro card(s), state and indicate the serial number(s), and type if available.
- Include statements made by the suspect during the commission of the offense and his/her method of flight.
- The Crime Incident Data Section will be completed for **all crimes**.
- Items not listed in the check-off boxes will be included in the other captions and/or Details section, as appropriate.
- In the section regarding *Tattoo* has been modified to include description of words and pictures.

### Vehicle Section

- Indicate if the vehicle was stolen, attempted stolen, used without authorization ("unauthorized use"), used in a crime or other (example: theft from a vehicle or leaving scene of an accident).
- If the vehicle was recovered prior to an alarm being transmitted, so state (example: arrest of person driving vehicle at 0300 hrs. and owner was unaware that his or her vehicle was stolen).
- Include type of location where the vehicle was stolen or attempted stolen.



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- Indicate if vehicle was damaged due to a non-motor vehicle accident (criminal mischief only), damaged in a vehicle accident, vehicle parts/accessories removed (air bag), or property removed from vehicle (handbag).
- If the vehicle was held for forfeiture, so state. Invoice number will be entered in the appropriate caption.
- Value of stolen vehicle or property stolen from the vehicle must be entered in the Property Section.

### **Property Section**

- If a complaint report is being prepared for investigating found property (found narcotics/found firearm), indicate "Found."
- Lost/stolen property will be indicated as lost or stolen.
- List property beginning with item #1 and provide a complete description.
- Indicate appropriate value. If property was lost there will be no entry in the value stolen/recovered columns. A value must be indicated in the value-stolen column for any property stolen during the commission of a crime. The value recovered only applies to recovered stolen property and must be completed as appropriate.
- The value stolen must correspond to the appropriate classification of crime (grand larceny value must be in excess of \$1000, unless property is a motor vehicle, credit card, etc).

### **Evidence**

- Indicate if evidence was collected and indicate corresponding invoice numbers.
- Indicate if the Evidence Collection Team/Crime Scene Unit was requested.



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## **Investigation and Report Writing**

### **Notifications & Additional Copies**

- If notifications are required, make entries and include log number, if appropriate.
- Indicate for whom additional copies of the Complaint Report are required.
- Copies will be made and forwarded by the command in which the complaint report is signed off.

### **Reporting/Investigating, Approving, Complaint Entered By**

- Appropriate captions must be completed and signatures must be entered.
- After the reporting/investigating officer completes the Complaint Report Worksheet, a supervisor must check for completeness and accuracy before the information is entered into the Complaint System.
- Supervisory electronic sign off will be required to officially enter the complaint into the Complaint System.
- One problem encountered by investigators regarding complaint reports, is that the officers taking the report are not specific when interviewing complainant/witness. Some questions to consider when interviewing are as follows:
  - a. Type of store (grocery, florist, card store, knitting store, etc.).
  - b. Eyeglasses worn by perpetrator - or sunglasses?
  - c. Did perpetrator wear gloves, ski mask, scarf, hood?
  - d. Were victims made to lie down on floor?
  - e. How many guns were used?
  - f. Was a car used?
  - g. How many perpetrators present?
  - h. What was taken?



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## **Investigation and Report Writing**

- i. What did the perpetrator say?
- j. Did the perpetrator have an accent?
- k. Were any shots fired?
- The officer on the scene will determine whether a complaint is left open or closed. The main criterion for referring a complaint is the need for further investigation that cannot be conducted by the field investigator, or the need of a specialist. If doubt exists as to whether a complaint should be closed or not, or whether the service of a specialist may be required, consult with the patrol supervisor or desk officer.

### **COMPLAINTS WHICH MUST BE REFERRED TO PDS OR OTHER SPECIALTY UNITS**

#### **Precinct Detective Squad (PDS)**

- Any offense where a victim suffers a serious physical injury including assault.
- Robbery and a firearm or dangerous instrument was used or senior citizen (60 or older) is victim. If RAM (Robbery Apprehension Module) exists, notify them in lieu of PDS.
- Burglary and the complainant is present or property valued over \$5,000 (\$10,000 in Manhattan) was taken or firearm or safe involved.
- Crime was committed with a unique/unusual M.O.
- Complainant was victim of the same or similar crime within the last 6 months.
- Perpetrator may be identified or is known.
- Similar crimes have been committed in the vicinity (pattern).



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- Complainant, or offense committed, may create unusual community or police interest.
- Impersonation of a police officer or other law enforcement officer.

**Note:** An impersonation of a law enforcement officer coupled with a robbery will be referred to the Internal Affairs Bureau – Police Impersonation Investigation Unit (PIIU), not the detective squad. Also, a notification to Internal Affairs **must** be made for **any** police impersonation.

- The Special Victims Squad concerned will investigate robberies committed by police impersonators, which include sexual assault, and the Police Impersonation Investigation Unit will assist in the investigation.
- Other complaints as deemed necessary by competent authority.

### Special Victims Squad

- Rape or attempted rape, all degrees
- Criminal Sexual Act or attempt, all degrees
- Sexual abuse (1° ONLY)
- Aggravated sexual abuse, all degrees
- Child abuse - any allegation that a child less than 11 years of age is the victim of abuse inflicted by a parent or person legally responsible for the child's care; any allegation that a child less than 13 years of age is the victim of any sex crime or attempted sex crime committed by any person

### Major Case Squad

- Burglary or attempt of a bank or bank safe
- Larceny by extortion or attempt, from a bank
- Robbery or attempt of a bank and perpetrator not armed
- Larceny of a truck's contents over \$100,000





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- Robbery of truck and contents by hijacking
- Burglary of a truck's contents over \$100,000
- All robberies in warehouse depots or similar locations where the object of the crime is a truck or its contents
- All commercial burglaries in which value of stolen property exceeds \$100,000
- Art theft

### NYC Joint Robbery Task Force (NYPD & FBI)

- All armed bank robberies (any weapon)

### Highway District

- All vehicle/bicycle accidents in which any person involved has a serious injury and is likely to die or has died

**Note:** If multiple offenses have occurred refer to the unit investigating the **most** serious offense.

### INVESTIGATION OF BIAS INCIDENTS

In 1980, the NYPD formed the Bias Incident Investigation Unit to monitor and investigate unlawful acts committed against a person, group or place, motivated in whole or in part, because of age, race, gender, religion or ethnicity. In 1985, their jurisdiction was expanded to include incidents based on sexual orientation, i.e., gays/lesbians; and in 1993, the Police Commissioner expanded the definition even further to include those incidents motivated by a person disability. (See Interim Order #34 dated 09-06-01.)

In 2000, the Bias Incident Investigation Unit changed its name to the **Hate Crime Task Force**. The Hate Crime Task Force is responsible for the investigation of all incidents deemed as possibly bias motivated by the Precinct Commanding Officer or Patrol Borough Duty Captain. The Hate Crime Task Force assumes full responsibility for the investigation. Upon learning of a possible bias incident, the Precinct Detective Squad will immediately notify the Hate Crime Task Force.



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### Criteria for Identifying Bias Incidents

- The motivation of the perpetrator(s).
- The absence of any motive.
- The perception of the victim(s).
- The display of offensive symbols, words or acts.
- The date and time of occurrence (corresponding to a holiday of significance, i.e., Hanukkah, Martin Luther King Day, Chinese New Year, etc.).
- A common sense review of the circumstances surrounding the incident (consider the totality of the circumstances). Consider the groups involved in the attack. Also consider any similar incidents in the same area or against the same victim.
- Is the victim the only member or one of a few members of the targeted group in the neighborhood?
- Are the victim and the perpetrator from different racial, religious, ethnic or sexual orientation groups?
- Has the victim recently moved to the area?
- If multiple incidents have occurred in a short time period, are all the victims of the same group?
- Has the victim been involved in a recent public activity that would make him or her a target?
- What was the *Modus Operandi*? Is it similar to the documented incidents?
- Has the victim been the subject of past incidents of a similar nature?
- Has there been recent news coverage of events of a similar nature?
- Is there an ongoing neighborhood problem that may have spurred the event?
- Could the act be related to some neighborhood conflict involving area juveniles?



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- Was any literature distributed by or found in the possession of the perpetrator?
- Did the incident occur in whole or in part, because of a racial, religious, ethnic, sexual orientation or disability difference between the victim and the perpetrator or did it occur for other reasons?
- Are the perpetrators juveniles or adults, and if juveniles, do they understand the meaning (to the community at large and to the victim) of the symbols used?
- Were the real intentions of the responsible person motivated in whole or in part by bias against the victim's race, religion, ethnicity, sexual orientation, or disability, or was the motivation based on other than bias, i.e., a childish prank, unrelated vandalism, etc.?

The above incidents should be classified as hate crimes for investigative and statistical purposes. Refer to Patrol Guide procedure 207-10.

### VICTIM/WITNESS ASSISTANCE PROGRAMS

The Fair Treatment Standards for Crime Victims Act requires police departments to advise innocent victims of a crime that they may be entitled to compensation from the New York State Crime Victims Board.

**Crime victim** - is defined as a person against whom any crime has been committed or attempted. A crime victim will include the immediate family or guardian of a minor who is a crime victim, or a surviving spouse, parent or child of a person who has died as a direct result of a crime.

**Witness** - is defined as a person determined to have information or evidence relevant to the investigation of a crime. When the witness is a minor, the term "witness" includes a relative or guardian of that minor.

The requirements regarding notification of the Crime Victims Compensation law are as follows:

- Ensure that crime victims immediately receive emergency medical care.
- Provide social services information to the victim as soon as possible.



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- Notify the victim, relative, next of kin or other appropriate person, that they may be entitled to compensation under the provisions of the Fair Treatment Standards for Crime Victims Act and provide a Crime Victims Board brochure or application.
- Advise and refer the victim to the most appropriate Victim Service Agency or program.
- Supply the victim with a Crime Victim Board information card, a brochure, application and also a Victim Services Agency referral card.

### Lost Property

When investigating reports of lost property, officers should do a complete and thorough interview of the complainant. This should be conducted prior to classifying the complaint as "Lost Property." Ask the complainant if he or she believes that the property was either lost or stolen. An explanation substantiating this classification, including statements of the complainant, must be entered in the "Details" section of the complaint report. When a complainant reports a lost/stolen passport, alien registration card, or naturalization papers, there are specific required procedures to follow. Refer to Patrol Guide procedure 207-12 as well as Interim Order #41 of 2002 for these and all procedures concerning lost or stolen property.

### PROCEDURE AFTER ARREST WITHOUT A WARRANT BY A POLICE OFFICER

**Warrant Checks** – In order for our fugitive apprehension efforts to succeed, the resources of the entire Department have to be utilized. While the work of the Fugitive Division will provide a focused effort to apprehend fugitives, a wider net must be cast, using the routine patrol activities of thousands of officers throughout the city. In the course of their duties, police officers have millions of routine encounters ranging from arrests and investigations to making car and bicycle stops, and issuing summonses. All of these are opportunities to apprehend fugitives.

In order to ensure that every patrol officer dedicates his or her efforts toward warrant enforcement, officers assigned to precincts and all other patrol duties will be directed to:



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- Conduct name checks as a routine part of patrol duties when they encounter criminal suspects, or individuals who will be issued summonses. By conducting name checks, police officers in the field can apprehend fugitives in the course of daily activities. These checks can be used as a part of quality of life operations (car and bicycle stops, fare evasion operations, etc.).
- Conduct name checks of respondents prior to service of Orders of Protection for domestic violence cases. While serving these orders, officers can apprehend those respondents who are wanted.
- Conduct name checks prior to testifying in Traffic Court to determine if the person whom they are testifying against is wanted on a criminal charge.

Through this strategy, the Police Department, working with the different components of the criminal justice system and with the people of New York City, will achieve its goal of bringing fugitives to justice.

**Debriefing a Prisoner – Ask a question, solve a crime.** Oftentimes, the debriefing of a prisoner will occur after the initial arrest process and will usually be conducted by an experienced investigator at the command. Here are some basic questions you may want to ask if you have a prisoner in custody, after you have read him/her the Miranda Warnings:

- Do you know anyone who has hurt a Police Officer?
- Do you know where to get a gun?
- Do you know anyone wanted for murder, robbery, rape or other violent crime?
- Do you know anyone who buys stolen property (fences)?
- Do you know anyone stealing automobiles or “chopping up” cars?
- Do you know anyone selling or storing marijuana or narcotics?

If the arrestee responds that he or she has knowledge of any past crimes, the Precinct Detective Squad concerned will immediately debrief him or her.



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Additionally, every precinct employs a field intelligence officer (FIO) who will conduct secondary debriefings, and assist in registering confidential informants, and obtaining search warrants (ref. Interim Order 44, 12/03/01).

### **CONCLUSION**

If a report is filled out improperly, a complaint may not be investigated. Acquiring and/or enhancing the skills to conduct a good investigation will help the patrol officer to fill out a report properly. This in turn will help investigating units understand what specifically took place (as well as who did it). A good report should be concise, legible, complete and correct. A good investigation will include proper interviewing techniques as well as the knowledge of how and when to conduct warrant checks on potential suspects.



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## **Investigation and Report Writing**

### **HOMEWORK**

1. Outline Patrol Guide procedure 207-02 (Complaints not recorded on complaint reports)
2. Outline the role of the special units.



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## Policing Legally: Street Encounters

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW THE MATERIAL IN THIS CHAPTER?

You are about to become an agent of the government. In this position, you will have enormous responsibility to enforce the law, to give people orders and instructions that help to maintain order, to serve the community, and to protect the constitutional rights of citizens. Interactions with citizens can range from a friendly salutation to a life and death struggle with an armed perpetrator. Other encounters may escalate from simple calls for service to forcible detention and a search for weapons as a result of your observations. Your ability and authority to interact and, at times, intrude on an individual's liberty will depend largely upon your knowledge of the law and department regulations as well as an understanding of your environment and members of the community.

Later in this chapter, and throughout the course of your training, you will learn about proper police conduct during investigations, including the most serious police intrusions involving the use of force and your authority to deprive people of their freedom. This section will illustrate how you can conduct effective field investigations by interacting with citizens. You must remember that the goal is to strike a balance between crime prevention and detection, your safety, and a citizen's right to be free from unnecessary government intrusion.

### LEVELS OF SUSPICION

As you have already learned, the manner in which we interact with citizens is greatly influenced by our perception of people, places, and events. In addition, you have also learned that perception itself is a product of our attitudes, our physical and psychological states, the environment, and our expectations. As police officers, you must keep in mind that the perception of the police by the public, and thus *their* behavior, is swayed by the same factors.

Therefore, the manner in which we police – and interact – is a direct product of our training, rules, regulations, and perception. No interaction is more significant legally, administratively, and morally than those encounters initiated for purposes of investigation. This section focuses on such interactions and on the limits of your authority given various *levels of suspicion*.

#### **What are *Levels of Suspicion*?**

Case law has carved out various standards and criteria by which police conduct is measured. Because any police interaction with a citizen is largely viewed as a governmental intrusion into the person's liberty, courts have created





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guidelines that dictate the extent to which a police officer can impose on a citizen's freedom. Simply put, *levels of suspicion* are the amounts of information that the courts have held will justify certain police conduct. The more information or suspicion a police officer has, the greater the level of intrusion the courts allow.

### **Intrusion Comparison to Legal Standards of Proof**

The legal standards required by courts as a justification for various police actions are as follows:

***Probable Cause.*** This is also referred to as *reasonable cause to believe or reasonable grounds to believe* and is the standard that must exist before law enforcement officials can lawfully deprive a person of freedom by arresting him or her in order to bring the person before the appropriate court to answer criminal charges. (This area will be discussed in greater detail in the chapter on "Authority to Arrest").

***Preponderance of the Evidence.*** This level of proof is attained when the evidence presented is more convincing than the evidence offered against it. Essentially, it is where the scales tip, however slight, in favor of one party. This standard is used in two separate settings. It is the level of proof that a defendant must meet in a criminal trial when raising an affirmative defense, such as entrapment or mental disease or defect (see the chapter on "Introduction to the Penal Law"). It is also the level of proof required to prevail in a civil matter.

***Clear and Convincing Evidence.*** This level is attained when there is a reasonable certainty of the truth of the ultimate fact in controversy; where the truth of the facts asserted is highly probable. It requires more than a preponderance of the evidence, but less than proof beyond a reasonable doubt. This is the standard used in administrative trials and hearings that rule on matters such as traffic violations and parking regulations.

***Beyond A Reasonable Doubt.*** In criminal cases, the prosecution must prove every element of a crime *beyond a reasonable doubt*. This standard is the highest known in law and constitutionally required because, as one court concluded, "a society that values the...freedom of every individual should not condemn a man for commission of a crime when there is reasonable doubt about his guilt." *Reasonable doubt* exists when a jury lacks an unwavering belief, to a moral certainty, to the truth of the charge.



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## Policing Legally: Street Encounters

The chart on page 20 demonstrates how the level of permissible police intrusion rises commensurately with the amount of police knowledge. As a point of reference, it also indicates how different legal standards of proof result in judicial determinations. Simply put, the more evidence you have, the higher and further into the criminal justice system you can go.

### CONSTITUTIONAL CONSIDERATIONS

As you will learn, arrest and full search situations are the result of your knowledge of past criminal activity based on a standard of proof, or level of information, known as *probable cause*. Suppose, however, you are merely performing routine patrol and a brief encounter or interaction with a citizen makes you somewhat suspicious. Although unsure that a crime was committed, what, if anything, may you do? May you question the person? Detain the person? Use force? Search the person or their belongings? If so, to what extent may you interfere with their right to be free from governmental intrusion? Before any of these questions can be answered, you must have an understanding of a citizen's constitutional protections, the effects of improper police action, and how the law has evolved to grant officers greater latitude to conduct investigations while continuing to protect the rights of citizens.

#### The Fourth Amendment to the Constitution

The Fourth Amendment to the U.S. Constitution provides, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized." Thus, the Fourth Amendment applies to searches and seizures of property and arrests of persons. Its purpose is not to provide protection against all searches and seizures, rather it guarantees against unreasonable governmental intrusions. The large majority of Fourth Amendment issues that arise are based on the reasonableness of searches.

#### The Exclusionary Rule

In an effort to deter unlawful or improper police conduct, the U.S. Supreme Court created the exclusionary rule (*Weeks v. U.S.* [1914]). Basically the rule provides that evidence obtained by violating the defendant's constitutional rights may not be introduced by the prosecution for the purpose of providing proof of the defendant's guilt. The "suppressed," or inadmissible, evidence limits the prosecution's ability to obtain a conviction. Additionally, improper police activity can result in disciplinary action, or civil and or criminal liability upon the officer.



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## Policing Legally: Street Encounters

### U.S. SUPREME COURT DECISION IN *TERRY v. OHIO* (1968)

Despite the Fourth Amendment and the exclusionary rule, there are situations where officers, in the interest of investigating or preventing crime, must act on less than probable cause. In the landmark case of *Terry v. Ohio*, the U.S. Supreme Court, for the first time, addressed the issue of a seizure and a search of a suspect on less than probable cause.

**Facts:** McFadden, an experienced plainclothes officer on a foot patrol in a commercial area observed two men in the process of “casing” a store. He watched both men walk, sometimes alone other times together, to the front of the store. On each trip, they looked inside and around, and then left the area. He then saw the men confer with a third man who joined the first two as they walked toward the store. The men repeated the routine several times. McFadden then approached them, identified himself and requested an explanation. When they responded incoherently, McFadden spun one man around and patted down his overcoat, felt a pistol and removed it. The defendant, Terry, was later convicted of carrying a concealed weapon.

**Question for the Court:** Is it always unreasonable for a police officer to forcibly stop a person and conduct a frisk without probable cause?

**Court's answer:** No. The Court held that the stop of Terry amounted to a seizure – though only a brief one - and that the frisk was, in fact, a search - though not a full search - within the meaning of the 4<sup>th</sup> Amendment. The Court, however, rejected the notion that probable cause was required for McFadden's actions and held the gun to be admissible evidence against Terry.

**Analysis.** In its decision, the Court reasoned that McFadden's stop was proper under the circumstances because they believed it would have been “poor police work” for an officer of McFadden's experience to witness the particular behavior and not attempt to investigate further. Therefore, the test was not whether McFadden had probable cause, but whether his conduct was reasonable. Additionally, the court held that the frisk was also reasonable since it was based on two important factors: (1) McFadden justifiably feared that the men were armed and his safety was in jeopardy; and (2) it was limited to an exterior “pat down” for a hard object.



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## Policing Legally: Street Encounters

### Stop and Frisk Law

American police had been stopping and frisking suspicious people long before the Supreme Court decided *Terry*. Indeed, in 1966, the New York State legislature even passed a “stop and frisk” law. Still, *Terry* is a significant case because it marked the Supreme Court’s approval of stop and frisk, which previously had occurred without a clear basis. In its conclusion, the Court noted that where an officer, in light of his experience, reasonably suspects that criminal activity is taking place and that the persons he confronts may be armed or dangerous, he may investigate and make reasonable inquiries. The Court further stated that “...where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others’ safety, he is entitled...to conduct a carefully limited search of the outer clothing...in an attempt to discover weapons which might be used to assault him.

As many other stop and frisk cases were brought before the courts challenging officer’s conduct, the New York courts adopted their own standard, or guidelines, for permissible police activity during investigative encounters with citizens. The New York State Court of Appeals’ decision in *People v. DeBour* created the standard by which all investigative encounters are assessed.

### THE NEW YORK STANDARD: *PEOPLE V. DeBOUR* (1976)

*People v. DeBour* is an important case for many reasons. Specifically, the case outlined four levels of police encounters and defined the amount of information required for each level. In creating the four-tiered analysis, the Court expanded on *Terry*, which dealt with the narrow issue of a possible crime in progress, as compared to *DeBour*, which as you will see, began as a simple request for information. Just as importantly however, the Court deviated from the Supreme Court’s position that only encounters that result in actual seizures are entitled to 4<sup>th</sup> Amendment protection. This created a more restrictive interpretation of a police officer’s authority to confront and question citizens.

**Facts.** At 0015 hours, two police officers assigned to a foot-post were patrolling a deserted residential street in Brooklyn when they noticed someone walking in their direction. The area was experiencing a high incidence of narcotic related activity. As the solitary figure came within 40 feet of the officers, he crossed the street. The officers followed and waited for the man to reach them. When he did, one of the officers asked him what he was doing in the neighborhood. The man, later identified as DeBour, nervously replied that he had just parked his car and was walking home. The officer then asked DeBour for identification. As DeBour answered that he had none, the officer noticed a waist-high bulge in



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DeBour's jacket. The officer asked DeBour to unzip his jacket and when he complied, the officer noticed a revolver in his waistband. DeBour was arrested and charged with possession of the firearm.

**Question for the Court:** May a police officer approach a private citizen to request information without having any indication of criminal involvement?

**Court's answer:** Yes. The Court held that although the officers did not have any indication of criminal activity, the initial approach and subsequent questions were only intended to elicit information as a result of the defendant's evasive actions and the subsequent observation of the bulge in the waistband. Thus, the intrusion was minimal and "...reasonably limited in scope and intensity..." and thereby constitutionally valid.

**Analysis:** The Court noted that the Fourth Amendment protects against unreasonable searches and seizures by the government. Further, the Court confirmed that any approach by police, whether it amounts to a seizure or not, is a violation of the constitution if it is based on whim, caprice, arbitrariness, or a desire to harass. In this case, however, the Court reasoned that DeBour was not seized within the meaning of the Fourth Amendment, but merely approached and questioned in a non-threatening manner. DeBour's attempt to avoid the officers in a high crime area late in the evening justified the approach. Moreover, his failure to produce identification coupled with the suspicious bulge necessitated further inquiry. Thus, the police officer's actions were reasonable based on the amount of information known to them.

### The Effect of *People v. DeBour*

The Court in *DeBour* went on to establish the four-tiered analysis that dictates the permissible level of police intrusion. Although the State Court agreed with the U.S Supreme Court in *Terry* that, "...there is nothing in the Constitution which prevents a police officer from addressing questions to anyone in the streets," the State Court cautioned that an officer must have a justifiably legitimate reason for intrusions that affect a person's liberty.



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Therefore, as a police officer, your ability to confront or seize or to request information or search will be based on your ability to articulate a legally recognized level of permissible intrusion. They are as follows:

Level 1: Request for Information

Level 2: Common Law Right of Inquiry

Level 3: Reasonable Suspicion (Stop, Question, and Possibly Frisk)

Level 4: Probable Cause (Arrest)

### LEVEL 1: REQUEST FOR INFORMATION

The request for information is the most *insignificant* and *minimal* encounter or interaction an officer can have with a citizen. Under this level, an officer can approach to request information when there is “some *objective credible reason* for that interference which is not necessarily indicative of criminality.” The intrusion cannot be based on whim, caprice, curiosity, bias, or a desire to harass. The Court made distinctions between two types of requests for information: public service and law enforcement.

**Public Service.** In this function officers are given more latitude to ask questions. This includes situations where an officer may be looking for the parents of a lost child, investigating an accident, or helping someone in distress.

**Law Enforcement Function.** This is a more restrictive standard which will “hinge on the manner and intensity of the interference, the seriousness of the crime, and the circumstances” surrounding the interaction. The questions must *not* be threatening or accusatory.

### Types of Questions

The Court emphasized that under either approach, the objective is to gather information and not to “focus on the citizen as a potential suspect in a criminal investigation.” Officers may, therefore, ask a person questions regarding his or her identity, destination, and reason for being in the area

**Example:** A detective observed the defendant purchase a holster for a firearm. While such a purchase is not criminal, it did furnish a sufficient basis for inquiry by the detective. *People v. Samuels* (1980)



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**Example:** Defendant was observed at 0445 hours carrying two large garbage bags filled with bulky items in a burglary prone area. These circumstances justified the officer's initial approach for inquiry. *People v. Williamson* (1985)

**Example:** The officer had an articulable reason for speaking to the defendant, a possible witness to a kidnapping who was observed walking away from the scene. *People v. Hopkins* (1980)

**Example:** A crowd of people stood around defendant's open trunk examining clothing and shoes that still had the original store tags. As the officer approached, the defendant slammed the trunk closed and the crowd began to disperse. This was an objectively credible reason for a level one inquiry. *People v. Wallace* (1986)

### Verbal Commands

The Court of Appeals ruled that an officer's request to stop ("Excuse me, may I speak with you?") so that the officer may approach is permissible as long as it is done in order to get the attention of someone who is unaware that the officer wishes to speak to him or her and the command is **general** and **non-threatening**.

### Permission to Search

Because a level 2 inquiry is based on an "objective credible reason" and is not necessarily indicative of criminality, the police may not ask for permission to search at this level.

### Right to Walk or Run Away

Although the police have the right to request information, a citizen has the right not to answer the police, and that refusal, in itself, does not permit further action by police. In fact, a citizen can even run away, and, **without indication of criminal activity, an officer may not pursue**. However, false, inconsistent or evasive answers may raise the officer's suspicion to a founded suspicion of criminality.

### LEVEL 2: COMMON LAW RIGHT OF INQUIRY

A level 2 inquiry is based on an officer's suspicion that some indication of criminality exists. Courts refer to this as a "**founded suspicion that criminal activity is afoot.**" The officer must be able to articulate that **suspicious** or



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**unusual activity** was taking place. The Court stated that under this level, an officer may interfere with a citizen “to the extent necessary to gain **explanatory information**, but short of actual seizure.” One court referred to this level as “closing in on a defendant as a suspected law-breaker.”

### Criminal Activity Afoot

Courts have defined this term to mean that there is a “present indication of criminality based on **observable conduct** or **reliable hearsay** information.” It cannot be based on a hunch, or “gut feeling.”

### Types of Questions

This level results in a wider scope and more intense level of questioning because the encounter **focuses on the citizen as a possible suspect**. The officer's questions can be **pointed, invasive, and accusatory** in nature and are intended to elicit an incriminating response. The officer, however, may not touch the person, display a weapon, or act in a threatening manner.

### Permission to Search

An officer may ask for permission to search at this level, but **may not compel** a person to submit to a search of their person or belongings. The consent, if given, must be provided knowingly, intelligently and voluntarily.

### Difference Between the First Two Levels

Even courts agree that the difference between the first two levels is subtle. In the first level, the officer must have an objective credible reason to *ask for information*. In the second level, the officer must have information that indicates criminal activity and his or her *questions are related to the possible criminal activity*. Therefore, innocuous (i.e. harmless, innocent) behavior may justify a level 1 approach, but not a level 2 encounter.

### Refusal to Answer or Flight of Suspect

While police can ask for explanations and answers, a citizen has no obligation to cooperate. His or her silence cannot be used as a reason to escalate the encounter into a more intrusive one. Innocuous answers to questions, without further indication of criminal involvement, will not justify additional questioning.





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If a confronted citizen walks away without answering, the officer may follow to continue questioning, but may not forcibly detain. In instances where an officer approaches to make a *common-law inquiry* and the person flees, the officer is justified in pursuing because the person's flight will elevate the officer's reason for the approach in the first place. In other words, if the officer already suspects criminality ("founded suspicion"), the flight of the person is an additional factor that raises the officer's suspicion to that of reasonable suspicion.

**Example:** A radio run from an anonymous source furnishing a general description of a man selling drugs gives officers the right to conduct a common-law inquiry when the person fits the description. *People v. Erazo* (1994).

**Example:** Police had a founded suspicion when they heard a gunshot and noticed a group of people looking in the direction of defendant who was the only person walking away from the area. *People v. Salva* (1996).

### LEVEL 3: STOP, QUESTION, AND POSSIBLY FRISK ("Reasonable Suspicion")

The third level of permissible police intrusion is the right to **forcibly stop** a citizen. Under this level, an officer may forcibly stop and detain a person when he or she has a **reasonable suspicion** that the person has committed, is committing, or is about to commit any **felony** or a **penal law misdemeanor**. The officer may detain the person for a reasonable amount of time in order to **confirm or dispel** his or her suspicion, and may conduct a **limited search, or frisk**, of the individual under certain circumstances. As noted above, the U.S. Supreme Court first addressed this type of forcible stop in *Terry v. Ohio*. The specific elements of a stop, question, and possible frisk will be discussed in greater detail later in this section.

### LEVEL 4: PROBABLE CAUSE - ARREST

The fourth and final level of police intrusion is the arrest stage. An arrest involves the **seizure** of a suspected criminal offender. The purpose for the arrest is to bring the offender before the appropriate court to answer charges against him or her.

The police officer must be able to articulate facts that support a finding of **probable cause**. Probable cause is a legally recognized standard of proof because it results in a significant interference of the person's liberty and is the initial stage of a criminal prosecution that may result in incarceration.



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### Probable Cause

Probable cause consists of facts and circumstances within the arresting officer's knowledge, and of which he or she has reasonably trustworthy information, that would warrant a person of reasonable caution to believe that an offense is or has been committed and that the person to be arrested had committed it. This area will be discussed in greater detail in the chapter on "Authority to Arrest."

### ELEMENTS OF A STOP, QUESTION, AND POSSIBLE FRISK

As previously discussed, the third level of permissible police intrusion is the right to forcibly stop and investigate a person suspected of criminal activity. Thus, a constitutionally valid stop, question, and possible frisk consists of the following elements.

1. Knowledge that amounts to ***reasonable suspicion***;
2. A ***stop*** and ***detention*** of a person in a public place;
3. ***Reasonable force*** may be used;
4. Takes place within the officer's ***geographical area of employment*** ("GAOE");
5. The officer may ***frisk*** under certain circumstances.
6. The officer conducts ***questioning*** regarding the crime;
7. Investigation lasts a reasonable amount of ***time***.

### REASONABLE SUSPICION DEFINED

The Court of Appeals has defined reasonable suspicion as that "quantum of knowledge sufficient to induce an ordinarily prudent and cautious man under the circumstances to believe criminal activity is at hand." Additionally, the U.S. Supreme Court requires that an officer have a "particularized and objective basis for suspecting" the person of criminal conduct. The officer must supply specific and articulable facts; hunches or gut feelings are not sufficient.

In New York, reasonable suspicion has since been codified under the criminal procedure law. It requires that the officer have sufficient information regarding a **felony** or a **penal law misdemeanor**.

### N.Y.S. Criminal Procedure Law §140.50



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Section 140.50 of the New York State Criminal Procedure Law entitled, "Temporary questioning of persons in public places; search for weapons" reads, in part, as follows:

**Subdivision (1)** "...a police officer may stop a person in a **public place** located within the **geographical area** of such officer's employment when he **reasonably suspects** that such person is committing, has committed or is about to commit either (a) a **felony** or (b) a **misdemeanor** defined in the penal law, and **may demand** of him his **name, address**, and an **explanation** of his conduct."

**Subdivision (2)** "...a **peace officer**...who provides security services for any **court** of the unified court system may stop a person **in or about the courthouse** to which he is assigned when he **reasonably suspects** that such person is committing, has committed or is about to commit either (a) a **felony** or (b) a **misdemeanor** defined in the penal law, and **may demand** of him his **name, address**, and an **explanation** of his conduct."

**Subdivision (3)** "...upon stopping a person under circumstances prescribed in subdivisions one and two, a police officer or court officer, as the case may be, **reasonably suspects** that he is in **danger of physical injury**, he may **search** such person for a **deadly weapon or any instrument, article, or substance readily capable of causing serious physical injury** and of a sort not ordinarily carried in public places by law-abiding persons. If he finds such a weapon or instrument, or any other property possession of which he reasonably believes may constitute the commission of a crime, he may take it and keep it **until the completion of the questioning**, at which time he shall either **return it**, if lawfully possessed, or **arrest such person**." (Emphasis added.)

### **The Stop and the Use of Reasonable Force**

As previously noted, the issue of investigatory stops based on less than probable cause was first addressed by the United States Supreme Court in the landmark case of *Terry v. Ohio* and, as a result, some courts still refer to such encounters as a "Terry stops." It is important to remember that a stop is a significant interruption in a person's liberty and amounts to a limited seizure. However, the Court in *Terry* held that this type of investigative stop did not require probable cause.

Accordingly, a police officer may stop a citizen on less than probable cause provided the officer can articulate reasonable suspicion that the subject is committing, has committed or is about to commit a felony or a misdemeanor in the penal law.



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## Policing Legally: Street Encounters

A forcible stop may take many different forms. It can be constructive in nature or it could be an actual stop. Surrounding a suspect, blocking their path with an RMP, giving certain verbal commands or ordering a motorist to pull over with the use of turret lights are all examples of constructive stops. Physically subduing suspects by grabbing or holding them would be an actual stop. The test is whether a reasonable person would know that they are not free to leave. In any event, it is important for officers to understand that, in the eyes of the law, they could be stopping people even though they do not physically touch them. Officers should also understand that only the minimum amount of force necessary could be used in achieving their objective.

### Pursuit vs. Surveillance

The New York State Court of Appeals has determined that pursuing a person amounts to a seizure and a violation of a person's Fourth Amendment rights. As was previously discussed, police can only use this amount of intrusion when they have reasonable suspicion. On the other hand, no level of proof is needed for an officer to simply conduct surveillance so long as the surveillance is unobtrusive and doesn't restrict the subject's freedom of movement.

### Public Place

The Penal Law defines a public place as any area "to which the public or a substantial group of persons has access, and includes but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence."

### Geographical Area of Employment

A police officer's geographical area of employment ("G.A.O.E.") consists of the county, city, town or village that *employs* him or her. If the local government functions in more than one county, the geographical area of employment of a police officer employed by the local government extends throughout all such counties; for example, a ***New York City police officer's geographical area of employment is made up of the five counties – or boroughs - of New York City***: Manhattan, Brooklyn, Queens, Staten Island, and the Bronx.

A New York City police officer, therefore, may ***only*** conduct a stop, question, and possible frisk within the five boroughs of New York City - your G.A.O.E. Although you have arrest powers throughout New York State, arrests



# POLICE STUDENT'S GUIDE

## Policing Legally: Street Encounters

are based on probable cause; *New York City police officers are not authorized to conduct stops on less than probable cause outside the City of New York.*

### The Frisk

The N.Y.S. Criminal Procedure Law authorizes a *search* under certain circumstances. Courts refer to these searches as frisks since the objective under the law is to remove a deadly weapon or instrument. Usually, such items are located by just “patting” the person’s clothing. Thus, a frisk is defined as a limited touching of the suspect for the purpose of feeling for any ***dangerous weapons***. Thus, a frisk cannot be used to search for other contraband such as drugs; it is strictly a ***protective measure***. If an officer feels an object that he/she believes may be dangerous, the officer may go into the pocket to retrieve and examine the item.

The officer must be able to articulate that he reasonably suspected the crime and that he reasonably suspected that the person was armed. There are two situations in which the officer may lawfully frisk pursuant to a Terry Stop; they are as follows:

***Fear for Safety.*** The officer observes something on the person that she reasonably suspects is a weapon or may be used as a weapon against her. An example of this is a bulge in the shape of a firearm in or near the waistband. At this point, the officer may conduct a frisk of the area to ensure her safety or remove the weapon and place the subject under arrest.

***Reasonable Suspicion of a Violent Crime.*** In situations in which an officer has reasonable suspicion that the subject has committed, is committing, or is about to commit a violent crime, such as assault, rape, etc., the officer may conduct a frisk to determine if the person is armed with a weapon. Courts have included the suspicion of burglary among the list of violent crimes since burglars tend to carry “tools” (e.g., screwdrivers, picks, etc.) that can be used as weapons against police officers. An officer need not articulate independent facts of a weapon; only facts regarding a violent crime.

***Frisk of a Portable Container.*** In the event an officer develops reasonable suspicion that a portable container contains a dangerous item, the officer may frisk by squeezing the container, or if the container is solid, the officer may open it to determine whether a dangerous object is present.



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### Questioning

The officer may question the subject to the extent necessary to **confirm or dispel** his suspicion. The questions, therefore, should be pointed and accusatory, and directly related to the reason for the stop as well as for pedigree information regarding the subject. Courts have held that as long as the questioning does not go beyond the reason for the stop, *Miranda* advisements (that a person who is not free to leave has the right to silence and to counsel), are not required. (For a further discussion on *Miranda*, refer to the chapter on "Criminal Procedures")

### Length of Time

The duration of the stop and question must be **reasonable** under the circumstances. There is no set limit on how long an officer can detain a person for the purpose of conducting an investigation. The Court of Appeals only mentions "brief" time limits for the police to accomplish their goals. This means that the officer must act reasonably and diligently, and not use the stop to "wait out" a suspect. A longer detention will be upheld in situations where officers transport a subject to a victim for identification purposes, while only a brief detention is authorized to receive information over the radio to confirm a description.

### FACTORS THAT MAY LEAD TO REASONABLE SUSPICION

It is simple for an officer to know that he or she needs to have reasonable suspicion before conducting a forcible stop. However, it can be difficult to understand exactly when you actually have reasonable suspicion. Because this is such an elusive concept, no judge, manual, or course could ever list every single scenario in which you would or would not have reasonable suspicion.

The courts, however, have identified a few common factors which would give an officer reasonable suspicion.

#### 1. Information from an Informant

Reasonable suspicion cannot be based solely on anonymous information. Therefore, if an officer receives information from communications (job from central dispatcher) about a suspect and the identity of the caller is not known and/or the caller gave no contact number, the officer will only have a common law right of inquiry at this point. (*Exception to the rule*: anonymous call of a man with a bomb or an anonymous call of an intoxicated driver).



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In order for the officer to reach reasonable suspicion in “anonymous call” situations, he or she needs at least one more piece of information that would tend to show the reliability of the informant. The following would qualify as additional information: a call back number given by the caller; the officer observes the subject take specific actions that the caller predicted; the officer observes actions consistent with criminal activity; or the informant gave the information to the officer in person.

### **2. Furtive Behavior**

If an officer observes strange, suspicious, or evasive behavior, he or she may have reasonable suspicion. The officer's experience and/or expertise are often taken into account in these situations. Furtive behavior in the form of misleading or deceptive answers can also form the basis for reasonable suspicion.

### **3. Resemblance to the Suspect of a Crime**

The police are justified in conducting a forcible stop on a person who bears a strong resemblance to a known person who is wanted for a crime.

### **4. Flight**

Similar to anonymous information, flight alone cannot serve as the basis for reasonable suspicion. The police cannot start chasing a person merely because the person started running when he or she saw the police. Under certain circumstances, flight can be considered an escalating factor that may authorize an officer's stop of a suspect.

## **SPECIAL CONCERNS RELATING TO INVESTIGATORY ENCOUNTERS**

### **Racial Profiling**

The Department defines racial profiling as the use of race, color, ethnicity, or national origin as the determinative factor for initiating police action. As we will emphasize throughout your training and your whole career, officers should be cautioned not to confuse good police work with racial profiling. There is absolutely nothing wrong with taking the above listed factors into account the same way you would consider pedigree information such as height, weight, age, etc. about specific suspects. However, just as you realize that not everyone over 6'4" in height plays basketball in the NBA; you should also realize that no action is solely or completely attributable to one racial or ethnic group.



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Similarly, it would be unacceptable to stop an African American person based solely on the fact that he or she is in a neighborhood that is not known to have African American residents. Although a radical Muslim faction is responsible for the World Trade Center attacks, we can't make assumptions about all Muslims nor can we assume that all white males want to bomb government buildings, as did Timothy McVeigh.

### Confrontation Situations

There have been incidents in the past where on duty officers have mistaken plainclothes officers for armed criminals. The results were too often tragic. The Department, in an attempt to avert these tragedies, has set up guidelines to ensure the safety of all individuals involved. In such encounters, the actions of the members in the first few seconds are crucial. It must be absolutely clear in the minds of all members of the service that the burden of proving identity rests with the **confronted officer** whether on or off duty. The **challenging officer**, however, is responsible for using sound tactics and judgment in approaching these situations.

### General Business Law

Ordinarily, if a civilian detained a person against that person's will, the civilian could be charged with false imprisonment and/or assault. However, §218 of the General Business Law provides an affirmative defense for merchants or persons acting on behalf of merchants. According to this section, a merchant or a merchant's agent is allowed to detain a person providing the following criteria are met:

1. The person must have been detained on the premises or in the immediate vicinity of the premises of the retail mercantile establishment.
2. The merchant or agent must have had reasonable grounds to believe that the subject committed or attempted to commit a larceny of the merchant's merchandise.
3. The person must have been detained for a reasonable amount of time for investigation or questioning.

For the purposes of this section, *reasonable cause to believe* means knowledge that a person has concealed possession of stolen merchandise. A *reasonable time* is the time necessary to permit the person detained to make a statement or to refuse to make a statement and the time necessary to examine





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witnesses and store records. In addition to civilians, such as security guards, §218 of the GBL also pertains to police and peace officers acting pursuant to their official duties.

### PREPARATION OF DEPARTMENT FORM: "THE STOP AND FRISK REPORT"

There are two possible outcomes of an investigatory stop of a person based on reasonable suspicion: either the officer develops probable cause and places the suspect under arrest, or the officer's investigation does not lead to probable cause and he or she releases the suspect and continues to search for the perpetrator of a crime. In either case, it is important to **record** all of the details that convinced the officer to stop a suspect. This is because the courts closely scrutinize all incidents that lead to an arrest or to the seizure of contraband or evidence. Failure to accurately record details would mean that an officer would have to rely only on memory while testifying in court. This is why officers are mandated to record all information regarding a street encounter that is based on reasonable suspicion in two places: the stop and frisk report and the activity log.

Patrol Guide section 212-11, "Stop and Frisk" states that a member of the service will prepare a Stop Question and Frisk Report Worksheet for EACH person stopped. Patrol Guide Section 212-08, "Activity Logs" states that an officer must make an entry in his or her Activity Log for all assignments received and all tasks performed. So in ALL cases in which an officer detains someone based on reasonable suspicion of a felony or a misdemeanor as defined in the Penal Law, a Stop, Question, and Frisk Worksheet must be prepared, and an Activity Log entry must be made.

### Proper Documentation

In every situation in which a Stop, Question, and Frisk Worksheet is prepared, Activity Log entries must also be made. All pertinent details regarding a street encounter must be recorded. It is advisable to assume that the Stop, Question and Frisk Worksheet may be lost or misplaced and the officer will have to base his/her testimony regarding an incident solely on the entry he/she made in the Activity Log.

Remember: A Stop, Question, and Frisk Worksheet is prepared only when an officer has reasonable suspicion of a felony or a Penal Law misdemeanor. Should a street encounter start out at probable cause (for example, a



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## **Policing Legally: Street Encounters**

complainant points out a perpetrator from a past crime), it would be incorrect to prepare a Stop, Question, and Frisk Worksheet in this case.

***THIS SECTION***

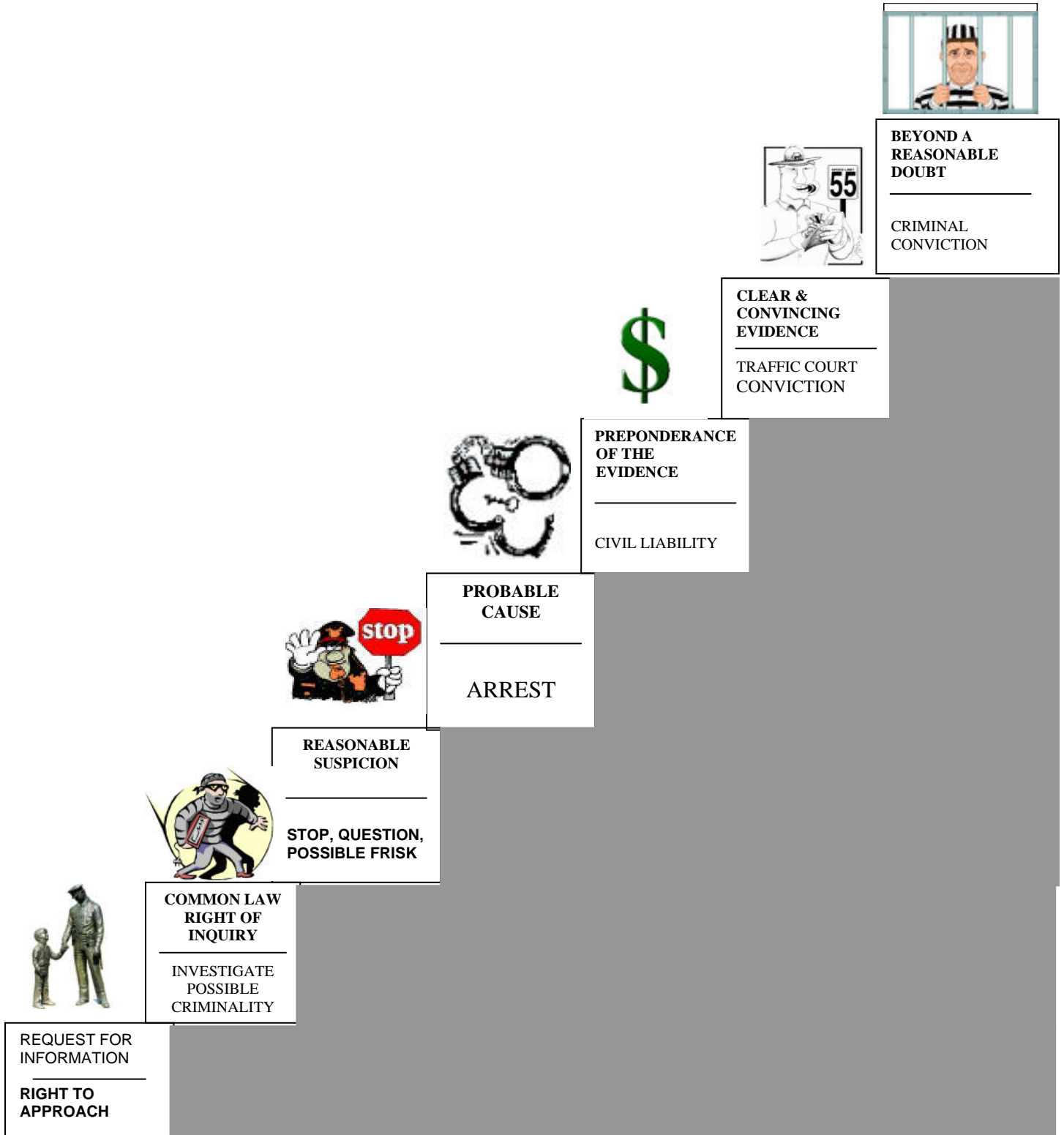
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## Policing Legally: Street Encounters

### LEVELS OF SUSPICION



TYPE OF ENCOUNTER	LEVEL OF SUSPICION REQUIRED	NATURE AND EXTENT OF PERMISSIBLE QUESTIONING	AUTHORITY TO SEARCH	FORCE AND DETENTION
I. Request for information	Any articulable reason to approach. Suspicion of criminality is not required. However, the member of the service must be able to articulate a basis beyond mere whim and caprice.	Questions concerning the subject's name, address, or presence at the location	At this level of suspicion, there is no basis to search. A request for consent to search a bag, pocketbook, luggage, or other item of personal property is improper	Force may not be used to detain a subject at this level of suspicion. The subject is free to walk away from the member of the service if he/she so desires. He/she need not answer questions
II. Common-Law Inquiry	A founded suspicion that criminality is afoot. This could be triggered by false responses to questions posed during the request for information, as well as observations by the MOS	MOS may conduct more extensive questioning. Accusatory-type (guilt-seeking) questions may be asked	A subject may be asked to consent to the search of an item of personal property. This consent must be voluntary, intelligently, and knowingly on the subject's part.	Force may not be used to detain a subject at this level of suspicion. The subject is free to leave if he/she desires. He/she need not answer questions

<p>III. Stop, Question, and Frisk.</p>	<p>A reasonable suspicion that a person is committing, has committed, or is about to commit a felony or Penal Law misdemeanor. Reasonable suspicion exists when the information known to the MOS is of such weight and persuasiveness as to make the MOS, depending on his/her judgment and experience, reasonably suspect criminality.</p>	<p>The MOS may stop the subject, ask for his/her name and address, an explanation of conduct, and detain him/her while and expeditious investigation is conducted to determine if there is probable cause to arrest the subject</p>	<p>In addition to the consent search described above, the MOS may frisk the subject for a deadly weapon, or any instrument or article readily capable of causing serious physical injury when the MOS reasonably suspects he/she is in danger of physical injury {Criminal Procedure Law 140.50(3)}.</p>	<p>A MOS is permitted to use reasonable force to stop and question a subject. The subject is not free to walk away. The type and amount of physical force used must ultimately be objectively reasonable under the attendant circumstances facing the MOS. Thus, the more violent an encounter, the greater the physical force that may be employed.</p>
<p>IV. Arrest</p>	<p>Probable cause to believe that (a) an offense was committed and (b) that the subject arrested committed it. Probable cause requires the existence of facts and circumstances which when viewed together would lead a reasonable person possessing the expertise of the arresting officer to conclude that an offense has been committed</p>	<p>A MOS may engage in constitutionally permissible custodial interrogation (i.e., <i>Miranda</i> waiver must be lawfully obtained. <i>Miranda</i> waiver not required to obtain pedigree information)</p>	<p>“Search incident to arrest (i.e., a search of a subject conducted immediately after the arrest to secure weapons, prevent evidence destruction) “Inventory” (i.e., examination of property that comes into the lawful custody of the Department), etc.</p>	<p>A MOS is permitted to use reasonable force to arrest and detain a subject</p>



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## Policing Legally: Street Encounters

### STOP, QUESTION AND FRISK WORKSHEET (SIDE ONE)

(COMPLETE ALL CAPTIONS)

<b>STOP, QUESTION AND FRISK REPORT WORKSHEET</b> PD344-151A (Rev. 11-02)		Pct. Serial No. _____	
		Date _____	Pct. Of Occ. _____
Time Of Stop _____	Period Of Observation Prior To Stop _____	Radio Run/Sprint # _____	
Address/Intersection Or Cross Streets Of Stop _____			
<input type="checkbox"/> Inside	<input type="checkbox"/> Transit	Type Of Location _____	
<input type="checkbox"/> Outside	<input type="checkbox"/> Housing	Describe: _____	
Specify Which Felony/P.L. Misdemeanor Suspected _____			Duration Of Stop _____
<b>What Were Circumstances Which Led To Stop?</b> (MUST CHECK AT LEAST ONE BOX)			
<input type="checkbox"/> Carrying Objects In Plain View Used In Commission Of Crime e.g., Slim Jim/Pry Bar, etc.		<input type="checkbox"/> Actions Indicative Of Engaging In Drug Transaction.	
<input type="checkbox"/> Fits Description.		<input type="checkbox"/> Furtive Movements.	
<input type="checkbox"/> Actions Indicative Of "Casing" Victim Or Location.		<input type="checkbox"/> Actions Indicative Of Engaging In Violent Crimes.	
<input type="checkbox"/> Actions Indicative Of Acting As A Lookout.		<input type="checkbox"/> Wearing Clothes/Disguises Commonly Used In Commission Of Crime.	
<input type="checkbox"/> Suspicious Bulge/Object (Describe)			
<input type="checkbox"/> Other Reasonable Suspicion Of Criminal Activity (Specify) _____			
Name Of Person Stopped _____		Nickname/ Street Name _____	Date Of Birth _____
Address _____		Apt. No. _____	Tel. No. _____
Identification: <input type="checkbox"/> Verbal <input type="checkbox"/> Photo I.D. <input type="checkbox"/> Refused			
<input type="checkbox"/> Other (Specify) _____			
Sex: <input type="checkbox"/> Male	Race: <input type="checkbox"/> White	<input type="checkbox"/> Black	<input type="checkbox"/> White Hispanic
<input type="checkbox"/> Female	<input type="checkbox"/> Asian/Pacific Islander	<input type="checkbox"/> American Indian/Alaskan Native	
Age _____	Height _____	Weight _____	Hair _____
			Eyes _____
			Build _____
Other (Scars, Tattoos, Etc.) _____			
Did Officer Explain Reason For Stop		If No, Explain: _____	
<input type="checkbox"/> Yes <input type="checkbox"/> No			
Were Other Persons Stopped/		<input type="checkbox"/> Yes	If Yes, List Pct. Serial Nos. _____
Questioned/Frisked?		<input type="checkbox"/> No	
If Physical Force Was Used, Indicate Type:			
<input type="checkbox"/> Hands On Suspect		<input type="checkbox"/> Drawing Firearm	
<input type="checkbox"/> Suspect On Ground		<input type="checkbox"/> Baton	
<input type="checkbox"/> Pointing Firearm At Suspect		<input type="checkbox"/> Pepper Spray	
<input type="checkbox"/> Handcuffing Suspect		<input type="checkbox"/> Other (Describe) _____	
<input type="checkbox"/> Suspect Against Wall/Car			
Was Suspect Arrested?	Offense _____	Arrest No. _____	
<input type="checkbox"/> Yes <input type="checkbox"/> No			
Was Summons Issued?	Offense _____	Summons No. _____	
<input type="checkbox"/> Yes <input type="checkbox"/> No			
Officer In Uniform?	If No, How Identified? <input type="checkbox"/> Shield <input type="checkbox"/> I.D. Card		
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Verbal		





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## Policing Legally: Street Encounters

### STOP, QUESTION AND FRISK WORKSHEET (SIDE TWO)

**Was Person Frisked?**  Yes  No **IF YES, MUST CHECK AT LEAST ONE BOX**

Inappropriate Attire - Possibly Concealing Weapon  Furtive Movements  
 Verbal Threats Of Violence By Suspect  Actions Indicative Of Engaging In Violent Crimes  
 Knowledge Of Suspects Prior Criminal Violent Behavior/Use Of Force/Use Of Weapon  
 Other Reasonable Suspicion Of Weapons (Specify) \_\_\_\_\_

**Was Person Searched?**  Yes  No **IF YES, MUST CHECK AT LEAST ONE BOX**  Hard Object  Admission Of Weapons Possession

Refusal To Comply With Officer's Direction(s) Leading To Reasonable Fear For Safety  
 Violent Crime Suspected  
 Suspicious Bulge/Object (Describe) \_\_\_\_\_

**Was Weapon Found?**  Yes  No **IF YES, MUST CHECK AT LEAST ONE BOX**  Rifle/Shotgun  Assault Weapon  Knife/Cutting Instrument

Outline Of Weapon  Other Reasonable Suspicion Of Weapons (Specify) \_\_\_\_\_  
 Machine Gun  Other (Describe) \_\_\_\_\_

**Was Other Contraband Found?**  Yes  No **IF YES, Describe Contraband And Location** \_\_\_\_\_

**Was Other Contraband Found?**  Yes  No **IF YES, Describe Contraband And Location** \_\_\_\_\_

**Additional Circumstances/Factors: (Check All That Apply)**

Report From Victim/Witness  Evasive, False Or Inconsistent Response To Officer's Questions  
 Area Has High Incidence Of Reported Offense Of Type Under Investigation  Changing Direction At Sight Of Officer/Flight  
 Time Of Day, Day Of Week, Season Corresponding To Reports Of Ongoing Investigations, e.g., Robbery Pattern  
 Criminal Activity  Sights And Sounds Of Criminal Activity, e.g., Bloodstains, Ringing Alarms  
 Suspect Is Associating With Persons Known For Their Criminal Activity  
 Proximity To Crime Location  
 Other (Describe) \_\_\_\_\_

Pct. Serial No. \_\_\_\_\_ Additional Reports Prepared: Complaint Rpt. No. \_\_\_\_\_ Juvenile Rpt. No. \_\_\_\_\_ Aided Rpt. No. \_\_\_\_\_ Other Rpt. (Specify) \_\_\_\_\_

REPORTED BY: Rank, Name (Last, First, M.I.) \_\_\_\_\_  
 Print \_\_\_\_\_ Tax# \_\_\_\_\_  
 Signature \_\_\_\_\_ Command \_\_\_\_\_  
 Print \_\_\_\_\_ Tax# \_\_\_\_\_  
 Signature \_\_\_\_\_ Command \_\_\_\_\_



# POLICE STUDENT'S GUIDE

## Authority to Arrest

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW THE MATERIAL IN THIS CHAPTER?

Police officers are granted enormous responsibility and authority under the law. One of the most important police powers is the authority to use force. Force includes the power to take someone's life (deadly force), the power to use less than lethal force, and the power to *deprive people of their liberty through arrest*.

Despite the wide range of police functions, police officers devote considerable attention to crime. When people think of the police, they think in terms of *crime-fighting*, so that criminal matters will always be among the most important of our tasks. Compstat figures indicate that the number of arrests by this Department in the year 2003 totaled 335,208. This is why, when people and officials try to evaluate our performance, they do so in terms of *our ability to prevent and solve crimes*, and to *arrest criminal offenders*.

As you can see, an arrest is one of the most fundamental aspects of policing because of its enormous significance to society. Police officers must have a clear and thorough understanding of their authority in this complex area that combines law, public policy, and Department regulations. This chapter will provide such a foundation and discuss the legal and technical components of a constitutionally valid arrest in a comprehensive manner.

### WHAT IS AN ARREST?

An arrest involves taking a suspected criminal offender into custody. The police officer must decide whether it is *probable that* an individual committed the crime suspected, and if so, whether to take him or her into custody. The purpose for the arrest is *to bring the offender before the appropriate court* to answer the charges against him or her. Improper or unlawful arrests can result in an innocent person being unnecessarily prosecuted or the loss of a conviction against a guilty person. Therefore, every arrest made by police is subject to judicial review. The specific components of an arrest will be discussed in greater detail later in this chapter.

### PROBABLE CAUSE

#### The Constitutional Standard

***Probable cause*** is the standard of proof necessary for a police officer to lawfully effect an arrest, seize evidence or contraband, or conduct a search. Section 140.10 of the New York State Criminal Procedure Law refers to *probable cause* as "***reasonable cause to believe***," which is also defined by some courts as "***reasonable grounds to***



# POLICE STUDENT'S GUIDE

## Authority to Arrest

**believe.”** These terms - *probable cause; reasonable cause to believe; and reasonable grounds to believe* - all mean the same thing and are thus interchangeable.

The term *probable cause* itself originates from the Fourth Amendment to the United States Constitution, which is the source of the current legal requirement for arrest. The Fourth Amendment states, in part, that “...no warrants shall issue, but upon *probable cause, supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.*” Because the arrest of a person is a seizure, the Fourth Amendment requirement of probable cause is an essential component of a constitutionally valid arrest.

### Probable Cause Required in All Arrests

The Constitutional requirement that all warrants be supported by probable cause does not mean that warrants are required for *all* arrests, or that warrantless arrests may be made without probable cause. The *same level of probable cause* is required for an arrest without a warrant, or with a warrant. This is so because in either case, a trial judge at a suppression hearing can later review the case to determine whether, at the time of the arrest, probable cause existed.

Most of the arrests that you make will be without a warrant. These types of arrests are called *summary arrests* because they occur at the conclusion of a police encounter. For example, you may stop people in a car that has been reported stolen. When you investigate and find that they have no explanation for their presence in the car, you have probable cause to arrest them and can do so without a warrant. When time permits – as when detectives conduct lengthy investigations – police should seek judicial approval, by obtaining a warrant, prior to making an arrest. Generally, however, this will not apply to you as long as you are working in a uniformed assignment: patrol officers will not have the time to obtain an arrest warrant and therefore must effect summary, or pick-up, arrests.

### Probable Cause Defined

Probable cause is an abstract term. Basically, it exists where *the facts and circumstances within the arresting officer's knowledge, and of which he or she has reasonably trustworthy information, would warrant a person of reasonable caution to believe that an offense is or has been committed and that the person to be arrested had committed it.*

Probable cause is *less* than the amount of evidence needed to convict; there is some room left for doubt. Thus, there is a major difference between the level of proof required to establish guilt in a criminal case and that required to show probable cause for an arrest or search. A person can be arrested when probable cause exists, yet be



# POLICE STUDENT'S GUIDE

## Authority to Arrest

found *not guilty* after trial. If the police officer had probable cause at the *time of the arrest*, the arrest is proper, even if the defendant is, in fact, later found to be not guilty.

Accordingly, probable cause is judged by the facts known at the time the arrest was made, rather than on the basis of information that may become available later. It involves a judgment of the facts surrounding an event and their relationship to a specific person.

This cuts two ways. On some occasions, probable cause might exist at the time of an arrest, but facts developed later may show that, in fact, there was no crime. Take our stolen car example again. Suppose you find people driving in a car that has been reported stolen by its owner. You may arrest them only to discover that, unbeknownst to the car's owner, his or her spouse had loaned the car to the people whom you found driving it. This would make them not guilty of stealing or criminally possessing, but it certainly would not make your arrest improper because, at the time you made the arrest, the information available to you gave you reasonable grounds to believe that a crime had been committed and that you had apprehended the people who had committed it.

On the other hand, if there is insufficient information to establish probable cause at the time you make an arrest, no information that develops later can make the arrest proper. If probable cause does not exist when you arrest a person, the arrest is improper even though the person may later confess his or her guilt, or even though positive evidence of guilt is discovered in the search after the arrest.

There is no clear example of probable cause for all situations. In order to fully grasp the concept of probable cause, you must be able to understand the fundamentals of its meaning. This chapter will explain those basics and provide illustrations by reviewing court cases that addressed the issue of probable cause.

### **Drawing Conclusions From Facts**

Like many concepts in law, probable cause is easy enough to state, but difficult to apply. This example may assist you:

You observe a man walk out of a midtown Manhattan restaurant at 1:00 p.m. on a Friday afternoon. The man has a toothpick in his mouth. As you continue to observe him, you notice that he has money in his hand, which he appears to count then place in his pocket. He then walks to a nearby trashcan and throws away a small pink slip of paper.



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These facts, collectively, should give you, an ordinarily prudent person, reasonable cause to believe that the man leaving the restaurant just finished eating lunch, paid for it, counted his change, and threw away the restaurant receipt. Each fact, standing on its own, however, may not be indicative of the man's recent actions. It would be difficult to show that someone with a toothpick in his or her mouth just ate lunch. But when combined with all other factors, such as location, time of day, and his actions, it is more probable than not that he ate lunch at the restaurant.

In order to decide whether a police officer has probable cause, facts are weighed according to what they mean to the *experienced police officer*, not to a layperson. A police officer, because of his or her training and experience, can draw certain conclusions regarding criminal activity from a set of facts, which from the layperson's viewpoint may appear totally innocent. One judge explained it in this manner:

A fact which spells reasonable cause to a doctor may make no impression on a carpenter, and vice versa... An officer experienced in a narcotics unit may find probable cause in the smell of drugs and the appearance of paraphernalia, which to the layman's eyes is without significance. His action is *not* measured by what might be probable cause to an *untrained* civilian passerby...The question is what constituted probable cause in the *eyes of a reasonably cautious and prudent police officer* under the *circumstances of the moment* [Emphasis added.]

**Note:** For a detailed discussion regarding an officer's training and experience when establishing probable cause see Legal Bureau Bulletin Vol. 18 No.1.

The factors that form probable cause vary according to the type of crime being investigated. Facts that are sufficient to establish probable cause in a bank robbery case may not be sufficient to establish probable cause in a narcotics case. For example, the fact that a suspect's car is riding low on the rear springs can be one element of probable cause in a kidnapping case, but may be meaningless in another type of case. This is because a person carried in a car trunk could be heavy enough to weigh down the rear of the vehicle. It is, therefore, important that you show facts that support a belief that a specific crime was committed. As long as you can show probable cause existed prior to the arrest, the arrest is valid - even if the District Attorney changes or adds to the charges.



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### The “Fruits” of a Valid Arrest

The existence of probable cause also means that contraband or evidence discovered incident to the arrest would be admitted into court as evidence. For example: a police officer on a foot post observed a teenage boy approach an elderly woman from behind, knock her to the ground, and run off with her purse. The woman screamed for help as the officer pursued the perpetrator. After a brief pursuit, the officer placed the youth under arrest for the robbery. A search of the youth, incident to the arrest, revealed that the youth possessed a loaded .25 caliber semi-automatic handgun and three vials of crack-cocaine. Although these items were not used in the original crime, they are admissible as evidence for the additional weapons and controlled substance charges. The fact that the officer had probable cause for the robbery arrest, allowed the officer to search the youth for any other evidence or contraband, or anything that might be used to hurt the officer or to aid in an escape attempt. Thus, any further evidence of the crime or anything illegal that the officer might find in such a search (like this young man's illegally possessed gun) can be used as evidence against him.

### Arrest Made Without Probable Cause

If, on the other hand, the officer had observed the youth running down the street, and had no other information regarding criminal activity (e.g., did not witness a crime, nor alerted by a complainant), but placed him under arrest without probable cause, and a search yielded the firearm and drugs, the evidence found in his possession would not be admissible in court.

Thus, an arrest made without probable cause *will not be upheld in court*, nor will a court uphold the seizure of evidence made as a result of the arrest. Courts have developed the “exclusionary rule” which provides that evidence obtained from an illegal search or seizure will not be admitted into evidence in court.

Moreover, a police officer that knowingly makes an arrest without probable cause has violated the constitutional rights of the citizen under the Fourth Amendment. Such *illegal arrests* can result in the individual officer being held personally liable for civil damages as well as possible criminal charges.

(For an example of the consequences of seizing a person on less than probable cause, see Legal Bureau Bulletin Vol. 9, No. 4.)

### Judicial Review of Probable Cause

The burden of establishing that probable cause existed at the time of arrest is placed on the arresting officer. This is important, since arresting officers may be called to testify before a Grand Jury, at pre-trial hearings, or at the defendant's trial. Police



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officers should carefully document all relevant information that led to the finding of probable cause as they develop and soon after the arrest is made. Since the development of probable cause is based on an assessment of different facts, the officer must be prepared to accurately testify as to how each piece of information connected the arrestee to the crime. Facts that make up probable cause come in many different forms, such as officer's observations, eyewitness accounts, informant's "tips," physical evidence, etc. Therefore, the officer's testimony becomes a crucial part of the *evidence* that will be needed to successfully prosecute the offender.

The police officer's articulation of facts is also referred to as *painting a word picture*. This metaphor is designed to indicate the importance of every detail that is part of the "scene" or occurrence. Proper articulation will result in a visual recreation of all the information that was available to the officer at the time of the arrest.

For example: it is probable that a guilty person who believes he or she is about to be arrested will attempt to flee upon seeing a police officer. That attempt to flee, even if it is only a step or two, is a factor that, *when added to others*, can establish probable cause. Many police officers would consider it unimportant to mention this fact when testifying, but you should realize that *every detail* becomes part of the picture that establishes probable cause.

### Lawful Encounters on Less than Probable Cause

The New York State Court of Appeals delineated three levels of suspicion that permit an officer to lawfully encounter a person in a public place on less than probable cause.

The lowest level is referred to as *mere suspicion*, or a *request for information*. This level requires that the officer have an *articulable* reason to approach a person to obtain information. The officer may request the person's name, address, and explanation for his or her conduct. The officer does not need any suspicion of criminality. His or her reason for the approach must, however, be based on the existence of known facts, not on whim, caprice, or personal bias.

The second level of suspicion identified by the Court is known as *founded suspicion*, or the *common law right of inquiry*. At this level, an officer may approach a person based on factual information that leads him or her to believe that, in the words of the courts, "*criminality is afoot*." Once an officer has a founded suspicion, he or she may ask direct and pointed accusatory type questions while conducting the investigation. The officer, however, may not forcibly detain persons at either of the first two levels.

Once an officer has developed enough information to reasonably believe that a



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person has committed, is committing, or is about to commit a felony or a penal law misdemeanor, the officer *may forcibly detain a person temporarily* in order to prove or dispel his or her suspicion. If the officer reasonably believes that the person is armed with a weapon or an object that may be used as such, the officer may conduct a limited search of the subject called a *frisk*, only for the purpose of seizing or securing the dangerous item. This level, called *reasonable suspicion*, is most often used in relation to the *stop, question, and possibly frisk* law, which is codified under New York Criminal Procedure Law Section 140.50.

It is important to note that *despite the custodial nature* of these encounters, *they do not amount to an arrest*. This is so because the amount of information required by the officer at the various levels is less than probable cause. The officer's authority to intrude rises commensurately with the amount of information possessed. The highest level of information is that of probable cause, and accordingly, it permits the greatest intrusion: *arrest* - which also permits a search of the individual and his or her belongings. (This area is discussed in greater detail in the chapter on "Policing Legally: Street Encounters").

### SOURCES OF PROBABLE CAUSE

Information supplied to the police that forms the basis of probable cause in arrest situations can come from a variety of sources. When probable cause is based *solely* on a police officer's observations, courts will take into account the totality of the circumstances to determine whether the officer has developed probable cause. When information is based on *hearsay*, police must verify (1) the reliability of the informant and (2) how the informant formed the basis of the information, before an arrest can be made. This analysis is referred to as the "*Aguilar-Spinelli*" two-pronged test. Information can come from the following sources:

1. Confidential informant;
2. Victim or witness to the offense;
3. Another police officer;
4. Police officer from another agency;
5. Accomplice to the crime;
6. Anonymous person
7. Any other source of information.

Generally, the courts presume police officers, victims of crimes, and properly identified witnesses to be reliable. Paid informants, who are sometimes criminals, often provide information to the police to avoid their own prosecution or to eliminate their criminal competition. Thus, the courts view testimony given by them to be less reliable than that of a victim or witness who has no apparent personal interest in the outcome of





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an event. The fact that they have a criminal past or are being paid to furnish information weakens their testimony in court, and as a result, a greater amount of corroboration (additional evidence) is required to establish probable cause.

### THE TOTALITY OF THE CIRCUMSTANCES

In establishing probable cause, the courts will allow the use of almost any fact that tends to show that the crime was committed and who the person or persons were who committed the crime. There is no single *blueprint* or *checklist* of facts that will establish probable cause for a particular offense. As stated previously, police officers must be prepared to accurately *paint a picture* of *all* relevant facts or pieces of information; no matter how trivial or innocent they may seem by themselves. Each bit of information is part of a larger picture. Courts refer to such an accumulation of information as the *totality of the circumstances*.

The totality of the circumstances test avoids the "technical" aspect of the probable cause determination. Instead it relies on a practical common sense application that considers the *trustworthiness* of the information. Probable cause does not demand the certainty associated with formal trials such as "proof beyond a reasonable doubt." The standard of probable cause is that there be a showing of a fair probability that the crime was committed.

It is important to note that the totality of the circumstances test does not apply to a probable cause determination based *solely* on an informant's tip. In those instances, a reviewing court will look to see whether both prongs of the *Aguilar-Spinelli* test were satisfied.

### CORROBORATING THE INFORMANT'S REPORT:

#### ***The Aguilar-Spinelli Two-Pronged Test***

Generally, there are many ways in which information can be corroborated. New York courts, however, have recognized the "*Aguilar-Spinelli*" two-prong test as the standard for corroborating information *from informants*. This analysis requires the police officer to establish that (1) the informant is reliable, and (2) that the informant's information is reliable. The following factors are a guide in determining whether both prongs of the *Aguilar-Spinelli* test are satisfied.

#### **The First Prong: The Reliability of the Informant**

An informant who provides information to the police will be considered reliable if one or more of the following elements exist:



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1. The informant has previously supplied information that led to at least one arrest and conviction, or arrests in more than one criminal incident.
2. The informant has previously supplied information in the past that led to the seizure of evidence, contraband, or stolen property.
3. The informant swears to the truth of the information under oath.
4. The information constitutes a declaration against penal interest connecting the informant to the crime or otherwise implicating him in criminal activity. This information is considered reliable because one does not usually falsely implicate himself in a criminal act. For example, an informant tells an officer he just purchased drugs in a storefront building from the janitor.
5. Two or more informants, not known to each other and acting independently, corroborate the information.
6. The information, whether criminal or not in nature, is detailed and precise.
7. The police observe sufficient details corroborating the information thereby indicating that the informant was correct. For example, the police observe the following details that are consistent with information supplied by the informant:
  - a. The suspect's clothing, mannerisms, vehicle or route traveled; or
  - b. The suspect's appearance at a time and place, engaging in an activity as previously described by the informant; or
  - c. The suspect's possession of an object or container matching the shape, physical characteristics and location of reported contraband.
8. The informant's information corresponds with information already known to the police. For example, a confidential and reliable informant told a police officer that two named persons were selling narcotics in a specific apartment at a stated address on the previous day. The officer knew these persons, and also knew that they had in the past admitted to the use of narcotics and had visible needle marks on their arms. The Supreme Court held that this was sufficient probable cause for the issuance of a search warrant.



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### The Second Prong: The Reliability of Information

An informant will be considered to have a basis of knowledge for the information he or she supplies to police if one or more of the following elements exist:

1. The informant states that he or she obtained the information by personal observations of the suspect or in direct conversations with the suspect.
2. The information regarding criminal activity is so detailed that it is clear that it must have been based on the informant's personal observations of the criminal activity.
3. The police observe conduct suggesting or directly involving the activity reported by the informant.
4. Other factors exist that lead the police to reasonably believe that the suspect is committing a crime.

**Note:** For a further discussion regarding the establishment of probable cause based on an informant's report, see Legal Bureau Bulletin Vol. 18, No. 6 and Vol. 23, No. 5.

### INFORMATION FROM NON-CRIMINAL SOURCES

The *Aguilar-Spinelli* two-pronged test applies to the corroboration of information generally from informants who were engaged in some sort of criminal activity. Often, police will receive information from non-criminal sources such as other police officers, crime victims, and ordinary citizens. In these cases, the standard for developing probable cause is more lenient.

#### Probable Cause from Other Police Officers

It is not necessary that the arresting officer have first-hand knowledge of all the facts that make up probable cause. It is not even required that the officer has first-hand knowledge of any of the facts because courts have held that *probable cause may be imputed from one officer to another*. In other words, an officer may act on information supplied by other officers in his or her department or another police department and rely on that information to effect an arrest. An officer may, for example, respond to (1) statements from other police officers, (2) official department communications (wanted poster, radio transmission, FINEST message, etc.), (3) active warrants, or (4) orders from a supervisor. In such circumstances, the arrest is valid only if the originator of the communication *acted with probable cause*.



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Suppose, for example, that officers have been notified at roll call that the detective squad has secured an arrest warrant for a particular individual wanted for a bank robbery. The subject was identified by name and address, and a photograph was circulated. One officer recognized the subject as someone he had arrested on several occasions in the past. While on patrol, the officer observed the subject sitting on a park bench and immediately placed him under arrest for the bank robbery. Although the arresting officer did not have personal information regarding the bank robbery (i.e., he did not witness it, nor did he interview witness/victims, or respond to the scene), his probable cause was imputed from the information supplied by the detective squad. While the arresting officer will still be required to provide testimony regarding the actual arrest of the person, the burden of showing that probable cause was properly developed is placed on the investigating detective squad member that secured the warrant.

### Probable Cause from Crime Victims

Courts have presumed that a *properly identified victim* of a crime (complainant) is a reliable informant, even though his or her reliability has not been previously tested. The victim's reliability is assured because he or she can be prosecuted if the report turns out to be a fabrication. There is also no need to establish the source of information since it is based on the victim's personal knowledge. In the case of an *unidentified victim*, he or she will be presumed reliable as long as the officer has an opportunity to assess the victim's credibility in a face-to-face encounter based on demeanor, or can confirm or corroborate some of the information through observations.

For example, a crying woman with a scratch on her neck approaches a police officer on a foot post and states that someone ripped a gold chain from her neck. She points to a man running and excitedly states, "There he is!" The officer orders the man to stop and places him under arrest. In this case, the officer was able to assess the reliability of the victim based on her condition and statements.

Suppose that in the above case, the officer became involved in a foot pursuit, and after apprehending the perpetrator, the victim had left the scene. Courts have held that the finding of probable cause will not be invalidated where the failure to ascertain the identity of the victim was due to an emergency response to locate the perpetrator.

### Probable Cause from Citizen - Informants

A "citizen-informant" is a citizen, *other than a crime victim*, who makes an allegation against another individual regarding a crime. If the citizen is properly identified, he or she is presumed reliable because, as mentioned above, a deliberate lie will result in the citizen's prosecution. Police will only be required to show that the information provided was reliable. This is the second prong of the *Aguilar-Spinelli* test



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and requires a showing of either personal knowledge on the part of the citizen-informant, or corroboration of the information by the police.

When a citizen-informant refuses to provide his or her identity to the police, both prongs of the two-part test: reliability of the informant and reliability of the information, must be satisfied in order to establish probable cause for an arrest.

### **CORROBORATION BY POLICE OBSERVATION OR INVESTIGATION**

Corroboration by police officers through observations or investigations is the most practical, most often used, and probably the most accurate manner in which to corroborate information from non-police sources *because it involves the officer's personal knowledge*. The following are examples of facts, patterns of behavior, or evidence which, when added to information already given to a police officer, have been held by the courts to establish probable cause for the purpose of making an arrest or obtaining a warrant.

1. Surveillance reveals a pattern of unusual activity at the suspect's home or place of business. For example, during daytime hours, when people should be up, there is no activity, however, during evening hours, when people are asleep, the location is alive with activity.
2. Sounds or conversations overheard from a public place (without the benefit of electronic devices) that suggest the offense being investigated is taking place. For example, a conversation is overheard from the hallway of an apartment building discussing a drug transaction, or an offer on the street to purchase drugs.
3. Odors connected with offense coming from the premises, such as the odor of marijuana coming from a hotel room.
4. The officer observes objects reasonably believed to be a part of the crime in plain view (no unreasonable search) at some time during the investigation, such as where the officer observes capsules of a kind usually containing narcotics in the hands of the suspect.
5. Surveillance finds the suspect entering or frequenting a well-known location or area where the suspected type of criminal activity is known to take place and he or she is observed meeting or associating with known criminals.



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6. Conferrals with the local police, sheriff, FBI, or other law enforcement entities reveal a criminal record for the kind of offense suspected, or a related one.
7. Statements from other officers and informants or official reports show that the suspect has a reputation for committing this kind of offense or a related offense.
8. An informant willing to testify or an officer, working in an undercover role, makes contact with the suspect. The suspect tells the undercover officer that he can deliver narcotics.
9. An encounter with the suspect by police officers prior to arrest (e.g., mere, founded, reasonable suspicion, traffic stop, etc.), and the suspect gives confused or conflicting answers, which raises the officers level of suspicion, under circumstances in which an innocent person would not. Suspicion does not rise to probable cause merely by the suspect's refusal to answer. Additionally, any encounter must be lawful in nature, and not a ruse to approach the person.
10. The suspect makes an admission to the crime.
11. The suspect surrenders evidence of the crime to the officer.

### WHEN CORROBORATION IS NOT POSSIBLE

As previously mentioned, courts will uphold arrests where an officer may not be able to corroborate all facts. These include face-to-face confrontations with crime victims in emergency type situations. The standard that should guide you in all your actions is that of *reasonableness*. If you act reasonably under the circumstances, the court will, in most cases, uphold your actions.

Typically, in a planned arrest (e.g., arrest on a warrant) the police officer has the necessary time and opportunity to investigate the circumstances surrounding the event and to decide on a proper course of action. However, in *most cases* in which the uniformed police officer becomes involved, the luxury of planning an arrest is not possible because of the emergency nature of the circumstances. The arrest is based on a severely limited number of factors. The decision must be made on the spot, without an opportunity for the officer to check his conclusions regarding probable cause with a prosecutor or judge. The *pick-up*, or *summary*, arrest is the real test of an officer's ability to determine what is and what is not sufficient probable cause for an arrest. When comparing probable cause for a pick-up arrest with probable cause for a planned arrest the courts expect the officer to produce enough evidence to establish, as



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a prudent and cautious officer, that:

1. A crime has been committed; and
2. It was committed by the person arrested.

Although these same standards are required for all arrests, a somewhat easier interpretation of probable cause has been held to apply to arrests made under certain conditions. The following cases demonstrate the standards that the courts have applied for arrests under "emergency situations."

### Probable Cause Case Study No. 1

Two plainclothes officers in an unmarked car were parked in a residential area at 4:30 A.M. when they heard a woman's continuing screams. At the same moment, the officers saw a male run out of an alley near the point where the screams came from. Upon seeing the officers, the male stopped running and began to walk. One officer stopped him, showed a badge, and identified himself as a police officer. The suspect told the officer that he was on his way home from a party, but the direction he was taking was not toward the place in which he claimed he lived. The police officers also noticed some ladies' jewelry dangling from the suspect's pocket and a small crow bar in his back pocket. The suspect could not provide a clear answer as to why he possessed these items. Each of these elements had a possible innocent explanation as well as a guilty one.

**Question:** Did probable cause exist for the arrest of the suspect?

**Answer:** **Yes.** The court stated that ... "when the officers heard screams for help at 4:30 A.M. and saw the suspect running near the point from which the cries came, minimum prudence and diligence dictated that the person in seeming flight be stopped and interrogated. When his statement that he was on his way home from a party was found not to coincide with the direction of his travel, further investigation was called for to determine whether the suspect's seeming flight was connected with the cries for help. Also, the suspect's vagueness of the type of jewelry in his pocket and the ownership of the items was another fact the police officers had. At this point, there was abundant probable cause for arrest. Indeed, it would have been an astonishing lack of sound judgment for the police to act otherwise. The action of the police was no more than to approach, confront and question the suspect."



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### Probable Cause Case Study No. 2

At about 1:30 A.M. a male and a companion were walking down a street. There had been a series of robberies in the immediate area during this time of night. The robbers reportedly were two young men whose description fit those of the male and his companion. Police officers in an unmarked car approached to question them. The officers called for the men to stop but they ran away. As they ran, an object fell out of the coat of one of the men. The officers jumped from the car, shouted to the men that they were under arrest, captured them and, on examination after the arrest, the object turned out to be a sawed-off shotgun. The officers then charged them with illegal possession of the shotgun.

**Question:** Did these officers have probable cause to arrest under these circumstances?

**Answer:** **Yes.** The court held that probable cause existed. Some of the factors that supported that conclusion were:

1. The time of night - 1:30 A.M.;
2. The location - a city street;
3. Knowledge regarding robbery pattern (time, type, etc.);
4. Descriptions of the men;
5. Flight of the suspects;
6. Abandonment of possible evidence.

Based on the above, the police officers had probable cause to believe that the suspects had committed a robbery. The fact that the suspects were not charged with robbery is not important. If later investigation revealed that they were not the perpetrators of past robberies, they still could be properly arrested for illegal possession of the shotgun since probable cause existed that they had committed a crime (at the time of the arrest).

### PROBABLE CAUSE IN NARCOTICS CASES

Illicit drug use and abuse is a serious problem in today's society. Therefore, an officer must be thoroughly familiar with the elements required to establish probable cause in narcotics cases.

The following factors illustrate the minimum requirements, which courts have held establish probable cause to make an arrest:

1. An officer observed money passed in exchange for a glassine envelope and/or;





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2. Furtive or evasive behavior on the part of the participants coupled with the passing of a glassine envelope and/or;
3. The exchange of a glassine envelope in a narcotics prone location and the officer can present evidence in court demonstrating the area is truly narcotics prone and/or;
4. An experienced officer observed the passing of a glassine envelope.

**Note:** For a further discussion regarding probable cause in narcotics cases see Legal Bureau Bulletins Vol. 11 No. 2 and Vol. 2 No. 9.

### POLICE POWERS OF ARREST- GENERALLY

The New York City Charter provides that the "Police Department shall have the power and it shall be their duty to detect and arrest offenders." Thus, a basic duty of a police officer is to arrest those persons who have violated the law.

As previously discussed, an arrest is the apprehension of a law violator by a legally recognized and competent authority based on the standard of probable cause. The Constitution of the United States and of New York State provide that, "...no person shall be deprived of liberty *without due process of law*." Therefore, a lawful arrest can only be made in accordance with the law or it will be unconstitutional, and thus illegal. The remaining sections of this chapter will focus on the specific elements of an arrest as well as the various laws that regulate how, where and when officers may make a lawful arrest.

### ELEMENTS OF AN ARREST

An arrest is effected when the offender is brought within the control and will of the officer, under lawful authority, for the purpose of delivering the person before the appropriate court. Actual physical touching by the officer is not necessary. A verbal command by an officer to a suspect that he or she is under arrest, accompanied by a voluntary submission to the officer is an arrest, even though the officer never physically touches the person. However, mere words do not result in an arrest unless there is a voluntary submission by the suspect. Of course, an arrest may also be made by the proper use of physical force. Arrests can be made in several ways such as, holding the person at gunpoint, handcuffing someone, or by any other proper means of physical restraint. Regardless of the manner employed to make a lawful arrest the following elements must be present (1) intent, (2) authority, (3) custody, and (4) recognition.



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### The *Intent* of the Officer

The intention or purpose of the police officer must be to take the person into custody. The intent makes an arrest different from lesser forms of detention (e.g., forcible stop under reasonable suspicion [CPL 140.50].) Thus, an arrest requires that the detention be for the purpose of bringing the person before the appropriate court to answer to a charge of violating the law. A distinction must be made from circumstances where a person is merely approached by a police officer and questioned as to his or her identity and actions (e.g., mere suspicion or founded suspicion), or when he or she is detained for a few minutes and issued a traffic summons.

### The Officer's Authority

An officer must act under *real* or *assumed* legal authority in order to take a person into lawful custody. Real authority refers to a police officer's statutory ability to effect an arrest, based on probable cause, under N.Y.S. Criminal Procedure Law Section 140.10. Assumed authority refers to a police officer's ability to effect an arrest under the authority of a judge via an arrest or bench warrant.

### Custody of the Person under Arrest

A proper arrest also requires that there be *actual* or *constructive* seizure of the person by the arresting officer. Actual seizure may be defined as direct *physical control of the person* (e.g., handcuffed), while constructive seizure is where a *reasonable person knows that he or she is not free to leave* (e.g., surrounded by officers). If there is no restraint of the person's liberty, there is no custody, and thus no arrest. However, where an officer attempts to place someone in actual custody and announces his or her intention to arrest, it is an arrest, even though the officer may not succeed in stopping or holding the person because they resist and flee. Remember that verbal commands alone (e.g., "hands up!" or "stop!") have been held insufficient for an arrest.

### Recognition by the Person Arrested

The arrested persons must know they are being arrested. This element is ordinarily shown when the *officer communicates his or her intention* that the person is under arrest. This is also accomplished when the *circumstances are such that a reasonably prudent person would know* they are under arrest. In all cases where there is no physical or actual seizure, the intentions of the parties become especially important since there must have been intent and purpose on the part of the officer to arrest the suspect along with an intention by the suspect to submit under the belief that such submission was necessary.



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### The Importance of Satisfying Each Element

The determination of when an arrest has been made and whether it is based on probable cause has great importance in the criminal justice system. Once a *lawful arrest* is established, prosecutors ("A.D.A.'s") can argue that evidence was lawfully seized. This can consist of: evidence seized from the defendant's person, or area of control; evidence properly recovered from defendant's auto pursuant to search or inventory; or any statements made to police. Conversely, evidence seized or statements made *after an unlawful arrest* cannot be used to validate an arrest not based on probable cause. Courts will always consider THE actions of the police officer to make the appropriate determination.

### Rights of the Defendant

Once the arrest is made, the defendant must be fully advised of his or her constitutional rights in the form of *Miranda warnings*, prior to questioning. (This will be discussed in greater detail in a separate chapter).

### WHO MAY ARREST?

There are three categories of persons who are authorized to effect arrests without arrest warrants. Each category is different from the other. The categories are (1) police officers, (2) peace officers, and (3) private persons/citizens. The arrest powers of each group differ. Therefore, before we begin, a distinction must be made between *peace officers* and *police officers*. The Criminal Procedure Law enumerates dozens of agencies whose members or employees are designated police officer and peace officer.

The term "police officer" applies to members of duly organized police forces such as municipal police departments and/or sheriffs departments. "Peace officer" refers to a different category of law enforcement persons including court officers, parole and probation officers. A complete list of both police officer and peace officer titles may be found in the Criminal Procedure Law, Sections 1.20 (34) and 2.10 (1-54).

The police officer has the main, and often the sole, power and obligation with respect to enforcement of the criminal law. An example of your sole power is the authority to stop, question, and frisk individuals under certain circumstances. This particular power applies only to police officers and does not apply to peace officers. (Exception: peace officers who provide security for courts in New York State may also utilize the stop and frisk laws under certain circumstances.)



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## Authority to Arrest

### GEOGRAPHICAL AREA OF EMPLOYMENT OF POLICE OFFICERS ("G.A.O.E.")

The boundaries of the State of New York make up the geographical area of employment of police officers employed by New York State, or any authority that function throughout the state (i.e., New York State Police). The county, city, town or village that *employs* the police officer is considered to be his/her geographical area of employment.

If the local government functions in more than one county, the geographical area of employment of a police officer employed by the local government extends throughout all such counties; for example, New York City police officer's geographical area of employment is the *five counties – or boroughs - of New York City* (Manhattan, Brooklyn, Queens, Staten Island, and the Bronx).

### ARRESTS WITHOUT A WARRANT BY POLICE OFFICERS

As a New York City police officer, it is essential that you have a thorough understanding of Article 140 of the Criminal Procedure Law. This law provides police officers the authority to arrest for *crimes* and *petty offenses*.

#### When and Where Authorized

A police officer is authorized to make an arrest at any hour of the day or night. The following is a list of rules, pursuant to C.P.L. Article 140, that must be adhered to in order to legally arrest a suspect:

#### **Crimes (Felonies and Misdemeanors)**

**When Committed:** You may arrest when you have reasonable cause to believe that a person has committed a crime, whether in your presence or not, and the crime is committed in New York State.

**Where You May Arrest:** You may arrest *anywhere* in New York State. In addition, if necessary, you may *pursue the suspect outside of New York State* and arrest in any state that contains provisions equal to those of the "Uniform Close Pursuit Act, Section 140.55" of the Criminal Procedure law.

**Note:** States adjacent to New York State have these provisions.



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### Petty Offenses (Violations and Traffic Infractions)

**When Committed:** You may arrest when you have reasonable cause to believe that a person has committed a violation or traffic infraction in your presence and in your GAOE (within the five boroughs of New York City).

**Where You May Arrest:** You may arrest the suspect in the *county of commission or an adjoining county*. Furthermore, you are permitted to follow a suspect in continuous close pursuit throughout New York State and apprehend the suspect in any county of New York State. The Criminal Procedure Law extends the officer's arrest power one-hundred (100) yards beyond his/her Geographical Area of Employment, for Petty Offenses.

### Petty Offense Exceptions

There are *three exceptions* to the general requirement that arrests for petty offenses may be made only when the offenses are committed in the officer's presence:

1. As per V.T.L. Section 602, An arrest for ***Leaving the Scene of an Accident Without Reporting*** - a traffic infraction (V.T.L. sections 600 and 601) - may be made, even if not committed in the officer's presence, provided the officer has reasonable cause to believe the offense was committed by a certain individual.
2. As per V.T.L. Section 1194, an arrest for ***Operating a Motor Vehicle While Under the Influence of Drugs or Alcohol*** - a traffic infraction (V.T.L. section 1192) - may be made, even if not committed in the officer's presence, provided it occurs in conjunction with a vehicle accident or collision.
3. As per Patrol Guide 209-09, a uniformed member of the service assigned to the ***Highway Unit*** may serve a summons for an offense not personally observed which is ***revealed as a result of a vehicle accident investigation***.



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## Authority to Arrest

**ARREST CHART-** This chart summarizes the Law of Arrest for N.Y.P.D. officers:

Type of Offense	Standard of Proof	In Presence?	Where Committed?	Where can you arrest?	Close Pursuit?
Crimes (Felonies or Misdemeanors)	Probable Cause	Yes or No. May arrest whether committed in your presence or not.	N.Y.S.	Anywhere in N.Y.S.	Yes. May pursue anywhere to any state that has similar close pursuit provisions.
Petty Offenses (Violations or Traffic Infractions)	Probable Cause	Yes. May arrest only if committed in your presence.	G.A.O.E. (N.Y.C.) * Extends 100 yards beyond GAOE	G.A.O.E. (N.Y.C.) and adjoining counties (Nassau & Westchester)	Yes. May pursue and arrest anywhere in N.Y.S.

**Note:** For arrest purposes, the five (5) boroughs (counties) of New York City are considered one (1) county.

### ANNOUNCING YOUR POLICE AUTHORITY

When you arrest someone, you must inform the person of your authority, purpose, and the reason for the arrest **unless**:

1. You encounter *physical resistance*; or
2. You encounter *flight* on the part of the suspect; or
3. Other factors make it *impractical*.

### Examples:

- While attempting to physically apprehend the suspect, he pushes you.
- You approach a suspect to effect an arrest and the suspect runs away.
- While arresting a person at a demonstration, a crowd begins to gather. In



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this case, you take the suspect to another location and advise him or her of the arrest.

### PHYSICAL FORCE

You are authorized to use physical force in making the arrest as permitted by Article 35 of the Penal Law. As a New York City police officer, you are also required to comply with New York City Police Department policy relating to the use of force as outlined in the Patrol Guide, Legal Bureau Bulletins, Interim Orders, and other Department directives. This area is discussed in greater detail in the chapter on "The Use of Force."

### UNIFORM CLOSE PURSUIT OUTSIDE OF NEW YORK STATE

A police officer may arrest a person for a *crime* anywhere in New York State, on reasonable cause to believe, whether or not committed in his or her presence. Additionally, if necessary, an officer may pursue a suspect out of New York State if in continuous and close pursuit. You must remember that this procedure only applies to crimes and not petty offenses.

### UNIFORM CLOSE PURSUIT ACT (C.P.L. Section 140.55)

1. Close pursuit is defined as the unrelenting continuous pursuit immediately after commission of a crime or an escape.
2. A peace officer may arrest the suspect in another state.
3. The act committed must be a crime in both states.
4. Arrests made after *close pursuit* are honored in New York only if the arresting officer's state has a similar close pursuit law that authorizes our police officers to arrest in close pursuit in the other state.
5. Persons arrested must be brought before the local criminal court immediately to determine if the arrest was made in close pursuit.
6. If such a determination is made, the prisoner is given to the custody of the arresting officer for return to the other state for trial.
7. If the arrest was not made in close pursuit, the prisoner will be released.



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### CLOSE PURSUIT FOR PETTY OFFENSES

A New York City police officer may arrest a person for committing a petty offense within New York City on reasonable cause to believe and may effect the arrest in New York City, Nassau or Westchester County. Furthermore, if necessary, a police officer may pursue the person continuously and closely through any county of New York State to make the arrest.

### LIMITATIONS OF WARRANTLESS ENTRIES OF PRIVATE PREMISE IN ORDER TO MAKE ROUTINE ARRESTS

In 1980, the U.S. Supreme Court, in two separate decisions involving New York cases, ***Payton v. New York*** and ***Riddick v. New York***, prohibited the routine summary arrest of a person within a private residence *unless* one of the below listed conditions is present:

1. Exigent circumstances exist; or
2. The officer has consent of a co-occupant; or
3. The officer has a warrant.

Prior to these decisions, it was commonplace that the routine seizure of a person included the right to a warrantless entry into private premises without applying the rules typically required for the seizure of evidence.

The Court rejected this idea and ruled that the same conditions apply to the seizure of persons and property. Therefore, you must be prepared to explain your reasons for going into a private premise without a warrant to effect an arrest. The burden of establishing a lawful basis for going into a suspect's home without a warrant (consent, emergency exigent reasons, etc.) will be upon you as the arresting officer. For a further discussion regarding entering a private residence to effect an arrest see Legal Bureau Bulletin Vol. 10 No. 4.

### ARREST BY A PRIVATE PERSON (CITIZEN'S ARREST)

New York State Law permits private persons to make arrests for offenses that are committed in New York State. These arrests require a higher level of proof than those made by police officers. Stated simply, citizens are not permitted to make mistakes. The rules of arrest for private persons state that a private person may arrest for an offense only when the defendant has *in fact committed* the offense in question. There are additional restrictions for private persons making arrests; thus *a private person may arrest as follows:*





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### When:

1. For a felony which has been in fact committed by the person arrested (in presence or not).
2. For any offense in fact committed in arresting person's presence.

### Where:

1. For a felony, anywhere in New York State.
2. For a misdemeanor or petty offense, only in the county of commission.

**Note:** As with police officers, New York City is considered one county for arrest purposes.

## ARREST WITH A WARRANT

Laws regarding arrests with a warrant are codified under C.P.L. Article 120. In addition and as previously discussed, the Fourth Amendment to the Constitution provides the basis for the law itself. It states: "...no warrants shall issue but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized."

The Fourth Amendment was intended to protect individuals from illegal seizure of their person; that is, an illegal arrest. In addition, the probable cause basis for the warrant must arise before the warrant is issued and must be presented to a judge in the form of a sworn affidavit. The judge will then issue the warrant if he or she finds that there is sufficient probable cause. You should remember that the sole function of an arrest warrant is to get the defendant into court for the purpose of arraignment in a criminal action.

The Criminal Procedure Law provides that an arrest warrant may be addressed to any police officer or classification of police officers whose geographical area of employment includes either: (1) the place where the offense was committed; or (2) the locality of the court issuing the warrant.



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### PARTICULARS RELATING TO ARRESTS

#### The "No Sock" Law (P.L. 35.27)

A person may not use physical force to resist an arrest that is being effected or attempted by a police officer or a peace officer when it would reasonably appear that the person making such arrest is a police officer or peace officer.

#### Persons Aiding in an Arrest (P.L. 195.10)

Any person who, after being commanded by a peace or police officer, identifiable or identified to him as such, reasonably fails or refuses to aid such peace officer or police officer in making an arrest, or in preventing the commission by another person of any offense, is guilty of *Refusing to Aid a Peace Officer*, a class B misdemeanor.

#### Onlookers at the Scene of an Incident

When a police officer arrests a person in a public area, other persons in the area may remain in the vicinity of the arrest as onlookers. The right to observe is limited by reasons of safety and allowed as long as there is no substantive violation of law. Actions such as speech alone, making notes of shield numbers or names, taking photographs or videotaping, or remaining in the vicinity of a stop or an arrest do not constitute probable cause for arrest or detention of an onlooker. (See P.G. 208-03, page 10).

### SPECIAL ARREST SITUATIONS

In the course of your duties, there will be occasions where special procedures take effect when you arrest certain persons. The following selected Patrol Guide sections discuss these procedures. As the arresting officer it is your responsibility to comply with these procedures.

#### Diplomats and Foreign Nationals (P.G. 212-56)

New York City, as the headquarters of the United Nations, is home to ambassadors and other public ministers, along with their secretaries, advisors, attachés, assistants, families and staff. Persons who hold such title and are accredited by the United States Government possess diplomatic immunity from all arrests. This means that they cannot be arrested or issued a summons. You should contact the Operations Unit to verify the diplomatic status, if such status is in doubt. You should also request the response of the patrol supervisor. In all incidents involving diplomats you should:



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1. Obtain the name and title of the individual concerned, the name of the government represented and the names and addresses of witnesses; if a motor vehicle is involved, write down the plate number of the vehicle.
2. Immediately notify the Operations Unit, patrol supervisor, Intelligence Division and desk officer concerned, and provide full details of the incident.
3. Do not detain an individual entitled to diplomatic immunity once his identity and status are satisfactorily established. You should remember when dealing with diplomats, that they are here as guests of the United States Government. They should be afforded every courtesy possible. If the act that they have committed would be considered a crime, P.G. 212-56 should be followed so that the Department of State may take appropriate action.

### **Juvenile Delinquents (P.G. 215-09)**

A juvenile delinquent is a child who is at least seven (7) and less than sixteen (16) years of age, who commits an act which, if committed by an adult, would constitute a crime. A juvenile delinquent may sometimes be processed with a Juvenile Report but must be taken into custody and charged with juvenile delinquency for the following (1) felony, (2) Unlawful Assembly, or (3) any misdemeanor listed in the "Photographable Offenses" procedure found in P.G. 208-07. Section 305.2 of the Family Court Act gives peace officers and police officers the authority to take children into custody.

### **Juvenile Offenders (P.G. 215-10)**

A juvenile offender is a child between the ages of 13 and 15 years old who commits certain serious felonies. A juvenile offender is treated in the court system as an adult.

**Note:** Additional information regarding juvenile delinquents/offenders will be provided in a later chapter of this guide.



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## Authority to Arrest

### HOMEWORK QUESTIONS

1. Probable cause is necessary before an arrest can lawfully be made. If a police officer was to find a loaded weapon without first having probable cause on a suspect and arrested him:
  - A. The loaded weapon would be admissible.
  - B. The arrest would be appropriate.
  - C. The weapon would not be admissible.
2. By definition, probable cause exists if facts and circumstances known to the officer would cause him/her to reasonably believe that :  
\_\_\_\_\_ and  
\_\_\_\_\_.
3. Police Officer Jones has probable cause to believe that Mr. Smith has committed a crime. Mr. Smith is, in fact, innocent. If the officer arrests Smith, would it be an illegal arrest and would Police Officer Jones be liable in a civil lawsuit? Explain.
4. In order to decide whether the police have probable cause, the facts are weighed according to what they mean to the experienced police officer, not to a layman.  
TRUE \_\_\_\_\_ FALSE \_\_\_\_\_  
Why? Explain your answer.
5. An officer on patrol observes activity that gives her reasonable cause to believe that a larceny of an auto is being committed in her presence. She arrests the suspect and searches him. She finds narcotics in his left pocket but the auto turns out to be the suspect's. Would the narcotics be admissible in court?  
YES \_\_\_\_\_ NO \_\_\_\_\_  
Why? Explain your answer.
6. List the 4 elements of an arrest.
7. How is constructive seizure different from actual seizure?



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### HOMEWORK QUESTIONS (cont.)

8. When may a police officer make an arrest without a warrant?
9. Why is geographical area of employment important to a police officer when arresting a person?
10. What are the basic differences in arrest powers of civilians and police officers?
11. What is meant by the "No Sock Law"?
12. Why are diplomats and other people handled in different manners?
13. What are the special procedures in handling juveniles?
14. Police Officer John Dean, while on patrol in Manhattan, observes three males engaging in violent and tumultuous (loud) behavior. The offense is called disorderly conduct, which is a violation. He approaches them and they run, escaping the approaching officer. Based upon these facts, answer the following questions.
  - A. If P.O. Dean observes one of the males on his way home in Westchester County, can he now arrest the suspect?  
  
Why? Explain your answer.
  - B. If P.O. Dean was able to continually pursue the males from the time he observed them in Manhattan until he caught them in Suffolk County, would the arrest be valid?  
  
Why? Explain your answer.
15. A man who was involved in a car accident approaches you and asks you to follow him to the scene. You follow him to the scene of the accident where the other motorist is waiting. Then, the man that you followed to the scene angrily states to the other motorist, "Now explain to the cop why you ran the light and hit my car." You then ask the motorists not to argue, and then ascertain if there are any injuries. After finding that there are no injuries, you gather all credentials from both motorists.

What is your next course of action? Why? Explain your answer.



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## Authority to Arrest

### HOMEWORK QUESTIONS (cont.)

16. You are standing on the subway platform when you hear two people arguing at the top of the steps leading to the mezzanine. After reaching the top of the steps to see what is happening, you are approached by a woman holding her face and crying. She tells you that her boyfriend slapped her, and that she wants him arrested. You see no visible injuries. She points to young male walking up towards the platform.

What is your next course of action? Why? Explain your answer.



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### Legal Bureau Bulletin Index

For more information on this topic, read the following Legal Bureau Bulletins:

1. Vol. 2 No. 9, "PROBABLE CAUSE TO MAKE AN ARREST," *People v. Freddy Meyers* (1972).
2. Vol. 5, No. 9, "PROBABLE CAUSE BASED ON TELETYPE MESSAGE," *People v. Lypka* (1975).
3. Vol. 9, No. 4, "DETENTION OF A PERSON ON LESS THAN PROBABLE CAUSE," *People v. Dunaway* (1979).
4. Vol. 11, No. 2, "PROBABLE CAUSE IN NARCOTICS CASES," *People v. McRay/People v. Charles J./People v. Hester* (1980).
5. Vol. 18, No. 1, "PROBABLE CAUSE," *People v. Acevedo* (1982).
6. Vol. 18, No. 6, "SEARCH AND SEIZURE – INFORMATION SUPPLIED BY AN INFORMANT," *People v. Griminger* (1988).
7. Vol. 6, No. 6, "IMMIGRATION LAWS," United States Code, Title 8, Section 1357.
8. Vol. 10, No. 4, "ARRESTS WITHOUT WARRANTS," *Payton v. New York/Riddick v. New York* (1980).
9. Vol. 11, No. 5, "WARRANTLESS SEARCH OF THIRD PARTY HOME," *Steagald v. United States* (1981).
10. Vol. 20, No. 8, "THE PAYTON RULE - ARREST IN THE HOME WITHOUT A WARRANT," *Minnesota v. Olson* (1990).
11. Vol. 21, No. 6, "THE AUTHORITY OF BAIL BONDSMEN."
12. Vol. 23, No. 5, "THE 'AGUILAR/SPINELLI' TEST – PROVING THE RELIABILITY OF AN INFORMANT," *People v. DiFalco* (1993).



# POLICE STUDENT'S GUIDE

## Use Of Force

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT USE OF FORCE?

Egon Bittner, a police scholar, has a good answer to this question. He suggested that the reason the police exist is that, when all else fails, civilized societies need some way to forcibly maintain order and protect the public, and that the police have been given this job. As Bittner sees it, the thing that makes police unique is that they are given more leeway than anybody else in using or threatening to use force. According to him, other organizations could perform many of the service functions of the police – handling Aided and Accident Cases, looking for lost children, helping people who have locked themselves out of their apartments. But, he argued, only the police can handle situations that already are violent or that have the potential for becoming so. In most of these situations – enforcing laws, chasing disorderly groups, maintaining order at parades and demonstrations, breaking up street fights, resolving domestic disputes – the people involved typically follow the directions of the police because they know that, if they do not, the police have the authority to force them to do so.

When police officers ask traffic violators for their licenses, for example, the violators typically turn them over because they know that, if they do not, the police have the authority to arrest them, using whatever force is necessary to do so. When asked to do so by police officers, noisy kids usually leave their street corners not because they want to, but because they know that officers can forcibly maintain order in these situations by arresting them. One reason to know about force, therefore, is that you will soon be authorized to use more of it than anybody else in our society.

But society will only reluctantly give you the authority to use force, and will demand that you use no more of it than is reasonably necessary. As a result, you also need to know how to avoid using force when it is possible to do so; how much force you may use in different situations; and how you will be held accountable for using no more force than is allowed. You will obviously be held accountable for using force lawfully, but you will also be required to follow the Department's far more restrictive policies and rules related to use of force.

Ordinary citizens also are authorized to use force in some situations and, if you are to properly enforce the law, you need to know the differences between legal and illegal use of force by citizens.

The material in this chapter deals with life and death issues so that, before you will be permitted to carry a firearm, you must fully understand it. You must learn how to define and apply force in a way that is consistent with the law and the New York Police Department's responsibility to protect life. You must be able to apply the contents of this chapter and Patrol Guide Sections 203-11 and 203-12 regarding the use of force.





# POLICE STUDENT'S GUIDE

## Use Of Force

### HOW MUCH FORCE IS REASONABLE AND NECESSARY?

Police officers are granted a number of options or tools that can be used to gain compliance or to restrain the behavior of others in different situations. When used as authorized by law and Departmental policies, these tools provide the flexibility that you will need to meet your responsibility to protect life and liberty while also gaining the cooperation of individuals who may put up varying degrees of resistance. Skilled use of these options require that you use no more force than is appropriate to the situation. In this section of this chapter, we describe the method the Department has developed to help you quickly analyze situations and to choose from various force alternatives the ones that are most appropriate. First, however, we briefly discuss your responsibility for avoiding the use of force whenever it is possible to do so.

#### **Avoiding the Use of Force**

In this chapter, you will learn about both the legal standards for the use of force and about the police professional standards reflected in the Department's policies and rules. The first thing you should know about these is that they are not the same. The legal standards on use of force generally are found in the New York State Penal Law sections on Justification, as well as in federal court interpretations of the Constitution. These draw the distinction between force that is legally justifiable and force that is criminal. If you follow the legal standards, therefore, you will not be charged with any crimes; but this does not mean that the Department will approve all legally justifiable uses of force. This is so because the Department's standards for use of force are more restrictive than the legal standards, and not all legally justifiable force is acceptable in this agency.

The Penal Law says nothing about using your firearm to defend yourself against a person in an oncoming car, for example, so that doing so would not be likely to result in criminal charges. The Department, however, prohibits the use of deadly force against the occupants of moving vehicles except in situations in which the vehicle occupants are using deadly force by means other than the vehicle. In practical terms, this usually means that NYPD officers cannot shoot at moving cars unless they are under fire from the occupants of such cars. Violating this policy – by shooting at an oncoming car when its occupants are using no other force – may involve no crime on the part of the officer involved, but is very likely to result in disciplinary action.



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In much the same way, the legal standard for use of force focuses upon the circumstances that exist at the instant that officers use force. If, for example, an officer has reason to believe that his or her life is in real danger at the instant he or she shoots the person presenting the danger, the shooting is very unlikely to result in any criminal charges. But, in determining whether a use of force was within policy, the Department will look not only at the circumstances at the instant force was used, but also at factors that helped to create these circumstances. In such cases, the tactics used by officers will come under careful review by the Department.

Here's an example: Officer Adams responds to a report of an emotionally disturbed person (EDP) who is wielding a knife. Instead of following approved procedures for such a situation – by trying to contain and calm the EDP and to talk him into custody – Adams challenges the EDP. He draws his firearm, walks up on the EDP, and loudly demands that the EDP drop his knife immediately. All of this agitates the EDP even further, and he suddenly runs at Adams with his knife raised. At that point, Adams' life **is** in imminent danger, and he shoots the EDP.

In such a case, the District Attorney might not indict Adams because, at the instant he fired, Adams had reason to fear that his life and safety were in imminent danger from the EDP. The Department is very unlikely to be so generous to Adams, however, and is likely to discipline him for unnecessarily forcing this confrontation and helping to create the circumstances that gave Adams no choice but to shoot in order to save him.

Thus, even though a shooting or other use of force may be legally justifiable, it is likely to result in Departmental discipline if it occurred because an officer unnecessarily put himself or herself in harm's way by using poor tactics or by violating other Department procedures. Because the Department takes its responsibility to protect life so seriously, officers who have to hurt or kill people in order to get themselves out of danger- that they should have avoided by using proper tactics - are very likely to be disciplined.

Such cases also are likely to result in civil suits against officers and the Department. In civil court, as in Departmental proceedings, the focus also is upon the tactics used by officers immediately prior to the use of force, and upon whether improper tactics contributed to the need for force that could otherwise have been avoided. If an attorney in such a case can show that officers violated Department policy or did not act as they were trained to act in such circumstances, the officer and the Department are likely to lose.

In such cases, the Department and officers also lose in terms of public trust and credibility. Citizens expect that we will act with restraint and concern, and that we will do



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whatever is possible to avoid having to resort to the use of force. This is especially true in cases involving emotionally disturbed persons, angry kids, domestic disputants, and others who are not hardened criminals. Right or wrong, when officers use force against such people, critics have something to say about it. But, regardless of whether it is legally justifiable, the use of force in situations in which officers have engaged in unnecessary confrontations or otherwise used bad tactics alienates the people who most need us and damages our relationship with the whole community.

Clearly, it is in everybody's best interest if, whenever possible, officers avoid the use of force. This is not always easy and, in subsequent chapters, as well as in Physical Training and Tactics and at the Outdoor Range, you will learn techniques that have helped officers in avoiding force in specific situations. For now, be aware that tactics is the science of structuring potentially dangerous confrontations in ways that keep the use of force to a minimum and that best assure the safety of the public, officers, and suspects.

Good tactics is intelligent policing. Good tactics save lives and have meant that, year in and year out, NYPD officers are less likely than officers in other large police departments to hurt and kill people or to be hurt and killed. We value good tactics highly, and will expect you to use them in every encounter you have. Thus, you will learn a lot about them here and throughout your career.

### **WHAT IS THE PURPOSE OF POLICE FORCE?**

It is critical that you understand the authorized purposes of police use of force. In the most general terms, in certain situations (which we'll define later), the police are permitted to use force to stop people from doing things that are illegal and/or dangerous to themselves or others; or that threaten public order; or to take people into custody to answer for criminal behavior. Thus, in some carefully delineated situations, the police can use force to take control of people who would otherwise be imminent threats to the lives and safety of innocent people or even themselves; or who otherwise would successfully complete or escape from crimes; or who otherwise would threaten public order. Officers cannot arbitrarily select from the force options available to them, however. As you will see below, the amount of force you are permitted to use must be carefully matched to the nature of the situation you are confronting and the danger it presents.



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The police are not authorized to use force to punish people, or to teach them lessons: when police officers do this, they engage in criminal brutality. To paraphrase the United States Supreme Court, the police may use force only to take control of people who cannot otherwise be controlled. When police use force against people who can be controlled in other ways, they act wrongly.

Even when police use of force to control people is fatal, the Supreme Court has stated that police use of force is a form of seizure. Therefore, in determining whether police have used force reasonably, the federal courts use a Fourth Amendment test that uses a single question: was the force used reasonable and necessary to seize, or bring under police control, the person against whom it was used?

### THE ESCALATING SCALE OF FORCE

Because the term reasonable and necessary is a bit vague, we have developed an escalating scale of force to clarify it, and to assure that NYPD officers' actions always pass this constitutional test. The scale matches several general types of situations or provocations with the degree of force that is reasonable and necessary for each. As you study the scale, it is important to keep in mind that the techniques described below are not necessarily to be applied one after the other in an escalating manner. One of the lowest levels of force on this scale, for example, is verbal persuasion, which generally consists of making requests of citizens and attempting to calmly convince them to comply with your wishes. This technique is appropriate in minor situations, in which the potential for violence is remote. In such cases, like noise complaints or routine traffic stops, it is appropriate to engage in verbal persuasion – “Hey, guys, we’re getting complaints about the noise. Why don’t you turn down the radio and leave the corner?” or “May I see your license, registration, and proof of insurance, Ma’am?” In more serious cases, you will begin your encounters much higher up the scale than this.

When confronting a suspect in the midst of an armed robbery, trying to use verbal persuasion (“Pardon me, Sir, but you are engaged in a violent felony. Please stop pointing your gun at that cashier and put it down”) would be both insufficient and very dangerous. In such a situation, it would instead be reasonable and necessary for you to begin somewhat higher up the scale, by taking cover, drawing your weapon, pointing it at the suspect while he is in a vulnerable position (e.g., when he is totally exposed and/or looking in another direction), and shouting the Department challenge **“POLICE! DON’T MOVE!”** When you do this, you are protected by both your cover and the advantage of having the suspect in your gun sights. This will leave the suspect to decide whether you move further down or up the scale. If, as almost always happens, the suspect realizes that he has no real choice but to surrender, you will be able to move down the scale and to take him into custody. When this happens, your good tactics will have made it



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possible for you to avoid using higher degrees of force while still taking the suspect into custody.

If, on the other hand, the suspect tries to shoot it out with you, you probably will have to move up the scale, and use deadly force. If this happens, your good tactics and his foolhardiness will protect you and make him a certain loser. Behind your cover and backed by your partner, you will be a small target and the suspect will be a big one. You, and your partner, will already have the suspect in your gunsights, but he will have to turn, find you, and point his gun at you before he can fire.

Whether such a situation results in a quiet arrest or an unfortunate shooting, the Department will recognize that you did everything possible to avoid using deadly force. If you did have to use your firearm in such a situation, the Department will recognize that doing so was both a reasonable and necessary reaction to the suspect's decision to attempt to fight rather than to surrender.

## **SCALE OF ESCALATING FORCE**



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<u>Provocation or Condition</u>	<u>Appropriate Force Response</u>
<b>Imminent threat of death or <u>serious</u> physical injury</b>	<b>Deadly force:</b> usually the firearm.
<b>Threatened or potential lethal assault</b>	<b>Drawn and/or displayed firearm</b>
<b>Physical assault</b> likely to cause physical injury	<b>Impact techniques:</b> batons, fists and feet.
<b>Threatened or potential physical assault likely to cause physical injury</b>	<b>Pepper Spray</b>
<b>Minor physical resistance:</b> grappling, going limp, pulling or pushing away, etc.	<b>Compliance techniques:</b> wrestling holds and grips designed to physically overpower subjects and/or to inflict physical pain that ends when the technique is stopped and that causes no lasting injury.
<b>Verbal resistance:</b> failure to comply with directions, etc.	<b>Firm grips</b> on arms, shoulders, etc., that cause no pain, but that are meant to guide people (e.g., away from a fight; toward a police car)
<b>Refusal to comply</b> with requests or attempts at persuasion (see below)	<b>Command voice:</b> Firmly given directions (e.g., "I asked for your license, registration, and proof of insurance, Sir. Now I am <b>telling</b> you that if you don't give them to me, I will have to arrest you.")
<b>Minor violations or disorderly conditions</b> involving no apparent threats to officers or others	<b>Verbal persuasion:</b> Requests for compliance (e.g., "May I see your license, registration and proof of insurance, Sir?")
<b>Orderly public places</b>	<b>Professional presence:</b> The officer on post deters crime and disorder; the Highway Unit deters speeding.

In **increasing** order of severity, the steps on this escalating scale are as follows:



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### Professional Presence

Preventive policing is based on the idea that the visible, professional presence of uniformed police officers deters crime and maintains order. Even without speaking to people or interacting in any way with members of the public, uniformed officers – whether in cars, or on bikes, motorcycles, horses, scooters, or foot – have an enormous effect on the conduct of people on the streets and the quality of life on them: merely by their presence, officers persuade people to act in legal and orderly manners. It is not enough to merely be there, however. Whether assigned to routine patrol or some special detail (like a labor dispute or a sporting event), uniformed officers must present themselves as unbiased, knowledgeable, competent, and capable. In doing so, they should keep in mind that the best way to maintain order and to assure citizens' compliance with the law is to win their cooperation voluntarily, rather than to do so forcefully.

This last point – the need to win voluntary compliance with the law – is an important one. More than a generation ago, the great African-American writer, James Baldwin, wrote that many inner-city people regarded the police as soldiers in an occupying army, on duty and present to forcibly keep local residents in line. Clearly, Baldwin saw the police as apart from the community. The Department did little to change this view: at the time, officers wore no name tags and the NYPD had a regulation prohibiting officers from engaging in “unnecessary conversation” with citizens. We have learned a lot since then and, as you become a professional presence on our streets, you should instead strive to become a part of the community. Do not be a forbidding presence: talk to people; get to know them and their problems, and what you might be able to do to help them. If the community gets to know you, trust you, and know that you are interested in them and their problems, your work will become much easier and more rewarding and, in the long run, you will be less likely to have to resort to higher degrees of force to get your job done.

### Verbal Persuasion

Verbal persuasion provides a second means by which police officers can gain compliance. In some situations police presence is not enough to convince people to behave appropriately. In other cases, you will come across persons who have committed minor violations and will have to obtain their identification so that you can issue summonses to them. When this is so, you will have to talk with them. Whenever possible you should do this in a friendly way, by making requests or suggestions: It always is to your advantage to convince suspects and others to peacefully submit to

your authority so that, whenever possible, verbal persuasion is preferable to physical force.



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### Command Voice

When persuasion, or rational urging, is not appropriate to a situation or does not get the desired results, a command, the next level on the scale, may suffice. Here, you should let people know, firmly and authoritatively, that you mean business, and that it is in their best interest to submit to you. In most situations, proper use of this technique gets the desired results, and makes it unnecessary to resort to actual physical force. Commands should be given clearly and without profanity. Swearing, in the manner of movie and TV police, is offensive and causes people to question both your authority and professionalism which might make things worse rather than better. It also is a cause for discipline, and should be left to the movie cops.

The advantages of verbal means of coercion have been proven by our Department's Hostage Negotiation Team, which consistently defuses extremely volatile situations without going beyond the use of verbal force. Their experience has taught us that a well-trained officer is able, in many situations, to combine requests, commands, and appeals to reason in order to successfully convince a suspect of the futility of continuing or engaging in violent or evasive behavior. In many situations, the suspect who is being arrested offers resistance partly because he or she is anxious about what will follow. A simple explanation given by the arresting officer may alleviate the subject's fears and allow him or her to peacefully surrender.

When dealing with emotionally disturbed persons, keep in mind that commands are likely to increase their anxiety and to make them even more difficult to subdue. As long as nobody is in imminent danger, therefore, officers should try to stabilize EDP situations through persuasion and by taking as much time as necessary to talk them into custody without resorting to commands or higher levels of force. By definition, emotionally disturbed persons are irrational, so that it is difficult to intimidate them. Instead, commands, directions, and orders may simply increase these persons' paranoia and fright, causing violence to increase, rather than decrease.

### Physical Force: Hands-On Techniques

Thus far, we have discussed only verbal techniques that do not involve physical contact with subjects. Although these almost always convince people to obey the law or to submit to officers' authority, there are situations in which higher levels of force must be used. As we move further up the scale, these techniques involve the use of increasing degrees of physical force, beginning with firm grips and moving to compliance holds.

#### Firm Grips

A firm grip is a form of persuasion that involves actual contact with a subject who,





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usually, has not been responsive to persuasion or commands. A firm grip is a hold on an arm, shoulder, or other body part that is not intended to cause pain or to physically disable a subject. Instead, it is used to gain a subject's undivided attention, to reinforce verbal techniques and, usually, to move or guide a person from one place to another. In responding to disputes, for example, officers may find that disputants are so involved in arguing with each other that they do not – or choose not to – hear officers' commands to break it up. In such cases, officers can use firm grips, usually on shoulders or biceps, to gain the subject's attention and to turn them and lead them away from their disputes. In other cases, subjects of stop and frisk encounters may resist officers' verbal attempts to assume positions in which they may be frisked: a firm grip on the arm which guides them to a wall or car is usually enough to do the job. Similarly, drunk driving suspects frequently try to talk officers out of conducting field sobriety tests: in such cases, a firm grip may be a useful way of moving them to a location where they can safely be tested out of the way of traffic. When officers place firm grips on subjects, they are saying, in effect, that they **mean business**, and are sending subjects a clear message that continuing resistance will result in the application of greater degrees of force.

### Compliance Holds

In some situations – like responses to assaults or fistfights in progress – it will be clear from the start that firm grips are not likely to restore order. In other situations, subjects' active resistance to firm grips will require that the level of force be increased. A person who is not actively attempting to hurt officers, but who is resisting arrest by squirming, pulling or pushing away, or attempting to flee is a suitable candidate for compliance holds. In your tactical training, you will be taught a variety of these holds, mostly arm locks and wrist holds that gain compliance by causing temporary pain that ends as soon as, or shortly after, subjects comply. One additional technique is speed cuffing, which involves distracting a subject and applying handcuffs in a way that causes temporary discomfort and compliance. Other compliance techniques involve simply overpowering a resistant subject by forcing him or her up against a wall or to the ground in ways that usually involve more than one officer and that do not inflict pain. During your tactical training, you will learn a number of these techniques.

Before employing any compliance technique, there are several things to keep in mind:



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- **The purpose the police using force is to gain control of people, and not specifically to cause pain.** The police are on the scene to control and/or to arrest; not to punish. Our job is to restore order and to take people into custody. Sometimes, unfortunately, we have to hurt people to do this job; but whatever pain we have to inflict should be as little and as temporary as possible, and should be for no purpose other than to gain control of people who cannot otherwise be controlled.
- **When in doubt that a firm grip or compliance technique will succeed, don't use it.** Using any firm grip or compliance technique requires you to come into actual contact with subjects who are not yet in custody or control, and thereby compromises the security of your firearm and any other weapons (baton; OC spray) that are within the suspect's grasp. This is a serious concern: around the United States, about 15 percent of all officers who are shot in the line of duty are shot with their own weapons after they have been disarmed of them. Thus, you should **enter into hand-to-hand confrontations only when you are virtually certain that your strength and skills are adequate to decisively control a subject.** Often, this means that you should not engage alone in forcible hand-to-hand contact with subjects: it is your responsibility to protect life, to enforce the law, and to maintain order: **it is not your responsibility to be able to physically overpower everybody who refuses to submit to your authority.** If you find yourself alone in a situation in which you must subdue someone who has not submitted to persuasion or commands, you should call for assistance **before** physically confronting the subject. If there is no time to wait for help – as when the subject warns you that he or she intends to leave and will fight you if you attempt to stop him or her – the subject has escalated the situation into one that authorizes you to skip right past unarmed techniques in favor of using OC spray to accomplish your mission. This is not cowardice: it is common sense. When you fail to physically overpower someone with whom you have initiated hands-on techniques, you risk losing your gun, your baton, your spray and, therefore, your life and the lives of everybody in the vicinity, including the officers who respond to help you.
- **Size does not matter in these situations.** Especially if you are alone, you should never base a decision to use compliance techniques, rather than OC spray, on the fact that you are bigger than a subject, or that you are younger, or that you seem to be in better physical condition than a subject. Consider - before you use physical force on someone- that you have no way to know the answers to the following:



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- **What does this person have to lose by submitting to you?**  
When you respond to a domestic disturbance or a fight on the street, for example, you will usually know only what the radio dispatcher has told you about the situation. You usually will not know whether one of the parties may have outstanding warrants for serious crimes, or may be a suspect in investigations of far more serious offenses than a street fight or misdemeanor domestic assault. Think about that by putting yourself in the other person's shoes for a moment: if you were wanted for a murder in another state or for a series of robberies in another precinct, how vigorously would you fight a police officer who was trying to take you into custody for punching someone in the nose on a New York City street?
  
- **Is this person a martial artist?** By the time you graduate from the Police Academy, we will have made you aware of and competent to use a wide variety of force techniques. But, unless you have had martial arts training prior to entering the Department, you still will not possess any black belt except the ones that hold up your trousers and carry your equipment. There is no way for you to know in advance whether the people who resist you on the street have such training; many gang members do; many paranoid people do; and many prison inmates spend their time honing their physical skills. Trying to deal forcibly with these people one-on-one may turn out to be a losing proposition.
  
- **Is this person's behavior influenced by drugs or some mental imbalance?** Most of us have heard stories about emotionally disturbed persons or drug abusers who demonstrated "superhuman strength" in struggles with police officers or others who were physically attempting to bring them under control. Most scientists agree that "superhuman strength" is a myth, and that the real problem is that, in struggles with the police, some emotionally disturbed or drug induced persons are so irrational that they have no fear of injury and are unresponsive to pain. That presents a big problem for police officers like you because, as a rational person, you do have a fear of injury and you do respond to pain. As the world's current struggle with suicide bombers demonstrates, it is very difficult for rational people who feel fear and pain to subdue individuals who do not care about what happens to themselves.



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- **Is this person really alone?** If you become involved in a physical struggle with a person you are attempting to take into custody, you may find that the individual suddenly develops allies who join him or her against you. This is not at all uncommon at domestic situations, where officers who have attempted to subdue a person who has been assaulting another suddenly find that the original assault victims have joined in the struggle against the police. On the street, as well, when struggles to take people into custody last more than a few seconds, officers have sometimes been surprised to find that bystanders have jumped into the fray against them.

The point is this: especially in one-on-one situations, officers who attempt to forcibly subdue subjects give up the advantages of special equipment (spray; baton, firearm; radios to call for the assistance of other officers) designed to help them get the job done. When you attempt to subdue a person alone, you are betting, in effect, that you are more capable than he or she is. On the street, you may win this bet over and over again: but you can only lose it once. Thus, if it is at all possible, it is advisable to wait for assistance before using compliance techniques to subdue offenders. When it is not possible to wait, it is usually advisable to show resistant subjects that you are equipped with OC spray and that you are willing to use it. If need be, of course, you may actually have to use it.

If you are getting the idea that we are encouraging you not to use compliance techniques when you are alone with subjects, you're right. You represent the laws and the people of the State and City of New York. When you take action, therefore, you should always succeed in what you attempt, and you should use as little force as necessary in doing so. This means that you should always attempt to structure your confrontations with subjects in ways that make it unlikely that you will have to use any force at all, and that also stacks the deck so that, if force does become necessary, it will get the job done.

When you are working at demonstrations, disorders, or other events at which large numbers of officers are present, your supervisors and commanders will closely control decisions about whether and how much force should be used. When you are on patrol or taking action in other situations, however, you will have to make most of the decisions yourself. In doing so, try to follow these guidelines:

- Before you forcibly subdue subjects, especially in ways that involve more than firm grips, always try to have them outnumbered. If at all possible, try to freeze the situation and to get help to the scene before you employ compliance techniques.



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- If it is not possible to get help to the scene before taking forcible action to control subjects, give serious consideration to using pepper spray rather than compliance techniques.
- If you forcibly subdue someone by pinning him or her on the abdomen to the ground or floor or against a wall or other hard object, get the subject off his or her abdomen as soon as possible. Always be alert to the dangers and signs of positional asphyxia, and make sure that it does not affect anybody you take into custody.

### Pepper Spray

One of the great advances in police technology has been the development of aerosol pepper sprays. The version employed by this Department is oleoresin capsicum cayenne pepper spray, or OC spray, which is issued by the Firearms and Tactics Section and is the only variety of spray authorized for use by officers. This spray can be used when physical force is required to protect the officer or others from assault, or to restrain or subdue a suspect or emotionally disturbed person who cannot be taken into custody by lesser means. The Penal Law would also allow its use against people who are fleeing arrest, but a fair reading of Department policy indicates that such flight would have to be accompanied by the subject's use of force.

OC spray offers several advantages over other force techniques:

- **It is an unknown entity** for most subjects, and, therefore, is likely to create great fear. Many of us, police and citizens alike, know from our experience as children what it is like to be struck or to engage in a physical struggle. Few of us know what it is like to be sprayed in the face with a chemical, and would face such a situation with great fear and anxiety. Consequently, the experience of this Department, and of officers throughout the country, is that subjects most frequently submit to officers simply when officers unholster and display the spray and announce that they will use it unless resistance ceases. Thus, it has great value as a deterrent to violence.
- **It can be used at a distance.** Unlike compliance techniques, OC spray can – and should – be used from a distance of several feet. This means that it keeps officers out of physical contact with suspects. Using OC while officers are in actual contact with subjects would mean that they would also



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become contaminated, and should be avoided.

- **Its effectiveness is independent of physical strength or martial arts expertise.** It is a great equalizer, just as effective in the hands of slightly built officers as in the hands of large and powerful officers and just as effective against black belt karate experts as against drunken bar fighters.
- **It has no lasting effects.** OC spray causes stimulation and irritation on the mucus membranes of the eyes, nose, mouth, and throat. The most common reaction is intense burning and tearing of the eyes, so overwhelming that it temporarily disables people who have been hit with it. But this is relieved with rinsing and typically fades within a short period (less than an hour), sometimes leaving people with slightly reddened eyes that return to normal over the next several hours. This is a great advantage over compliance techniques and impact weapons (like the baton) which have, on occasion, caused fractured bones and other unintended injuries.

When consistent with personal safety, a verbal warning should be given before using pepper spray against an unarmed subject.

Pepper spray may not be used on suspects who passively resist arrest. (i.e., going limp, offering no physical resistance). If possible, avoid using pepper spray on persons who appear to be in frail health, young children, women believed to be pregnant or persons with known respiratory conditions.

Pepper spray may also be used effectively to control dangerous animals. Pepper spray should be used as an initial defense against vicious dogs, with firearms used only as a **last** resort. Firearms fired at animals are often discharged at close range and in close quarters. There is a substantial risk of injury to nearby persons if a discharged round misses or passes through the target animal.

The police world is full of rumors about OC spray. These include claims that it does not work against certain groups of people, like intoxicated persons and the mentally disturbed. There is no basis for this claim; the United States Justice Department's studies show that it works equally well against all classes of subjects. Most specifically, it produces the desired results immediately about 85 percent of the time. This may sound low, but it is perfectly comparable to the success rates of other force techniques. If persuasion were always effective, for example, officers would never have to resort to higher degrees of force. If deadly force always disabled subjects immediately, officers would never have to fire more than one shot. The fact is that there is no police force



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technique that works 100 percent of the time. Where OC spray is concerned, the 85 percent success rate means that officers should always be prepared to resort to other means of force in the event that OC spray does not disable a subject.

Another rumor is that OC spray kills. The Justice Department has investigated this as well, and has reported that some people have indeed died after being sprayed with OC. In these cases, however, death was attributable to factors other than OC, most typically to positional asphyxia caused by confining them longer than necessary in the face down positions we want you to avoid. Probably the most bizarre rumor about OC spray is that it caused one subject who was sprayed with it to explode into flames. We are aware of no documentation for this one either (see Granfield, Onnen, and Petty, 1994; Edwards, Granfield, and Onnen, 1997). As soon as possible after a sprayed person has been subdued, his or her face and other affected areas should be rinsed and the person should be transported to an emergency room for medical examination.

When subjects are threatening or using deadly force, pepper spray should not be utilized. In these circumstances, assuming that verbal persuasion is ineffective or cannot be used because of the immediacy of the threat, an appropriate response would be the use of the baton or firearm. Pepper spray is not considered effective against dangerous weapons or against deadly physical force. Keep in mind also that patrol sergeants and the Emergency Service Unit have available to them additional non-lethal devices. You should become familiar with the contents of Patrol Guide Procedure 212-95, Use of Pepper Spray Devices.

### **Impact Techniques**

Impact techniques may be used to protect officers or others against assault. Such techniques include the use of batons and the use of fists and feet. Whenever possible, it is preferable to use OC spray to ward off such assaults, but this is not always possible. Officers occasionally find themselves in confined spaces in which they cannot spray subjects without also contaminating themselves, other officers, or innocent persons. In other cases, aggressive subjects may close the distance between officers and themselves before officers have an opportunity to use their spray. In such cases, impact techniques must be employed.

Here, there is another preference: whenever possible, officers should use the baton rather than their fists or feet. The baton is by definition a deadly weapon, but this does not mean that every time officers use their batons they are using deadly physical force. It simply means that officers should understand the capability of the weapon while using it within the limits of law and Departmental policy to gain the desired goals (compliance, self-protection, and/or to subdue the subject and take him or her into custody). You may use the baton as an instrument of force to steer a disorderly crowd



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into a designated area; or you may use it to defend your life.

In your physical training, you will learn how and where to strike with your batons, fists, and feet. For now, it is sufficient to point out that strikes to some parts of the body – the head, throat and neck, solar plexus, and groin constitute a form of deadly force in that, while they are not likely to kill, they are likely to cause serious physical injury. Stay away from these areas unless the circumstances justify the use of deadly force.

### **Drawn and/or Displayed Firearms**

Merely drawing a weapon, regardless of whether it is pointed at anybody, causes no injury to anybody. Still, this should be considered a high level of force, because it certainly changes the nature of officers' contacts with citizens. Drawing and displaying the firearm often is a deterrent to violence, because it lets suspects know that they are very close to a much higher degree of force.

Because drawing the firearm is so provocative and alarming, it should be done only under circumstances in which officers reasonably believe that they may soon have to use deadly force to defend themselves or others against lethal assaults. Such circumstances may include:

- responses to violent crimes in progress;
- searches for hidden or fleeing violent crime suspects;
- confrontations with known violent offenders or persons alleged to have committed crimes punishable by lengthy sentences (e.g., as in serving warrants on armed robbers or drug traffickers; making felony or high-risk vehicle stops).

There also is a difference in the way a firearm may be handled once it is drawn. In trying to talk down a knife-wielding emotionally disturbed person, for example, it is usually a good idea for at least one officer to have a firearm drawn. All that such a person has to do is charge an officer and these situations escalate so that they justify the use of deadly force, which had better be available quickly. At the same time, allowing such a person to see that a firearm has been drawn escalates this situation and may cause the EDP to believe that the police are lying when they tell him or her that they mean no harm and are present only to help. In such a situation, any drawn weapon should be concealed from the subject (e.g., by holding it down and out of sight, behind cover). In the same way, letting participants to domestic violence see that firearms have been drawn (e.g., because one participant not yet in custody is holding a knife or a





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hammer, or has committed a serious violent assault) may cause the situation to escalate.

Letting more rational offenders, like robbery and rape suspects, see that weapons have been drawn sends a different message. It lets them know that officers are prepared for any possible escalation, and usually acts as a deterrent to further violence or resistance.

One additional caution on drawing weapons: **except in the most extreme circumstances, officers who are holding drawn firearms should never come within striking distance of suspects.** Instead, officers who are holding drawn firearms should keep a safe distance away – ten feet or more. If they are alone, officers should freeze confrontations in this manner until assistance arrives to help cuff and search suspects. There are several reasons for this:

- As previously indicated, about 15 percent of U.S. officers who are shot in the line of duty are disarmed of their own weapons and shot with them.
- If an offender who is being held at gunpoint by an officer who has come too close to him or her decides to forcibly resist the officer, he or she has great advantages over the officer. Such an offender has both hands free to overpower the officer, but one of the officer's hands – almost always the stronger hand – is tied up in trying to safeguard the weapon. It is nearly impossible for officers who are handicapped in this way to overcome such a suspect and, if they fail to overcome them, either officers or suspects become victims of shootings that should not have happened.
- Such situations greatly increase the chances of accidental or unintended shootings. Should suspects make some unanticipated movement – like turning to explain themselves, reaching for their identification, slipping, or tripping – officers are likely to be startled and to pull their triggers. Should suspects try to forcibly resist, the chances of an accidental shooting that will strike the suspect, an officer, or a bystander are increased significantly.

### Deadly Physical Force

Deadly physical force is physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury. Across the



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United States, police officers have used deadly force in a variety of ways: they have used dogs, explosives, batons, and martial arts techniques in ways that have killed people or caused serious physical injury. For us, however, deadly force almost always means the firearm; it is a weapon of deadly force and may be used only under very specific conditions.

The New York State Penal Law defines situations in which deadly force by police officers is justifiable. In its 1985 decision in *Tennessee v. Garner*, the United States Supreme Court defined the circumstances in which police may constitutionally use deadly force. It is important to know both sets of rules, but it is most important to know and thoroughly understand this Department's policies on the use of firearms. This Department's policy is more restrictive than either the law or the Garner rules. Consequently, it is possible to engage in firearms use that does not violate the law or the Constitution, but that does violate Department policy. On the other hand, so long as your conduct falls within the limits of Departmental policy, it also will fit within the limits of the Penal Law and the United States Constitution.

### THE NYPD POLICY ON USE OF FIREARMS

This Department's firearms policy is based on the principle that the primary duty of all members of the service is to preserve human life. The New York City Police Department recognizes the value of human life and is committed to respecting the dignity of every individual.

But there are situations in which members of the service will find it necessary to use physical force or deadly physical force to defend themselves or other persons. The most serious act a police officer can engage in is the use of deadly force, and you will be held responsible for having a complete understanding of the Department's policy on the use of deadly physical force.

There are two major reasons for the existence of a deadly force policy that is more restrictive than the law. First, the law is very vague, and does not give adequate guidance for the life or death decisions that may confront some of you over your careers. Second, the New York State Penal Law applies with equal force to police officers in this huge and crowded city, in tiny upstate towns, and in the Adirondack Wilderness. This is useful in defining most criminal behavior, but it creates some problems when trying to set guidelines for police officers' discretion. Thus, this Department, like most others throughout the state, has developed its own deadly force policy and mechanisms for enforcing it.



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This Department's policy has been designed to protect the public by keeping shootings to a minimum and, combined with the Department's training, supervision, and equipment, to protect officers, as well. It has been very effective at both tasks, and has had no undesirable effects on public safety or crime rates. By now, you already know that New York has, for several years, enjoyed the lowest crime rates of any large American city. You should also know that police work in this city is safer than it has ever been, and that New York City police officers have long been less likely than police in any other large city to resort to their firearms.

As far as officers are concerned, the major purpose of the policy is to relieve them of the responsibility of having to decide what to do next in situations that may legally authorize the use of deadly force. Certainly, there must be a certain amount of discretion left to all officers in the use of their weapons. But the purpose of the deadly force policy is to help officers to make the right decisions by placing reasonable limits on their discretion.

### **These guidelines are as follows:**

- 1. In all cases, only the minimum amount of force necessary will be used, consistent with the accomplishment of a lawful objective. Firearms are to be used as a last resort, and then only to protect life.**

In reading the policy, and the law, one is apt to glance quickly over the word necessary but, upon reflection, it has very important meaning. It means that you are justified in using physical and deadly physical force only when it is essential and then, that you may use only the amount needed to accomplish the objective.

The phrase dictating that shooting should be a last resort means that you should shoot someone only when there are no other available ways of protecting yourself or someone else against imminent death or serious injury. This is not as simple as it sounds. If you are involved in a shooting, the Department will review it carefully to determine whether you used appropriate tactics prior to the shooting. This includes an analysis of whether you may have unnecessarily put yourself into a position that gave you no choice but to fire your weapon. Among the questions the Department will ask are the following:

- Did the officers involved in this shooting approach this situation cautiously and in a manner that is consistent with their training?
- Did the officers take advantage of all reasonably available assistance, information,



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and tactical considerations (i.e., cover), before confronting the individual they shot?

- Did the officers avoid forcing an unnecessary confrontation with the individual they shot?
- Was the officer's reaction at the time of the shooting reasonable, or is there evidence that the shooting was the result of panic or carelessness?

### **2. The firing of warning shots is prohibited.**

The Department had several goals in establishing this provision. The first was to see that officers know where every shot they fired is headed. It is impossible to know where shots fired into the air will fall to earth or whether, when they do, they will strike someone or something. Further, in areas where there are high rise buildings, it is impossible to know whether warning shots will hit someone on high floors, or whether they will ricochet off some hard surface and then strike an innocent person. The Department also sought to assure that officers would refrain from using their firearms except in the most dangerous situations, and that they would then only do so against the persons presenting the danger.

### **3. Discharging a firearm to summon assistance is prohibited, except in emergency situations when someone's personal safety is endangered and when no other means of getting help are reasonably available.**

When you need help, the best way to get it is to use a telephone or portable radio, or simply to call out. When such means are available, there is no reason to fire shots into the air and hope that they will attract assistance. Again, good judgment is the rule that should be followed. If you or someone else is in great danger and no other methods of communication are available, it is permissible to fire shots for the purpose of summoning assistance. Such circumstances are extremely rare, however. One example of such a situation involves a police officer who fell through a floor into a darkened basement, and was injured. In his fall, he lost his radio and flashlight, and was too badly injured to call out. To let his colleagues know where he was and that he was hurt, he fired shots into the basement wall.

### **4. Discharging a firearm from or at a moving vehicle is prohibited, unless the occupants of the other vehicle are using deadly physical force against the officer or another by means other than the vehicle.**



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In plain language, this provision prohibits officers from shooting at vehicle operators who are attempting to run them down. Instead, it allows officers to shoot only at or from moving vehicles when some other type of deadly force – typically gunfire – is being directed at them from people in the subject vehicle.

This provision drew a lot of controversy when it was first established in 1972. The years since then have shown the wisdom of this provision. It has not endangered officers or anybody else, and has had no negative effects on rates of crime or public safety. Instead, it has helped this City eliminate some of the most controversial shootings and save the lives of officers and the public, as well. Here's why:

- It is almost impossible to get off an accurate shot **from** a moving vehicle. Perhaps the best evidence of this is the great number of innocent people and unintended targets who were shot in the drive-by shootings that plagued the United States during the 1980s.
- Except in the rarest of circumstances, firing a shot at an oncoming vehicle protects nobody. In such situations, officers have to make stationary targets of themselves to get off accurate shots. A far more effective means of protecting oneself in these circumstances is to get out of the way of the oncoming vehicle.
- If a vehicle is traveling fast enough to place officers or other people in danger, its operator is such a difficult target that hits with a handgun are extremely unlikely. When you practice at the Firearms Range, you will be instructed to shoot at subjects' torsos. There is a reason for this: The torso is the largest part of the body, the most difficult to move, and therefore, the easiest target to hit. The torso of the operator of an oncoming vehicle is not even visible. Instead, the only body parts visible in such circumstances are the head and, if the operator is sitting straight up rather than crouching low for cover, the neck and parts of the shoulders and arms.
- Because other persons in an oncoming vehicle are so close to its operator, attempts to hit the operator are very likely to hit one or more passengers instead. This is a serious problem for two reasons. First, even when they are involved in criminal activity themselves, passengers in an oncoming car rarely are the people who are endangering officers. Only the vehicle's operator is responsible for this and, therefore, even under the broad justification provisions of the New York State Penal Law, only the operator would be a suitable subject of deadly force.<sup>1</sup>

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<sup>1</sup> This discussion illustrates one of the differences between the Department's policy and the New York State justification statutes. Unless other deadly force also is involved, the Department prohibits officers from shooting at operators of oncoming vehicles and is very likely to seriously discipline officers who take such actions. The Penal Law



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Second, the passengers in a vehicle that is endangering the police or others may not even be voluntary participants in the operator's actions. Instead, they may have gotten into the vehicle without any idea that it was stolen, or that its operator was involved in some wrongful activity, or that its operator intended to flee from or run at police officers. Scattered through the United States are police officers who have fired into moving vehicles and killed innocent children and other passengers who had no part in what their operators were doing, and who had no way to get out of their dilemma. Punishment aside, it is very difficult to live with this; officers who follow this Department's policy will never have to.

- Many of the shots fired at moving vehicles ricochet off sheet metal – or even windshields and windows – into unknown directions. This may not be a big issue in isolated rural areas, but it is a great danger in this densely populated city, where such a ricochet might hit some innocent person. If such a ricochet does hit someone, it is likely to cause especially grievous wounds. When a bullet bounces off a surface, it typically becomes extremely deformed and jagged, inflicting much greater tissue damage than would be caused by a direct hit.
- Shooting at the occupant of an oncoming car is one situation in which success is worse than failure. When bullets strike vehicle operators, they disable operators, but do not disable or stop their vehicles. Instead, they turn their vehicles into high-speed, two-ton, unguided missiles. There is no place in New York City where this is safe and, therefore, there is no place where it is acceptable or consistent with our primary responsibility to protect life.

Would you like to test these claims? Put yourself into the following situation:

A vehicle occupied by persons wanted in connection with a robbery is bearing down on you at 60 miles per hour.

Although you have no way to read the operator's mind, he is, in fact, willing to kill you or anybody else to get away.

Consider your options: you can jump out of the path of the vehicle, or you can draw your firearm, assume a combat shooting position, and fire at the oncoming car. Either action might not result in criminal charges against you, but which is more sensible and more likely to get you home to your loved ones at the end of your tour?

Let's say that you ignore your training and the Department's policy, and that you

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is silent on this question, however. Therefore, a criminal prosecution for such an act would not be likely unless it also endangered or hurt other people – like the passengers of such vehicles, or people who may have been run over by the vehicle after its operator was disabled by an officer's shots...



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stand and fire. How many shots do you think are going to strike the driver?<sup>2</sup> In all probability the windshield will deflect all or most of the bullets which could then strike and kill an innocent bystander.

But let's assume that one or more of your shots does penetrate the windshield and that the driver is killed or disabled. What have you accomplished? Did your action stop the wheels from rolling? How much time did you spend drawing your firearm and firing? Could it be two, three or four seconds? A car traveling at 60 miles per hour is moving at the rate of 88 feet per second, or about half a city block every second. You have lessened the time you have to get out of the way of the car. After you have finished firing and see that the car is still coming at you, what are you going to do? How likely is it that you or someone else will be seriously injured by a car with an incapacitated driver? The Department does not consider this to be sensible or wise. Neither should you.

- 5. The use of deadly physical force, such as the discharge of a firearm, against any animal may only be done as a last resort, when such animal either appears to be too dangerous to control or poses an immediate threat of physical injury to a human being.**

Whether your target is a human being or an animal, you should use deadly force only as a last resort. Before shooting a dog to defend yourself or others, make every reasonable attempt to use other means to contain threats from dangerous animals. This would include utilizing such non-lethal means as pepper spray mace, or having the Communications Division request that a unit from the Center for Animal Care and Control (C.A.C.C.) or a unit from our own Emergency Service Unit (E.S.U.) respond with a dog noose, tranquilizer gun, etc. Shoot at animals only as a last resort.

- 6. To minimize the possibility of accidentally discharging a weapon, firearms shall not, under any circumstances, be cocked. Firearms must be fired double action at all times.**

Cocking a weapon by pulling its hammer back into a rest position allows it to be fired on **single action**: the single action is the hammer falling. Firing a weapon without cocking it is **double-action** shooting; the first action occurs when the trigger moves the hammer back; the second action occurs when the hammer falls. The weapon you will be authorized to carry, whether off-duty or on-duty, will not be capable of being cocked and discharged in single action, but some veteran officers still carry .38 caliber revolvers that can be fired on single action. They owned these weapons before the Department prohibited officers from carrying firearms that could be cocked and fired single-action. Since they are the only officers who can have single-action firearms, this provision

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<sup>2</sup> Keep this question in mind, and answer it again after you have fired at the Range.



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generally applies to them.

There is a reason that the Department has long prohibited cocking and single-action shooting, and why it has made sure that you will not be able to do so with your authorized weapons. Cocking a gun reduces its trigger pull from the 8-12 pounds typically required to fire a gun double-action, to 2-3 pounds. It also greatly reduces the length of distance the trigger must be pulled to fire the weapon. In other words, cocking a gun gives it a hair trigger: This is useful for sharpshooters and competitive shooters; however, it has caused nothing but problems for police officers. The hair trigger of a cocked weapon is very likely to be fired accidentally and, thereby, cause unintended injury or death.

Thus, even if you somehow come to be in possession of a weapon that can be fired single action (as in an undercover assignment where you might use a non-regulation gun), you are strictly prohibited from cocking the weapon.

- 7. Deadly physical force shall not be used against another person unless officers have probable cause to believe that they must protect themselves or another person present from imminent death or serious physical injury.**

This important provision makes our shooting policy a defense of life policy. Consistent with our responsibility to protect life, police officers should make every reasonable attempt to use other means of protecting life (i.e., verbal challenge, appropriate pursuit, portable radio, etc.) before resorting to the use of a firearm. Your firearm is to be used against others only when there is no other way to protect yourself or another against imminent death or serious injury.

- 8. Where feasible and consistent with personal safety, some warning, such as a verbal warning, must be given before shooting at another person.**

The standard NYPD challenge in armed confrontations is “**Police! Don’t Move!**” We will expect you to use this particular challenge, rather than any other, whenever you can do so without endangering yourself or others. We expect also that you will be alert and prepared to hear this challenge whenever you may be taking police action. If this happens, especially if you are in civilian clothes, do not turn toward the direction of the voice. Almost certainly, what you will have heard will be another police officer who has come upon you in the midst of your action. When this happens, the very worst thing you can do is to turn toward the voice – especially with your firearm in hand – and to try to identify yourself. If you turn, as you should readily understand, you may give the challenging officer – who has no way to know who you are – reason to believe that you and the gun in your hand present an imminent danger to his or her life and safety.





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Instead, you should follow the officer's directions: don't move. Instead, hold your position and identify yourself by shouting "I am a police officer." Then, very carefully and slowly, follow the officer's directions for identifying yourself.

If you are the challenging officer in such a situation (e.g., as when somebody you have challenged in this way identifies himself or herself as a police officer), you should hold your position – which, if at all possible, should be behind cover. From there, direct the individual to tell you where his or her shield and ID card are, and to slowly remove and display them.

The best way to make certain that you have the opportunity to safely identify yourself and to warn a suspect before having to shoot him or her is to be behind cover before you confront anybody. If you confront armed people while you are in an exposed position, you may have left yourself no real option but to shoot immediately should they react to your "**Police! Don't Move!**" challenge by instinctively turning on you with firearm in hand. If, on the other hand, you have made yourself a very small target by finding cover, you will have given yourself the protection you need to allow them a second or two to recover from their surprise, and to obey your directives. These few seconds are critical; Because you will have no way to know in advance whether the people in your gun sights are off-duty or plainclothes police officers, other law enforcement officers, or simply licensed gun holders, these few seconds may mean the difference between life and death for an innocent person or a fellow officer.

### **9. Deadly physical force shall not be used to apprehend fleeing felons who present no threat of imminent death or serious physical injury to themselves or another person present.**

The short version of this provision is that it prohibits officers from using deadly force except in defense of life. The Department's policy is that officers may not shoot merely to apprehend people.

This provision is more stringent than either the United States Supreme Court's rulings or the New York State Penal Law's Justification statutes. In **Tennessee v. Garner** (1985), the United States Supreme Court ruled that it is unconstitutional for police officers to use deadly force as a method of seizing, or arresting, unarmed suspects who are fleeing from non-violent felonies. This decision did not affect New York police very much, because such shootings had been prohibited by the New York State Penal Law since 1967. Here, Article 35 of the Penal Law has authorized police officers to use deadly force when all other alternatives have been exhausted in order to arrest persons when officers reasonably believe that one of the following circumstances exists:



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- (a) The offense committed by such person was:
  - (i) a felony or an attempt to commit a felony involving the use or attempted use or threatened imminent use of physical force against a person; or
  - (ii) kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime; or
- (b) The offense committed or attempted by such person was a felony and that, in the course of resisting arrest therefore or attempting to escape from custody, such person is armed with a firearm or deadly weapon; or
- (c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly force is ***necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force*** (New York State Penal Law § 35.30; emphasis added).

This is a very complicated set of restrictions, but the Department has made things simple for officers: **the NYPD's deadly force policy prohibits shootings in all these situations except for those defined in section (c)**. In other words, if you use your weapon in any of the circumstances defined in Sections a or b, above, you probably will not be criminally charged – but you are virtually certain to be severely disciplined for violating the Department's policy. One more time: This Department does not want its officers to shoot merely to apprehend suspects, but only to defend life.

This does not mean, however, that deadly force can be used to defend yourself only against people who are actually standing and fighting, or shooting it out, with you. On occasion, offenders who are attempting to escape arrest fire shots at police from positions of cover, and then run to more distant positions of cover from which they fire shots, and then run to even more distant positions, where they fire more shots, and so on. These are fleeing felony suspects who present a great danger to our officers and the public, because they attempt to use deadly force to escape. As such, they are exceptions to the Deadly Force Policy's section 9, above, and deadly force **may** be used against such a person.



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### **10. Deadly physical force shall not be used in defense of property.**

This provision should need no explanation. We value life much more highly than we value property, and permitting officers to wound or kill people in order to protect property would be inconsistent with our primary responsibility to protect life.

### **11. Deadly physical force is not authorized when using it will unnecessarily endanger innocent persons.**

Since officers are authorized to use their firearms only in order to protect lives, it would be senseless to allow them to use deadly force under circumstances that actually endanger innocent lives.

You should know also that the Corporation Counsel of the City of New York (the attorneys who represent New York City in civil suits) and the Police Department's Legal Bureau take this provision very seriously. When officers who have acted properly and in the line of duty are sued, the general policy of the City is to supply them with legal representation and to indemnify them, or to pay any damages that may be awarded against them. They have also determined, however, that, under certain circumstances, police officers who use deadly physical force may not be indemnified by the City for any judgments and may not be represented by attorneys from the Corporation Counsel's staff. When this determination is made, the officers involved are on their own when it comes to finding and paying for legal counsel and for any damages that a judge or jury may award the person suing the officers. Shootings that unnecessarily endanger innocent citizens are very likely to produce determinations that the City will not defend or indemnify officers. This is true especially when officers' improper or ill-advised conduct contributed to situations in which they arguably had to use deadly physical force under circumstances that endangered innocent people.

Here are hypothetical examples. As you read them, consider whether the taxpayers of the City of New York should bear the costs of defending and compensating victims for the actions of these officers:

#### The Graduation Party

Probationary Police Officer Jones decides to celebrate his graduation from the Police Academy by bar-hopping with a few of his classmates. In one crowded



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bar, he starts a conversation with an attractive young woman who is standing next to Charlie, another bar patron who has obviously had too much to drink. The young woman is very receptive to Jones. Charlie glares at Jones, and says "Hey Pal. Take a hike. I was here first." Jones suggests that Charlie go home and sober up. Charlie shoves Jones. Jones shoves Charlie back. Charlie shoves again. Jones punches Charlie, who breaks his long-neck beer bottle and comes at Jones menacingly. Jones says, "Police! Don't Move!" and pulls out his shield and gun. The crowd parts. Charlie says, "I don't care who you are. I'm gonna cut your heart out!" and slashes at Jones. Jones, fearing that his life is in imminent danger, backs up and fires three shots at Charlie, who falls to the floor, dead. The young woman, who was standing slightly behind and to the side of Charlie, also falls, her spinal cord severed by one of Jones' shots. Charlie's family sues Jones and the City, alleging a wrongful death. The young woman, paralyzed for life, also sues. Jones visits the Corporation Counsel's office, where an attorney interviews him and says:

"Okay, I'll grant that you had reason to fear for your life when you shot Charlie and that you certainly didn't mean to hurt the young woman. The District Attorney knows that, and that's why there won't be any criminal charges against you. But why should the City represent you or indemnify you in these two civil cases? Didn't you put yourself into this situation? You saw this guy was drunk. Why didn't you just walk away from him? This was not police business. This was you out for a good time and, when it went bad, you suddenly became a cop again, and you wound up firing shots in the middle of a crowd. Don't you think you should have seen where this was going right from the start?"

### Christmas Shopping

As you will learn elsewhere in this Student Guide, the NYPD's policy for encounters with emotionally disturbed persons ("EDPs") requires that officers take advantage of as much time and distance as possible, and that they try to calmly talk EDPs into going for examination and treatment. Right at the end of her tour of duty a few days before Christmas, however, Officer Smith and her partner responded to a report of an EDP with a knife. The last thing Smith needed at that point was a delay in finishing work, because she and her fiancé had reservations for dinner and tickets to a Carnegie Hall Holiday Christmas Concert. When they arrived at the scene, Smith and her partner found the subject of the call standing



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on the sidewalk, waving a large screwdriver, and talking incoherently. Smith took immediate charge. She told her partner, a junior officer, to let her do the talking and to “just back me up.” Smith walked to within a few feet of the man, and shouted, “Listen up! We don’t have all day here. We’re here to help you! Put that screwdriver down now and get in the ambulance before somebody gets hurt!” The man backed away from Smith, until he was right up against a department store window. Smith and her partner followed, and stopped a few feet from the man. The man looked around anxiously (witnesses later said he looked as though he was trying to escape the officers), and saw that he had no place to go. He waved the screwdriver directly at Smith, who drew her weapon and shouted “Drop it right now!” The man turned toward Smith’s partner and ran in his direction with the screwdriver in his hand. The partner backpedaled quickly but, fearing for her partner’s safety, Smith fired three shots at the running man. One hit him, and two hit a woman who was inside the department store, waiting on the cashier’s line to pay for the gifts she had selected for her grandchildren. How do you think the Corporation Counsel’s Office would view this event?

### Choke Holds

Choke holds are one type of force that we have not yet discussed. Choke holds include, but are not limited to, bar arm holds and carotid holds, and any pressure to the throat or windpipe that may prevent or hinder breathing, circulation or reduce the intake of air. Around the country, in places that permit them, the police officers who have used them have not done so intending to kill or to cause serious injury - but they are deadly. The Department’s policy on them is clear: choke holds may not be used by members of the New York City Police Department against other persons.

### NYPD Deadly Force Policy: A Summary

The decision of whether to use deadly force is the single most serious choice any police officer ever has to make. This choice typically is presented to police officers in dark alleys and streets, and under hurried circumstances in which there is little time for careful deliberation. Worse, once the decision to shoot is made, it is irreversible: there is no way to put a fired bullet back into a gun, or to undo the damage it causes. Every one of your trainers, supervisors, and commanders knows how serious and far-reaching this decision is, and how important it is that you understand its ramifications. We also know how important it is that you have available to you in advance as much as possible of the information you will need to make this decision wisely. If you are ever confronted with this decision, you are unlikely to have time to think about what is permissible and what is not. It is for this reason that the Department’s policies may be reduced to a single simple question that you should be able to answer in the milli-seconds while you decide whether to pull the trigger: Is there anything I can do besides shooting this individual to protect



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myself or whoever else is in danger from being killed or seriously hurt?

If there is some other action you can take, you must take it. But if the answer to this question is **NO**, you may have to discharge your firearm.

The following table also provides some information that summarizes the Department's firearms and deadly force policy. Read it and know it.

Question	Answer
Can you shoot to prevent, terminate or arrest for a felony?	<b>NO</b> - Unless you reasonably believe that the victim may be killed or seriously injured <b>and</b> no other reasonable means are available.
Can you shoot to arrest a fleeing felon suspect?	<b>NO</b> - Unless the suspect presents an imminent threat death or serious physical injury to you or others (e.g., the suspect is shooting at you or at others)
Can you shoot to defend against a suspect who presents an imminent threat of deadly force?	<b>YES</b>
Can you fire warning shots?	<b>NO</b> – This is never allowed
Can you fire shots to summon assistance?	<b>NO</b> - Unless you are in a life or death situation and there is no other way to get life-saving help to the scene
Can you fire shots at or from moving vehicles?	<b>NO</b> – Unless the occupants of the other vehicle are using deadly force other than the vehicle (e.g., they are shooting at you or others)
Can you shoot animals?	<b>NO</b> – Unless there is no other reasonable way of protecting you or others from physical injury caused by the animal
Can you cock and fire weapons on single action?	<b>NO</b> – This is never permitted. Weapons must always be fired double-action
What must you do before firing in any situation?	Exhaust all other reasonable means or have no other reasonable means available to you

### THE DEFENSE OF JUSTIFICATION

In addition to knowing the Department's use of force policies, you need to understand the New York State Penal Law's provisions on use of force. These



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distinguish between criminal behavior and force that is legally justifiable because it is used to defend against criminal assault, to prevent or terminate crimes, or to arrest offenders.

As you read this material, keep three things in mind:

- **First**, the Penal Law allows police officers to use more force than ordinary citizens;
- **Second**, the Penal Law's provisions on use of force by police officers are much broader than the Department's. As we have previously pointed out, it is possible for you to use force within the law, but to be disciplined because you have violated the Department's policies. Thus, you should base your actions in the field on Departmental policy. As long as you do this, you will also be acting within the law.
- **Third**, the law recognizes a difference between the use of force at two different stages. The first is the prevent/terminate stage, during which persons or police officers defend people or property by using force to prevent or stop crimes against such people or property. The second is the arrest stage, at which persons or police officers use force to arrest people who have committed crimes against people or property. The major distinction between the force that may be justifiably used at these two stages is that force used by citizens who are trying to arrest others (rather than to prevent or terminate a crime) is justifiable only if the subjects of the force actually committed the offenses. When citizens use force to defend people or property (the prevent/terminate stage), they act justifiably if they reasonably believe the force is necessary. In practical terms, this means that citizens who take it upon themselves to arrest other people had better be certain that the people they are trying to arrest actually committed crimes because reasonable belief is not enough to make their force justifiable.

### Definition of Terms (P.L. 10.00)

**Physical force** is that type of force not amounting to deadly physical force; i.e., punches, kicking, pushing, grabbing, holding, restraining, etc.



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**Deadly physical force** means physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury; i.e., shoot, stab, strike with a weapon.

**Physical injury** means impairment of physical condition or substantial pain; i.e., swollen eye, sprain, etc. The injury does not have to be visible as the victim can have internal unseen injuries.

**Serious physical injury** means a physical injury which creates a substantial risk of death, or which causes death or serious and protracted (for an extended period of time) disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ; i.e., broken bones, amputation, disfigurement, severed arteries.

**A person licensed or privileged** is a person who has the right to be in a building or upon premises. This includes owners, tenants and authorized guests or employees, etc. In addition, police officers or peace officers acting in the performance of their duties are considered to be licensed and privileged.

**Necessary:** Necessary force is the least amount of force that can safely accomplish a legitimate police objective under the circumstances.

### SPECIAL CASES FOR THE USE OF PHYSICAL FORCE

In certain situations, the Penal Law (at § 35.10) gives designated groups of people special authority to use physical force that would otherwise constitute an offense. Such force is justifiable and not a criminal act in the following special cases:

- 1. Parent or guardian** - A parent or guardian or other person charged with the care and supervision of a person under the age of 21, or incompetent person, and a teacher or other person entrusted with the care and supervision of a person under the age of 21 for a special purpose may use physical force upon such person when, and to the extent that he or she reasonably believes it necessary to maintain discipline or to promote the welfare of such a person. This provision does not allow the use of deadly force, however. Instead, it means that a parent, guardian, etc., may discipline a minor or incompetent person in his or her care by using a reasonable amount of physical force. For example, a mother might reasonably strap her one-year-old son into a highchair to prevent him from





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getting down. If a parent/guardian uses excessive force and causes a serious physical injury, he or she may not be justified. The test in applying this law is reasonableness: a schoolteacher would be justified in trying to pull apart fighting teenagers, but would not be justified in striking one or the other to end their combat.

2. **Warden or jail official** - A warden or other authorized official of a jail, prison or correctional institution may, in order to maintain order and discipline, use physical force to the degree that is authorized by the Correction Law.
3. **Person in charge of a common carrier** - A person responsible for keeping order in a common carrier (such as a bus driver or a train or subway conductor), or a person acting under his or her direction, may use physical force when and to the extent that he or she reasonably believes is necessary to maintain order. However, he or she may use deadly physical force only when he or she reasonably believes it is necessary to prevent a death or serious physical injury. For example, a bus driver may use physical force to put a person who is disorderly off a bus.
4. **Preventing suicide** - A person acting under a reasonable belief that another person is about to commit a suicide or inflict serious physical injury upon himself or herself may use physical force upon such person to the extent that he or she reasonably believes is necessary to prevent the death or serious physical injury. However, you would not be justified in using deadly force to keep someone from killing himself or herself. This is because you would be assisting the person in committing suicide by using deadly force.
5. **Licensed physician** - A duly licensed physician or a person acting under his or her direction, may use physical force for the purpose of giving a recognized form of treatment. Such a person must reasonably believe that the treatment will promote the physical or mental health of the patient. In addition:
  - the treatment must be given with the consent of the patient, or if the patient is under the age of 18, or an incompetent person, with the consent of his or her parent, guardian, or other person entrusted with his or her care and supervision



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### OR

- the treatment must be given in an emergency situation in which the physician reasonably believed that no one competent to consent could be consulted and that a reasonable person wishing to safeguard the welfare of the patient would have consented.

### JUSTIFICATION

Justification is a defense to criminal charges. A justification defense occurs when a person admits he or she has committed an act (like using force or deadly force) that might be a crime in some situations but claims that it was not criminal because it occurred under circumstances **in which it was authorized by law**. If the existence of special circumstances justifying the action is not disproved beyond a reasonable doubt by the prosecution, the person committing the act will be found to have acted properly (within the Justification section of the Penal Law) and will be cleared of the charge. In other words, once a defendant claims a defense, the prosecutor must prove that it does not exist.

This sounds more complicated than it is, so here's an explanation that may clarify it. Homicide is the killing of another person. In some situations, homicide is a crime, but under other circumstances, homicide is not criminal. If a son deliberately kills his father by poisoning him with the intent of coming into his inheritance a few years ahead of schedule, he commits murder which, along with manslaughter, is one of the three forms of criminal homicide. Suppose, however, that a daughter shoots and kills her abusive father to stop him from beating her mother with a club. She also has committed a homicide but, if she can show that there was no other way to defend her mother from death or serious injury, it will be ruled a justifiable homicide.

The defense of Justification, as provided in Penal Law Article 35, applies to the actions of civilians, police officers, and peace officers. As you would expect, police officers and peace officers have more authority than ordinary citizens in this area of law.

### **Justification for the Use of Physical Force in Self-Defense or Defense of Another Penal Law § 35.15**

For the purposes of this discussion, think of the term "**person**" as applying to individuals other than peace and police officers. Under the terms of § 35.15, persons



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may use physical force to defend themselves or other persons against individuals whom they reasonably believe are using or about to use physical force against themselves or others. This right, however, does **not** apply in the following three circumstances:

- 1. Provocation:** The person claiming the defense provoked the other individual(s) into using physical force with the intent to injure them or any other person. For example: Larry approaches John with the intent of provoking him to the point where John will punch him. If John does punch Larry and Larry uses physical force to defend himself, Larry would not be justified because he was the **initial aggressor**. Likewise, if Larry approached John and punched him in the nose, any force that Larry subsequently used to defend himself against John's retaliation would not be justified.
- 2. Self-Initiation:** As suggested above, an individual who starts a fight or other use of physical force against another person cannot successfully use the justification defense to excuse whatever force he or she then uses when the other person fights back. If, however, the original assailant communicates to the other person that he or she is quitting and the other person does not stop using physical force, he or she can then use physical force in self-defense. The logic here is that the other person becomes the aggressor if he or she does not stop the assault after the original assailant communicated a wish to withdraw from the fight. For example, if John's reaction to being punched by Larry was so physically overpowering that John quickly indicated that he did not want to continue the fight, John would become the aggressor if he did not stop. In such a case, Larry would then be justified in using physical force to defend himself.
- 3. Agreement:** There was an agreement or understanding to fight unlawfully. For example, if Larry and John agreed to "take it outside," and to engage in a fistfight to settle a dispute, neither would have a defense of justification for their actions during the fight.

### **Justification for the Use of Physical Force in Defense of Premises or Real Property Penal Law § 35.20**

Physical force may be used where necessary in the following circumstances:



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1. **Damage:** When a person reasonably believes that the use of physical force is necessary to prevent or terminate (stop) another person from committing or attempting to commit a crime involving damage to premises. The right to use physical force in these cases applies to anybody, not just to the owner of the property or to persons with some special license to be on the property. Thus, for example, if Joe observes an individual using a baseball bat to break the windows of his neighbor's house, Joe would be justified in using physical force to stop the illegal activity.
2. **Trespass:** When a person reasonably believes that the use of physical force is necessary to prevent or terminate a criminal trespass or an attempted criminal trespass on premises. The right to use physical force under these circumstances, however, applies only to the owner of the property, or someone in possession or control, or someone who is otherwise licensed or privileged to be therein. Thus, if Mary was renting a piece of real property and saw John enter the fenced property, she could, if necessary, use physical force to terminate (stop) the criminal trespass. This is so even though Mary does not own the property: she has possessory interest in the land as a tenant. In addition, you need to know that, where trespasses are concerned, police officers and peace officers, while in the performance of their duty, are considered to be licensed and privileged for the purpose of this section. This license and privilege includes the crimes of Trespass, Criminal Trespass, Criminal Mischief and Burglary.

### **Justification for the Use of Physical Force in Defense of Personal Property Penal Law § 35.25**

**Any person – not just the owner –** may use physical force to prevent or stop another from committing or attempting to commit what he reasonably believes is a larceny (stealing) or criminal mischief (damage to another's personal property). Examples of personal property include television sets, cars, jewelry, etc.

The offenses for which the use of force may be employed in defense of oneself or another or real/personal property are as follows:

- Criminal Mischief Offenses;
- Assault Offenses;
- Larceny Offenses;
- Trespassory Offenses: Trespass, Criminal Trespass, and Burglary.

### **Justification for the Use of Physical Force for Arrests by Civilians**



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The definition of the word **arrest** includes preventing an escape from custody. A civilian is justified in using physical force:

1. To arrest another person when he or she has reasonable cause to believe such other person committed an offense and who **IN FACT** committed such offense.

In practice, it is not always easy to distinguish between the prevent/terminate stage (where civilians may use physical force on the basis of a reasonable belief) and the arrest stage (where civilians may use force only to arrest people who have, in fact, committed offenses). Here are two hypothetical cases that show that the time elapsed between the commission of a suspected crime and the use of force by citizens may determine whether force was used to prevent and terminate or to arrest:

**a. Suspected Crime and Immediate Contact with Civilian:**

Larry saw John smash a window on a parked car. Larry watched as John reached into the car and removed something from inside. John then ran down the street. Larry chased him and used the physical force necessary to arrest him (basically catching him and forcibly holding him until the arrival of the police). As it turned out, however, John owned the car and the item inside it; he had locked his keys in the car and was retrieving them. Thus, Larry could not argue that the force he used was a justifiable way to arrest John because John had not **in fact** committed any offense.

In court, however, this would probably turn out to be less significant than you might expect. In this case, Larry pursued John directly from what Larry believed to be the scene of John's crimes. Therefore, Larry's lawyer would be sure to argue that, in trying to catch John and to retrieve whatever he had taken from the car, Larry was attempting to prevent and terminate a successful larceny, rather than merely **to arrest** John. If this argument were convincing, the justification statute would cover Larry's actions.

**b. Suspected Crime and Delayed Contact with Civilian:**

Larry saw John smash a window on a neighbor's parked car. Larry watched as John reached into the car and removed something from inside. John then ran down the street. Larry called his neighbor and the police. The police responded, and the neighbor told them that the man



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apparently had stolen a very expensive briefcase from his car. Larry gave the police a description of John. On the street, two days later, Larry saw a man he believed to be John. Larry tackled the man and knocked him to the ground. The man fought and screamed, "Police! Police! Stop! Stop!" By the time the police arrived, Larry had knocked the man unconscious while struggling to hold him for the police. As an officer approached, Larry said, "This guy broke into my neighbor's car and stole a briefcase the other day." The officer replied, "No, he didn't. The guy who broke into your neighbor's car was John. We caught him this morning with the briefcase. The guy you've knocked out is one of our undercover officers. He was put here to stop larcenies from autos."

In this case, Larry has a real problem. Because two days had passed between the crime and Larry's attempted arrest, Larry's lawyer could not plausibly argue that he was trying to prevent or terminate any crime when he mistook the undercover officer for John and tackled him. Instead, he was trying to arrest, and would not have the defense of justification because the man against whom he used force had not broken into the neighbor's car. The fact that the man John subdued was a police officer probably won't do much to help Larry in court, either.

These examples illustrate some complexities in the law.<sup>3</sup> These are more meaningful to desk officers and prosecutors than to new patrol officers. But they also point up an important difference between the powers of civilians and of police officers and peace officers. As you will see below, police officers and peace officers can use physical force when necessary to make an arrest when they have reasonable cause to believe that the person committed the offense, regardless of whether the arrest takes place immediately at the time of the crime or at some later time. Where police are concerned, there is no requirement that the suspect have in fact committed the offense. Where arrests by citizens are concerned, however, the person must actually have committed the offense.

2. A civilian may use physical force to arrest another person when the civilian is

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<sup>3</sup> The case of Larry and the undercover officer illustrates another point, as well: the difficulty of identifying yourself as a police officer when you are not in uniform. As you read the account, did it occur to you that the man was yelling "Police! Police! Stop! Stop!" because he was trying to tell Larry that he was a police officer?



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directed to (or told to) do so by a police officer or a peace officer. This justification holds except in cases in which citizens know that arrests are unauthorized.

**For example:** A police officer directed a passerby to help her forcibly subdue a person who was being arrested. As long as the citizen did not know that this arrest was illegal, he would be justified in using force to make the arrest even if it later turned out that the officer did not have the legal authority to make the arrest.

### Justification for Police Officer's Use of Physical Force in the Arrest Stage

1. A police officer or a peace officer can use physical force, when necessary, to arrest a person when he or she has **reasonable cause to believe** that the person has committed an **offense**.

**For example:** This story is strange, but true. Late at night, Police Officer Thomas received a detailed description of a man who had been seen climbing on a fire escape and trying to force an apartment window open. A block away, Thomas saw a man who perfectly matched the description, and who was carrying a flashlight and a big screwdriver. The officer attempted to arrest the man for attempted burglary, but the man resisted the arrest. Officer Thomas used physical force to make the arrest. It later turned out that the man was drunk and had locked himself out of his own apartment. He had been trying to get into his place by forcing open a window, because he did not want to wake his wife and let her see that he was drunk. When he couldn't get into the window with his bare hands, he walked a couple of blocks to his parked car, got his tools, and was returning to try the window again.

In this case, Officer Thomas was justified in using physical force even though the man did not commit a crime. The law provides that a police officer need only have reasonable cause to believe that an offense was being committed. It does not require that the offense be in fact committed. At the same time, the man would **not** have been justified in resisting the police officer's efforts to arrest him.



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Thus, while this individual was not a burglar, he was guilty of resisting arrest

**Note:** Even though an arrest is invalid, a person who resists is still criminally liable for any Harassment or Assault charge he committed while resisting the police officer (see Penal Law § 35.27, the "No Sock Law").

2. A guard, police officer, or peace officer who is responsible for guarding prisoners in a detention facility, or while in transit to or from a detention facility, may use physical force to the extent that he reasonably believes necessary to prevent the escape of a prisoner from a detention facility, or from custody while in transit to or from such facility.

### Justification for Use of Deadly Force

Article 35 of the Penal Law permits a civilian, police officer, or peace officer to use deadly physical force in the prevent/terminate and arrest stages for specific crimes under certain circumstances. In cases where a civilian has used deadly physical force, you will hold that person pending a determination of whether that person was justified in doing so by an Assistant District Attorney (or a supervising officer).

As we have previously discussed, police officers' use of deadly physical force is more closely regulated by our Department Guidelines (P.G. 203-12) and by the U.S. Supreme Court ruling in *Tennessee v. Garner*, 471 U.S. 1, (1985) than by the Penal Law. *Garner* involved the police shooting of an unarmed 15-year-old boy who was fleeing from a neighbor's empty home from which he had apparently stolen ten dollars. In the case, the Supreme Court ruled that a police officer's use of deadly physical force to prevent the escape of an unarmed felon who posed no threat of death or serious physical injury to the officer or others was unconstitutional. The Department's Guidelines take into account both *Garner* and the Penal Law so that, as long as you follow the Guidelines, your actions will be well within both New York State and federal law. If you do not follow these Guidelines, you **will** be disciplined, and you will also run the risk of criminal prosecution at the federal and state levels, as well as the loss of City representation and indemnification if you are sued in civil court.

There is an easy way to avoid all this trouble:

**FOLLOW DEPARTMENT GUIDELINES.**





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**Remember that the primary duty of all members of the service is to preserve human life, and use your firearm only when there is no other way to protect life.**

**Use no more force than is necessary to overcome resistance to an arrest, or to taking a mentally ill or emotionally disturbed person into custody.**

### **The Use of Force Involving Mentally Ill or Emotionally Disturbed Persons**

The law allows police to seize and confine to hospitals, mentally ill persons who pose a threat of harm to themselves or others. As a police officer, you will almost certainly encounter situations in which obviously mentally ill persons act in a dangerous manner.

What should you do in such a situation? First, you should be guided by the principles and procedures outlined in the chapter titled "Policing the Emotional Disturbed" and in PG 216-05. Unless immediate action is necessary to protect someone's safety, you must attempt to **ISOLATE AND CONTAIN** the mentally ill person without unduly alarming him or her and thereby causing the situation to escalate. As a police officer you must take actions that promote the safety of all involved. You must ensure that a patrol supervisor and an ambulance are responding. The Communications Division will automatically send an Emergency Service Unit to your location.

If an emotionally disturbed person appears to be having difficulty breathing or otherwise presents life-threatening symptoms, medical assistance will **immediately** be requested. Keep in mind that positional asphyxia is a real danger in struggles with EDPs, and make certain that you do not confine people on their abdomens for any longer than is necessary to subdue them. Follow closely the directions of your patrol supervisor and remember that, when no supervisor is at the scene of a police incident, the senior member present will direct and coordinate police operations, pending the arrival of a supervisor.



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### References

Bittner, E., *The Functions of Police in Modern Society* (Cambridge MA: Oelgeschlager, Gunn and Hain, 1980).

Edwards, S. M., J. Granfield, and J. Onnen, *Research in Brief: Evaluation of Pepper Spray* (Washington DC: National Institute of Justice, March 1997).

Flynn K.W., "Training and Police Violence" in R. G. Burns and C. E. Crawford, eds., *Policing and Violence* (Saddle River NJ: Prentice Hall, 2002).

Fyfe, J J., "Training to Reduce Police-Citizen Violence," in W. H. Geller and H. Toch, eds., *Police Violence* (Yale University Press, 1996).

Granfield, J., J. Onnen, and C. S. Petty, *Pepper Spray and In-Custody Deaths* (Washington DC: National Institute of Justice, March 1994).

Hunt, J.C. "Police Accounts of Normal Force," *Urban Life* 13:4, 1985.

Skolnick, J.H. and J.J. Fyfe, *Above the Law: Police and the Excessive Use of Force*. (New York: Free Press, 1993).



# **POLICE STUDENT'S GUIDE**

## **Arrest Processing**

### **WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT ARREST PROCESSING?**

The professional police officer should always be cognizant of criminal activity. Once probable cause is established by a police officer and a valid arrest is made, he or she must follow appropriate Department arrest processing procedures. Following these procedures properly can provide accurate crime statistics, detailed tracking of crime recidivists, and important investigative information for law enforcement agencies nationwide. Arrest processing includes information obtained at the scene of the arrest, identification of suspects, identification of victims and witnesses, accurate and complete paperwork, proper fingerprinting, photographs, and above all security of your prisoner. Let us take an in depth look at arrest processing.

We will begin at the arrest location. Each arrest situation you'll encounter will be different. The procedures in this topic will be used as a guide to introduce you to arrest processing. The more arrests you make, the more comfortable you will be with the procedures.

Procedures also vary depending on the borough court that has jurisdiction over the arrest. Keep in mind that the information contained in this chapter is in accordance with Patrol Guide procedures; however, additional measures may be required.

### **Upon Taking a Person Into Custody**

Inform prisoner of authority and cause for arrest, unless physical resistance, flight or other factors render such procedure impractical. Immediately field search/ frisk prisoner and search adjacent vicinity for weapons, evidence and/ or contraband. Remove prisoner to precinct of arrest and inform desk officer of charge(s).

## **SEARCHES OF PRISONERS**

### **Frisk/Field Search**

The frisk/field search is performed primarily to ensure the personal safety of the arresting officer and conducted while the subject is still at the arrest location. This is a methodical external body examination of the subject conducted immediately after apprehension to find weapons, evidence or contraband. A frisk should be conducted before or immediately after the subject is rear cuffed. A thorough external body examination is made by sliding the hand over the subject's body, feeling for weapons or other objects. Special attention



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should be given to the waistband, collar, armpit, and groin area. If an unusual object is detected, the officer will reach into or under the clothing to remove it.

### Transporting Prisoners

Once the prisoner has been frisked at the scene, he/she must be transported to the station house, unless medical attention is needed. When transporting a prisoner in a R.M.P., there are various security measures to be employed by members of the service. The prisoner must be rear cuffed and the cuffs must be double locked. The prisoner will be placed in the rear seat and secured with a seat belt. All personal property (e.g. flashlights, batons, briefcases, etc.) will be removed prior to placing a prisoner inside the R.M.P. The prisoner will be placed in a position in the rear seat to allow the recorder to visually monitor the prisoner during transport.

If the R.M.P. is equipped with a fiberglass partition, the recorder and operator will ride in the front seats. If R.M.P. is not equipped with a partition, the recorder will ride in rear seat, directly behind the operator, with the prisoner seated on passenger side of vehicle. While a member of the service is securing the prisoner with the seat belt, the other member will remain on the opposite side of the R.M.P. with the rear door open to be tactically able to assist in the event of an unforeseen occurrence.

### Search at Police Facility

Once you arrive at the station house with the prisoner, you will report directly to the desk officer. At this time, you or a designated member of the service (of the same sex as the prisoner) will conduct a thorough search of the subject's person and clothing to ensure the safety of all persons within the facility. The search of a prisoner performed at the command is more thorough than that conducted on the street. During this search, the officer will be removing weapons, contraband, and evidence not discovered by the initial frisk. Other items that are lawfully carried but are dangerous to life, may facilitate escape or may be used to damage Department property will also be removed from the prisoner. The search includes removing the outer garments, such as, overcoats, jackets, hats, wigs, ties, shoes, socks, handbags and wallets. All pockets are to be emptied, and all clothing not removed will be examined by grabbing, crushing and squeezing the garments. The officer will slide their hands across the body to detect articles that may be underneath or sewn to the clothing.

### Strip Search

There are times when a prisoner should be strip-searched. A strip search is defined as the exterior search of a prisoner and his/her clothing with the



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articles of clothing removed. Prisoners should be strip searched when the arresting officer reasonably suspects that weapons, contraband or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by previous search methods. The **desk officer will determine** if a strip search will be conducted and will ensure that the search is conducted properly.

Some of the factors that the arresting officer should consider to determine the necessity of a strip search are:

- Discoveries from previous searches
- Nature of the crime (serious violent felony)
- Arrest circumstances
- Subject's reputation (extremely violent person)
- Act of violence
- Unaccountable reading from a metal detector

Strip searches will be conducted by a **member of the same sex** as the prisoner, in a secure area and in the **utmost privacy**. It should not be necessary to touch the subject's body, except for examination of hair. **Under no conditions shall a body cavity search be conducted.** When a strip search is conducted, such information will be entered in the command log, OLBS/Arrest Supplement, the A/O's activity log and the prisoner movement slip. A strip search will not be conducted after a decision is made to void an arrest or to release the prisoner immediately upon issuance of a Personal Service Summons.

### GENERAL PROCESSING PROCEDURES

The **Prisoner Pedigree Card** is used to carefully document and monitor all prisoners in custody within a Department facility. This card establishes a standardized procedure for the exchange of information between the arresting officer and the desk officer. You will fill out this **card** for every prisoner and present this **card** to the desk officer at the facility where processing an arrest.

You will then place the prisoner in the command holding pen and enter the prisoner's name in the Holding Pen Roster. If the prisoner is a juvenile delinquent/juvenile offender, the prisoner will be taken to the location in the command specifically designated as suitable for the interrogation of juveniles.

**Note:** A list of locations approved for the interrogation of juveniles is maintained in the Precinct Reference Library.



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You will notify the desk officer if force was used to effect the arrest. The desk officer also determines the validity of the arrest unless the arrest is made by an off duty member of the service (MOS), then the Commanding Officer/Duty Captain will determine the validity of the arrest. The MOS will request the assistance of the detective squad if the prisoner is arrested for homicide, serious assault, robbery, burglary, grand larceny, or other serious or unusual crime. The arresting officer (A/O) will then prepare arrest related documents as provided by the arrest processing officer. The complainant will be provided with the prisoner's name, charges, A/O's information and location of appropriate court.

### Telephone Calls

You will advise the prisoner of the right to make three (3) phone calls within the city without charge or to make collect calls, outside the city, if toll charges are accepted. Permit the prisoner to talk on the phone, except where the ends of justice may be defeated or a dangerous condition may be created. If the prisoner refuses to make a phone call, notify the desk officer so that an entry can be made in the command log.

### Notifications

You must notify relatives or friends if the prisoner is under nineteen (19) years of age, or is admitted to a hospital, or is apparently emotionally disturbed. If notification cannot be made, prepare a Missing – Unidentified Person Report and notify the precinct detective squad and the Missing Persons Squad.

### Completion of Applicable Department Forms

You will complete and deliver the Arrest Documentation Checklist and photocopies of the following Department forms to the desk officer in every case in which they are prepared:

- On Line Booking Arrest Worksheet (OLBS)
- Complaint Report Worksheet, if applicable
- Aided Report Worksheet, if applicable
- Activity Log entries
- Property Clerk's Invoice, if applicable
- Request for Laboratory Examination, if applicable
- Supporting Deposition
- Stop and Frisk Report, if applicable
- Sprint Incident Inquiry

In order to obtain the information you will need to fill out the captions on the required paperwork, you are allowed to ask the prisoner for pedigree



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information. Asking the prisoner's name, age, date of birth, etc. is not considered interrogation and does not require Miranda Rights. Once you start to inquire about details of the crime, Miranda Warnings must be given. Miranda Warnings and interrogations are discussed in the Criminal Procedure chapter.

Processing requirements for Juvenile Delinquents/ Juvenile Offenders are different from processing requirements for adults. These procedures are discussed in more detail in the Children and Adolescents chapter.

### Desk Appearance Ticket ("DAT")

A Desk Appearance Ticket (DAT) is defined as an appearance ticket issued in lieu of detention, at the direction of a desk officer, for misdemeanors, violations and certain Class "E" Felonies for hospitalized prisoners.

The desk officer determines who is eligible for a D.A.T. by considering, validity of identification, likelihood to appear in court, warrants, etc. D.A.T.'s are becoming increasingly harder for a defendant to qualify for (e.g., a person who has failed to appear for one (1) traffic summons will not be issued a D.A.T.).

**Patrol Guide procedure 208-28** "Identification Standards for Desk Appearance Tickets" describes a sequential six-step process to be followed during arrest processing in order to determine a defendant's eligibility for a D.A.T. and involves the following components:

- Stricter Identification Standards
- New York State Probation/Parole Status Inquiry
- WNAM Warrant Check/ OCA Identification
- Department of Motor Vehicle Name Check
- Beta System Inquiry
- Warrant On Line File System (WOLF)

A Desk Appearance Ticket will not be issued under the following circumstances (for a detailed explanation see Patrol Guide procedure 208-27):

- Arrest on a Warrant
- Photographable Offenses (unless prisoner is hospitalized)
- Prisoner intoxicated/ on drugs and are dangerous
- Family Offense
- Violation of Order of Protection
- Harassment 1, Menacing 2<sup>nd</sup>, and Stalkings Offenses
- Criminal Sale of Marijuana 4<sup>th</sup> or 5<sup>th</sup> Degree
- Assault 3<sup>rd</sup> (or attempt), Menacing 2<sup>nd</sup> or 3<sup>rd</sup>, Harassment 1<sup>st</sup>, Aggravated Harassment, or Reckless Endangerment 2<sup>nd</sup> against a city, state enforcement agent performing duty



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- Intoxicated Driver (if hospitalized for 24 hours can be eligible for a D.A.T)
- Vehicle Offenses (Attempted Grand Larceny 4<sup>th</sup>, Intentionally damages a vehicle up to \$250 when in connection with attempt to steal auto, or larceny of contents of auto)
- Offenses that would constitute child abuse, neglect or maltreatment
- Misdemeanor Recidivists
- Graffiti Offenses (Criminal Mischief 4<sup>th</sup> and Making Graffiti)
- Aggravated Unlicensed Operation of Motor Vehicle 2<sup>nd</sup>
- Criminal Trespass 3<sup>rd</sup>, when in connection with a building utilized for commercial/ office purposes
- When arrest for threatening, harassing or menacing a UMOS, an elected official or any other city, state or federal employee
- Arrest for Unlawful Eviction
- *Arrest for Resisting Arrest*
- *Arrest for Obstructing Governmental Administration 2<sup>nd</sup> Degree*
- *Arrest for Interference with Professional Sporting Event*

### Fingerprinting

One of the functions you will be performing quite often as a police officer is that of fingerprinting. Prisoners will be fingerprinted as part of the arrest process.

Fingerprints allow law enforcement officers to verify the identity of arrested persons, who quite often use aliases. In addition, by becoming part of a data bank network, fingerprints can be used to identify people wanted on warrants, or whose prints match those found at a crime scene.

To improve the quality of fingerprints forwarded to the Identification Section and the Division of Criminal Justice Services in Albany and to expedite the production of a prisoner's arrest history (RAP sheet), the NYPD has replaced conventional ink fingerprinting with *Livescan*. Livescan is a state of the art, inkless computerized fingerprinting system and is operational in all patrol commands. The practical utilization of Livescan training is provided by the Police Academy, Computer Training Unit during your Academy training.

There are three (3) classifications of fingerprints:

- **Patent** – Fingerprints visible in dust, blood and paint. These cannot be lifted and are rarely preserved. They must be photographed.





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- **Latent** – Not visible to the eye. Results of secretions from the skin (99% water, 1% oily acid). Raised with powder or chemicals.
- **Plastic** – These prints are left in putty, soft wax or tar. Like visible prints, these are not easily lifted and must be photographed.

There are three general pattern types: arches, loops and whorls. Patterns are formed by ridges. Each pattern contains a primary focal point referred to as a core. There is a secondary focal point referred to as a delta that can be found in the loop and whorl patterns. Both of these focal points are used in finger image classification.

### Fingerprint Safety Precautions

- Never take prints when alone with the prisoner.
- Weapons (guns, mace, and baton) should be secured with the desk officer or in a locker.
- Check fingerprinting area for potential weapons prior to taking prints.
- Never leave the prisoner alone or unattended before, during, or after taking prints.
- Never cuff the prisoner to portable objects (such as chairs).
- Never attempt to force prints if the prisoner resists or is intoxicated.
- Never leave items such as keys, pens, etc. within prisoner's grasp.

### MEDICAL TREATMENT OF PRISONER PROCEDURES

There are times when prisoners in police custody require medical/psychiatric treatment. It is important for you to understand and be able to apply these procedures because the prisoner's safety and well-being is your direct responsibility. You must also understand that while a prisoner is in your custody, you will care for their immediate medical needs whether they are arrest-related or not.

An "Aided Report Worksheet" will **not** be prepared for a prisoner who requires medical aid or attention. In lieu of an Aided Report Worksheet, you will prepare a **Medical Treatment of Prisoner** form. This form is prepared for every prisoner who:

- Receives medical/ psychiatric treatment
- Refuses treatment after claiming injury or illness
- Is in apparent need of treatment



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- May require prescribed medication
- Volunteers their positive status regarding a communicable disease, if not documented on Prisoner Movement Slip
- Already has previously treated injuries

To monitor and document the medical treatment of prisoners while in the Department's custody, this form is comprised of two sections. Section I is completed by the MOS and then reviewed and signed by a supervisor. Indicate the ACR or PCR number in this section. Enter in the remarks section any specific instructions from EMS staff regarding the care of prisoner, and/or if EMS staff brought the prisoner to a hospital emergency room for further treatment. Also use this section if prisoner refused medical aid.

The attending physician or member of a hospital staff completes section II of the form. It addresses any medical screening/ treatment a prisoner receives in the hospital, including psychiatric care. If a prisoner, attending physician, or hospital staff member refuses to complete or sign the form, you will note such fact on both the form itself and in your activity log. Make sure to include the full title and name of the person refusing and all details involved. The Health and Hospitals Corporation is entitled to a copy of the form.

The most ***common errors or omissions*** are as follows:

- No escorting officer information provided
- No nature of illness/injury information provided
- No EMS at Court Section information provided
- No NYPD Court Section Supervisor information provided
- No check boxes (located immediately above EMS Required information) were filled out
- No Prescription Medication Processed at arrest check boxes were filled out

Do not overlook the importance of this form. The prisoner will not be accepted at Central Booking, Court, etc. if the prisoner has an apparent injury and the Medical Treatment of Prisoner form has not been prepared.

### **Sick or Injured at Arrest Scene**

Request an ambulance and remove prisoner to hospital directly from place of arrest, if necessary. You or another officer must accompany the prisoner to hospital. Make activity log entries include the following:

- Include name of person notified regarding Medical Alert Emblem, if worn



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## Arrest Processing

- Include ACR number or PCR number related to prisoner
- Notify D.O.

When a prisoner is taken directly to the hospital from the scene of arrest, remember to search the prisoner in front of witnesses and to search his/her clothing once they are removed by hospital authorities for: evidence, weapons or contraband. Male prisoners should be searched by male members of the service. Female prisoners should be searched by female members of the service. If a uniformed member of the service of the appropriate sex is not available have hospital personnel carefully search the prisoner.

### Procedures when Guarding a Prisoner at the Hospital

As you are probably aware, hospitals are usually crowded, busy places. Whether you are assigned to guard a prisoner who has been admitted, or is there for emergency room treatment, you shouldn't let hospital activities distract you. To prevent escape, leg restraints will be placed on all prisoners transported to a hospital for medical treatment. Only the desk officer can determine whether leg restraints will not be used. The hospital environment poses many problems, especially in the emergency room area. Non-police personnel are often in close proximity to the prisoner. Also, medications and medical instruments may be within reach creating potentially dangerous conditions.

Therefore, **stay alert** and never let down your guard. Keep your attention directed toward the prisoner. There are key rules that you should follow:

- Keep prisoners rear handcuffed whenever possible and double lock the cuffs.
- **Never** leave prisoners unattended.
- Keep your prisoner under **constant** observation at all times to prevent escape
- Utilize a second pair of handcuffs to handcuff prisoner's free wrist to a bed or gurney, before removing first pair of handcuffs for treatment
- Notify D.O. (pct. of arrest)/ Central Booking regarding Medical Alert Emblem and ACR/ PCR number

If an attending physician requests removal of handcuffs from your prisoner inform the doctor of the arrest circumstances. If the physician still requests removal, request response of the Patrol Supervisor to evaluate the need for additional personnel and equipment (including ESU) to insure safety during prisoner treatment prior to removal of handcuffs. You must maintain a continuous visual contact, even if requested to leave the examination room. If requested to leave the examination room, remain immediately outside. Replace



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## Arrest Processing

the handcuffs after the examination is completed and request the doctor to sign your activity log. If the doctor refuses to sign your activity log, write refused.

### **Procedure When a Prisoner is Admitted to a Hospital**

When a prisoner is admitted to a hospital you must notify the desk officer, precinct of arrest. You must also request the desk officer – of the precinct where the hospital is located – to provide relief.. You will remain with the prisoner until relieved. You may have to escort a prisoner to the bathroom by yourself. Utilize caution and check the bathroom before the prisoner enters. Ensure that there are no dangerous items that may be utilized as potential weapons such as, razors, matches, drinking glasses or hypodermic needles to name a few. Ensure that the prisoner is handcuffed to the bed and watch to make sure that the prisoner does not attempt to escape. The Department has long chain handcuffs and leg shackles are available if needed. The desk officer, precinct of hospitalization, has the discretion to authorize the use of such methods.

The guarding of a hospitalized prisoner is an extremely important responsibility. You must prevent unauthorized objects from being passed to or obtained by the prisoner. Make periodic inspections of the prisoner's immediate area for possible means of escape. These inspections should include (but are not limited to) window area, dropped ceilings, bathrooms and closets. Critical times for these inspections are upon relieving another officer and after authorized visitors and hospital personnel have been with the prisoner. You must also take charge of any telephone in the prisoner's room and allow only authorized calls. Confer with the patrol supervisor/ desk officer before allowing the prisoner to use the telephone. Guarding officers are to make an activity log entry to include the name of the supervisor authorizing the calls as well as the name, relationship and telephone number of the person called.

There are times when you, as the guarding officer, will allow someone to visit the prisoner. Persons that may interview a hospitalized prisoner on official business are as follows:

- Ranking Officer, NYPD
- Supervisory Officer – other city agencies (i.e., prisoner's employer)
- Social Worker
- Chief Medical Examiner or Representative
- Hospital Personnel (assigned to treat prisoner)
- Detective
- Parole or Probation Officer
- Federal Law Officer
- Clergy (if requested by prisoner)
- District Attorney or Representative



# POLICE STUDENT'S GUIDE

## Arrest Processing

The recipients of a telegram from the Hospital Superintendent with notification that prisoner is seriously ill may also visit the prisoner. A lawyer may visit if requested by the prisoner and members of their family. Members of the family must receive an Official Letterhead from the desk officer, precinct of arrest. Only the following family members can visit a prisoner:

- Spouse
- Parents
- Brothers and sisters
- Children sixteen (16) years or older

You will check the identification of all visitors and record in your activity log the name, address and relationship to prisoner. You will also have the visitor sign your activity log. At the end of your tour, you must notify the desk officer, precinct of arrest of all visitors on your tour.

### CONCLUSION

As you have seen, processing arrests is much more than completing paperwork. It requires you to use all of the police instincts and skills (that you will develop over time) in order to properly secure, search, and safeguard a prisoner. Effective arrest processing also involves a thorough understanding of department procedures. The following page lists some of the most important ones. Read them carefully and learn them. Knowledge of the procedures will prepare you, guide you, and finally result in efficient and professional arrest processing.



# POLICE STUDENT'S GUIDE

## Arrest Processing

### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this chapter – **Arrest Processing**. These procedures must be read in conjunction with this chapter. Questions for the Trimester Exam may come from these procedures:

- 208-02 Arrests – Removal to Department Facility for Processing
- 208-03 Arrests – General Processing
- 208-05 Arrests – General Search Guidelines
- 208-06 Arrests – Security Measures
- 208-07 Photographable Offenses
- 208-08 Fingerprintable Offenses
- 208-09 Rights of Persons Taken into Custody
- 208-11 Arrest Processing – “Livescan” Fingerprinting
- 208-15 Arrest Report Preparation at Stationhouse
- 208-20 Turnover Arrests
- 208-27 Desk Appearance Ticket – General Procedure
- 208-28 Identification Standards for Desk Appearance Tickets
- 208-29 Desk Appearance Ticket – Preparation of Court Complaint Prior to Return Date
- 210-01 Prisoners General Procedure
- 210-02 Hospitalized Prisoners
- 210-04 Prisoners requiring Medical/ Psychiatric Treatment
- 210-13 Release of Prisoners



# **POLICE STUDENT'S GUIDE**

## **Arrest Processing**



# POLICE STUDENT'S GUIDE

## Summonses

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW THE MATERIAL IN THIS CHAPTER?

As you are already aware, policing is a profession of service, protection, and enforcement. While the majority of your time on patrol will involve service to the community, such as aided cases, response to vehicle accidents, and the enhancement of the overall quality of life for all New York City residents, you will also be called upon to impartially enforce the laws governing New York City and New York State. There are different tools available, for you to enforce the various laws, statutes, ordinances and regulations that govern the city.

Article 140 of the Criminal Procedural Law provides you the authority to arrest persons who have committed or are believed to have committed an offense. However, certain offenses permit you to issue a **summons** (or Notice of Violation), **in lieu of arrest**, returnable to the various courts or agencies charged with their interpretation. Depending on the charge, a violator may be commanded to present him or herself before a judge, or may be required to pay a monetary fee. In either case, the failure of a violator or respondent to appropriately answer a summons may result in the issuance of a "warrant of arrest" by the appropriate court.

### What is a Summons?

A summons is an **accusatory instrument** and, as such, requires a police officer to affirm, or swear to, the indicated charge. In the courtroom, you will raise your hand and swear to tell the truth. When issuing a summons, you will affirm the commission of the offense by signing your name. Whether false statements are made in a courtroom or written on a summons, this is an intolerable act that will subject you to a criminal charge of perjury, as well as termination of your employment with the NYPD.

In order to gain the utmost compliance when issuing a summons, police officers need to maintain a professional demeanor. Issuing a summons can be a stressful experience, based on the persona of the civilian, as well as the officer. The actions of the police officer, adversely affect the outcome (whether positive or negative). **Verbal Judo** along with **Impression Management** are two useful methods of communication that instruct the officer how to deflect negative responses, and use body language – along with certain phrases – to gain voluntary compliance. Professional presence is a component of **impression management**, which states that an immaculate appearance, coupled with respectful deflective statements, leads to the goal of voluntary compliance.





# POLICE STUDENT'S GUIDE

## Summonses

### CONDITIONS OF SERVICE

This lesson introduces the various summonses issued by the New York City Police Department as well as the appropriate application for each. We begin by studying the "Conditions of Service," as delineated in Patrol Guide section 209-01.

A uniformed member of the service is authorized to issue a summons/notice of violation instead of arresting the violator, when the violator is 16 years old or more, except when the violator is unable to care for self due to illness, injury, intoxication, or any other circumstance which would preclude the issuance of a summons/notice of violation, for the following:

#### **Any Misdemeanor or Violation Listed in the:**

- Agriculture and Markets Law, concerning animals
- General Business Law
- Labor Law
- Multiple Dwelling Law
- Workers Compensation Law
- New York State Tax Law, Article 21, Section 289, (Highway Use Tax)
- Alcoholic Beverage Control Law (Sections 64B, 65, 100, 101, 101a, 101b, 103, 104, 104a, 105, 105a, 106, 108, 114, 116 and 117)
- Navigation Law (Sections 33, 40, 41, 43, 44, 45, 47, 70, 71, and 73)
- Vehicle And Traffic Law, except:
  - Section 600 Leaving Scene of Personal Injury Accident
  - Section 380 Motor Vehicle Transporting Dangerous Articles
  - Section 392 False Statement, Alteration of Records or Substitution in Connection With Examination
  - Section 392a Sale of False License, Certificate of Registration or Number Plate



# POLICE STUDENT'S GUIDE

## Summonses

- Section 421 Sale of Motor Vehicle or Motorcycle with Changed Identification Number
  - Section 422 Wrongful Possession of Motor Vehicle or Motorcycle with Changed Identification Number
  - Section 423 Peace Officer's Duties Re: Stolen Motor Vehicles and Motorcycles with Changed Identification Number
  - Section 426 False Statement, Sale or Transfer of Stolen Motor Vehicle or Motorcycle
  - Section 1192 Operating Motor Vehicle or Motorcycle While in Intoxicated Condition or Ability Is Impaired By Use of Drugs or Alcohol.
- 
- New York City Charter
  - New York City Administrative Code (except Section D46-18.0 Cigarette Tax)
  - New York City Health Code
  - New York City Traffic Regulations (except Section 148)
  - New York Codes, Rules and Regulations - Part 1050
  - For any misdemeanor or violation listed in any provisions of any code, rule, regulation or order enacted by any bureau, authority, agency or commissions affecting facilities located in the City of New York.

### All Penal Law Violations, Except:

- Criminal Solicitation
- Failure to Respond to Appearance Ticket
- Appearance in Public Under the Influence of Narcotics or a Drug Other Than Alcohol

As you can see, numerous bodies of laws, statutes, regulations and ordinances govern New York City. In order to assist you in appropriately identifying the various violations for which a summons may be issued, you will be provided a copy of the activity log insert **COMMON SUMMONSABLE OFFENSES** for your reference. In addition to the various charges, the insert



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## Summonses

contains important information concerning fines and court locations. Although Department policy does not require you to carry this reference, it is strongly recommended that you do. When issuing summonses, the encounter with the violator should be as brief as possible. Any unnecessary delay in preparing a summons increases the risk of a confrontation between you and the violator.

### Summonses and Notices of Violation – Returnable Agencies

- Offenses concerning ***Stopping, Standing and Parking*** offenses are returnable to the N.Y.C. Department of Finance, ***Parking Violations Operations***.
- Traffic infractions ***other than Stopping, Standing and Parking*** (including traffic infractions committed by bicyclists) are returnable to N.Y.S. Department of Motor Vehicles, ***Traffic Violations Bureau***.
- Pedestrian offenses and traffic misdemeanors, offenses concerning garages and parking lots, and ***all other summonsable offenses, except violations of Environmental Control Board and Transit Adjudication Bureau are returnable to N.Y.C. Criminal Court***.
- The following regulations are returnable to the Environmental Control Board:
  - Food Vendor Regulations
  - General Vendor Regulations
  - Health Code Regulations
  - Public Health Law (Canine Waste Law)
  - Noise Code Provisions
  - Sanitation Provisions
  - Air Code Provisions
  - Graffiti Law Violations



# POLICE STUDENT'S GUIDE

## Summonses

### General Rules for Summons Preparation and Issuance

When preparing summonses, regardless of the type or agency to which they are returnable, certain rules apply to all, such as:

- Summonses will be prepared in numerical order
- Do not use military time
- Use a black ink ballpoint pen and legibly print information in block letters. Cross-outs are not permitted.
- Do not pre-sign summonses. That is, do not affirm the commission of the violation prior to preparing the summons.
- Record only one violation per summons. For example, if you observe a vehicle pass a steady-red light signal and later discover the driver has allowed the inspection to expire, two summonses are required. Two violations on the same summons will cause automatic dismissal.
- Summonses are obtained from the desk officer. When receiving a package of summonses from the desk officer, the member concerned will count the summonses to ensure the package is complete. If any summonses are missing, damaged or altered, the Commanding Officer will be notified.
- If a member prepares a summons in error, the remaining parts of the summons will be brought to the command and given to the Commanding Officer along with a complete explanation of the circumstances.
- Under no circumstances will an issuing member of the service write on the side margin of the summons.
- ACTIVITY LOG entries will be made for all summonses prepared.
- All completed summonses will be placed in a receptacle that is designated by the Commanding Officer. This receptacle is typically located in the vicinity of the Desk Officer. Each type of summons will have its own receptacle.



# POLICE STUDENT'S GUIDE

## Summonses

The preparation of summonses, regardless of type, usually involves seven steps:

1. Observation of the violation(s)
2. Preparation of the appropriate form, for example:
  - **PARKING SUMMONS** for violations returnable to Parking Violations Bureau
  - **PERSONAL SERVICE SUMMONS** for violations returnable to Criminal Court or Traffic Violations Bureau
  - **ENVIRONMENTAL CONTROL BOARD NOTICE OF VIOLATION AND HEARING** for violations returnable to the Environmental Control Board
  - **TRANSIT ADJUDICATION BUREAU – NOTICE OF VIOLATION** issued by members of the Transit Bureau only for violations occurring within the jurisdiction of the Transit Adjudication Bureau.

**Note:** See appendix for illustration of above summonses

3. Issuance of the appropriate copy of the summons to the violator.
4. ACTIVITY LOG ENTRIES reflecting complete details concerning violation.
5. Completion of appropriate CERTIFICATION OF SUMMONS SERVED card. (Appropriate copy of summons will be attached to the card and presented when additional summonses are required).
6. Submission of remaining copies to the designated location within the command.
7. Courtroom testimony, if appropriate. You will not be called upon to testify for every summons you prepare, but you should prepare your ACTIVITY LOG entries in anticipation of testifying in every case.



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## Summonses

### TRAFFIC SUMMONSES ("B" SUMMONS)

Traffic enforcement has three goals:

1. To prevent accidents and protect life and property;
2. To maintain the safe and expeditious flow of traffic;
3. To ensure compliance with state and local traffic regulations.

Upon observation of a traffic infraction or violation of a traffic law, a police officer must determine what enforcement or corrective measure is necessary. You may decide to warn and admonish, issue a summons, or in some situations, arrest the violator.

***If an officer decides to issue a summons it must be prepared correctly or the Traffic Violations Bureau will not process it.*** The section and subdivision of the law that was violated must be correct. Additionally, certain other facts – if missing or incorrect – may result in a voided (or dismissed) summons. A summons may also be dismissed if the issuing officer does not appear at the hearing on the scheduled date, unless a valid reason for the officer's absence is made in advance of the hearing. Therefore, police officers have an obligation to appear as required, or to make proper notifications of their unavailability.

When you personally serve a summons returnable to Traffic Violations Bureau (TVB) or Criminal Court, the five-part snap-out form PERSONAL SERVICE SUMMONS will be prepared. However, prior to actually putting pen to paper, you need to obtain information from the violator as well as ensuring the eligibility of the violator to receive the summons in lieu of arrest.

When a violation is observed, inform the violator of the offense committed and request that the violator show ***proof of identity*** and residence. In traffic cases, examine ***driver's license, vehicle registration, and insurance identification card*** for vehicles registered in New York State. For all cases in which you prepare a PERSONAL SERVICE SUMMONS (returnable to either Criminal Court or Traffic Violations Bureau), if the violator presents a driver's license, check "Motorist Exhibited License" box on top of summons.



# POLICE STUDENT'S GUIDE

## Summonses

### Personal Identification

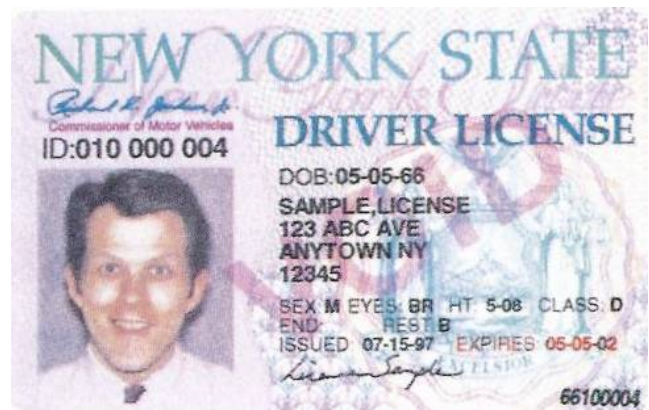
As a general rule regarding the issuance of summonses, the following forms of government photo identification are considered **valid forms of identification**:

- Valid Photo Driver's License (from New York State, another state, or another country)
- Valid passport
- Citizen or naturalization papers
- New York State Non-Driver Identification
- New York State Driver's Permit
- Other government photo identification

**Note: UNDER NO CIRCUMSTANCES WILL YOU ISSUE A PERSONAL SERVICE SUMMONS TO AN UNIDENTIFIED VIOLATOR.**

The most prevalent form of identification that will be presented by a violator, prior to the issuance of a summons, is a New York State driver's license. The important elements of the license are:

- Nine digit ID number
- Red highlighted sections, including:
  - Statement "Under 21 Years of Age", if applicable
  - Date of Birth, if under 21
  - "Conditional Use," if appropriate
  - "Restricted Use," if appropriate
  - "Expiration Date"
- Date of Birth
- Name and Address
- Sex
- Eye Color
- Height





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## Summonses

- Class
- Endorsements
- Restrictions (indicated on the rear of license)
- Date of issuance
- Date of expiration

The New York State Department of Motor Vehicles (DMV) may issue an interim license in certain circumstances at DMV offices. The interim license is predominantly issued in cases where a motorist is requesting a replacement license, initial license or change of class. These documents are computer generated and are valid for a period of 45 days. The licensee's "Record of Convictions" is attached to this interim license and is required when pleading to a violation of the Vehicle and Traffic Law (VTL). The driver is not required to carry this portion of the document when driving.

### Registration

The following items are contained on a New York State Registration sticker:

- Vehicle Identification Number (VIN)
- Vehicle plate check digit number
- Vehicle body type
- Vehicle plate number
- Expiration date
- Vehicle make and year

NEW YORK STATE REGISTRATION DOCUMENT	
PAS	
ABC123	
1995 CHEVR	NONTRANSFERABLE
2DSD MR	1G1LV15M9SY214235
002707 G 6	CA723846 NOV 01 2001
WtlSeats fuelkyl	MDS WPD789
	Expires 10/31/04
SMITH, MICHAEL, S	*NYMA*
123 MAIN ST	17.50
ANYTOWN NY 12345	<u>annual chg</u>
	<u>amt paid (incl. add ch)</u>
C A 7 2 3 8 4 6	VOID IF ALTERED EXCEPT FOR ADDRESS 55.50

New York State law no longer requires a driver to present the registration card. All relevant information is contained on the registration sticker that is located in the lower-left corner of the driver's side of the windshield.





# POLICE STUDENT'S GUIDE

## Summonses

### Insurance Card

New York State Law requires that all vehicles operating on public highways be insured and that drivers are able to demonstrate proof of insurance by presenting a valid insurance card. The following vehicles are exempt from this requirement

- Taxis, buses and rental vehicles
- Government-owned vehicles
- Interstate commerce or Public Service Commission vehicles
- Certain farm vehicles

### License and Warrant Check

The following circumstances require a mandatory license check prior to issuing a summons:

- Car stops and the vehicle operator does not present a New York State Driver's License.
- All car stops if the Radio Motor Patrol car (RMP) is equipped with a Mobile Digital Terminal (MDT).
- Other situations, e.g., arrest, traffic violation, etc., which under the circumstances require further investigation.

If you are not assigned to Radio Motor Patrol (RMP), your RMP does not have a Mobile Digital Terminal (MDT), or if the MDT is inoperable, request the response of a police vehicle equipped with an operable MDT. If the required license check cannot be conducted because the Department of Motor Vehicles computer (accessed by the MDT) is inoperable, the license check as indicated above cannot be conducted. When circumstances do not warrant detention and the operator of the vehicle possesses a valid driver's license, vehicle registration, insurance card, etc., you will make an ACTIVITY LOG entry including the operators name, address, telephone number, date of birth, and driver's license number. (See Patrol Guide section 209-24 for more information regarding license checks)

**Note:** Remove the violator to the command if doubt concerning identity exists.



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## Summonses

### Multiple Offenses

As stated earlier, prepare only one summons per violation. ***If the violator commits multiple offenses arising out of a single traffic incident, and one offense is returnable to Criminal Court, make all related summonses returnable to Criminal Court.***

In order to establish a ***prima facie*** case for Disorderly Conduct, the criminal court judge must know what precipitated the violation. In this case, pulling over the vehicle for passing the stop sign established the basis for the stop and was the precursor to the violation. If the only violation were the passed stop sign, the summons would be returnable to Traffic Violations Bureau.

### Personal Service

Upon completing the summons and prior to issuance, you have the option to request the violator to sign the bottom of the summons. This signature is merely an acknowledgement for receipt of the summons and is not an admission of guilt. Regardless, if you feel that requesting the signature may precipitate a confrontation or place you at a tactical disadvantage, you may opt out of requesting the signature. If the violator refuses to sign, note the refusal in your ACTIVITY LOG and take no further action.

Provide the violator the part of the summons designated for the agency for which the summons is returnable. If the summons is returnable to the Traffic Violations Bureau, give the violator the copy of the summons labeled "Motorist Copy." If the summons is returnable to Criminal Court, give the violator the copy labeled "Criminal Court."

### Activity Log Entries

Enter the information concerning the summons(es) on CERTIFICATION OF MOVING/CRIMINAL COURT SUMMONSES SERVED, as well as making a complete ACTIVITY LOG entry. Your entry will include:

- Description of the offense
- Summons number
- Motorist's/Defendant's name and date of birth



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## Summonses

- Type, and serial number, of government photo identification used to determine name and date of birth of motorist/defendant
- License plate number and state/province of registration
- Make and model of vehicle
- Number of passengers in vehicle

Remember; think about courtroom testimony when you prepare your ACTIVITY LOG entries. You may be called to testify months, or years, after the offense occurred. Chances are you will not recall specific aspects of the violation and referring to your ACTIVITY LOG entries may refresh your recollection. If you have thoroughly documented events, you will be able to testify to them fully, truthfully, and in a highly credible, professional way.

In addition to the above-required ACTIVITY LOG entry, you have the option of utilizing the area on the rear of the white "Officer" copy of the summons entitled "Officer's Notes." This area is meant to serve as additional information for you to assist in recording the pertinent details of the offense. Again, the utilization of this section of the summons is optional; however, ACTIVITY LOG entries are required.

Detach and retain the last two copies of summons marked *Police/Agency* and *Officer*. You will retain the white *Officer* copy, and the yellow *Police/Agency* copy will be attached to the CERTIFICATION OF SUMMONSES SERVED card. The remaining copies will be delivered intact to the designated location within your command.

### **"B" Summonses – General**

Members of the service shall NOT ordinarily issue summonses for local license plate cover violations (Section 402 of the New York State Vehicle and Traffic Law/Code 74 of the New York City Traffic Rules) to vehicles bearing out-of-state license plates. Such a summons should be issued only if the member of the service is aware that the controlling law in the motorist's home state also prohibits license plate covers.

Section 207, subdivision 5, of the Vehicle and Traffic Law (Disposing of a Uniform Traffic Summons), **does not** apply to situations where a motorist destroys or discards his/her copy of the summons that was issued by the



# POLICE STUDENT'S GUIDE

## Summonses

member of the service. That section is applicable only when someone prevents or interferes with the processing of the part of the summons destined for the adjudicating body (i.e., the "Court copy"). Members of the service may, however, issue a Criminal Court summons for littering (Administrative Code section 16-118, [subdivision1]) in appropriate circumstances.

A person operating a limited use vehicle (mini-bike, moped, etc.) on a highway (road, street, avenue, highway, etc.) is subject to all applicable provisions of the Vehicle and Traffic Law and Traffic Regulations. Although registration and licensing provisions do not apply to bicycles, persons riding bicycles on public streets are subject to many of the same traffic laws as operators of motor vehicles. When a bicyclist is issued a summons for a violation of the traffic laws, the word "**BICYCLE**" will be entered in bold print on that portion of the summons designated for the year and make of the vehicle. On the reverse side of both the yellow motorist's copies of the summons, a line will be drawn through the instructions that direct the violator to answer the summons by mail.

**Note:** A JUVENILE REPORT will be prepared for individuals who are at least seven and less than sixteen years of age who violate applicable provisions of the traffic laws.

### Hazardous Violations

Sustained attention and priority in enforcement should be given to those hazardous violations that are the major cause of most accidents, deaths, and injuries on the roadways. **The 19 most hazardous violations are:**

1. Failed to yield the right of way to vehicle
2. Following too closely
3. Speeding
4. Reckless driving
5. Improper turn
6. Fail to obey traffic signal
7. Disobey sign



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8. Improper passing
9. Fail to yield right of way to pedestrian
10. Backing unsafely
11. Fail to keep right
12. Driving while intoxicated
13. Defective brakes
14. Unlicensed operator
15. Driving while ability to operate is impaired by alcohol or drugs
16. Failure to wear seatbelt, use of child safety seat
17. Spill-back
18. Use of a cellular telephone while driving
19. Disobey pavement markings

### **Return Date – Traffic Violations Bureau**

Return dates are not entered on a summons for violations returnable solely to Traffic Violations Bureau. However, as previously stated, if the violator commits multiple offenses arising out of a single traffic incident, and one offense is returnable to Criminal Court, make all related summonses returnable to Criminal Court. In this case, a return date, time, and location will be indicated.

### **GENERAL TRAFFIC PROVISIONS**

**Single Broken Line:** This line defines traffic lanes. *White* separates lanes of traffic moving in the same direction. *Yellow* separates lanes of traffic moving in opposite directions. Motorists may pass if crossing will not interfere with traffic.

**Single Solid White Line:** This is a warning line. Normally, motorists should not change lanes, but they may if conditions require.



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**Double White Lines:** Motorists may not change lanes if the line is solid. If said line is broken, they may change lanes if traffic permits.

**Double Yellow Lines:** Crossing such a marking to turn in or out of a driveway or alley is permitted. A driver may cross this line to make a "U" turn, but not to pass. Such turn, however, is not permitted where prohibited by signs.

### COMMON SUMMONSABLE OFFENSES NYS VEHICLE AND TRAFFIC LAW

#### **Failure to Stop For a School Bus (Section 1174, subd. a)**

This law mandates the driver of a vehicle, upon a highway or street, to stop before meeting or overtaking, from **either** direction, any school bus that has stopped for the purpose of receiving or discharging school children and has in operation a flashing red signal and/or stop sign. The driver shall not proceed until the school bus resumes motion or until signaled by the school bus driver or a police officer to proceed.

#### **Operation of Vehicles with Safety Seats and Safety Belts (Section 1229[c])**

**Safety Seats:** All passengers under the age of four (4) must be restrained by a car seat, regardless of where the child is seated in the car (front or rear seat).

- All passengers under the age of sixteen (16) must be restrained by means of a safety belt regardless of where the passenger is seated in the car (front or rear seat).
- All front seat passengers must be restrained by means of a safety belt.
- For all passengers under the age of four (4), a safety seat must be used.
- No person shall operate a motor vehicle unless such person is restrained by means of a safety belt.
- For rear seat passengers, age sixteen (16) or older, safety belts are optional.



# POLICE STUDENT'S GUIDE

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**Note:** Violation of the above statutes constitutes a *traffic infraction*. Each adult violator may be personally issued a summons. In all cases where a juvenile (less than 16) is the violator, *the operator* will be issued a summons.

### Exemptions From Safety Belts Include:

1. School Bus passengers four (4) years old or older  
(However, school bus drivers must wear safety belts, and all passengers under the age of four (4) must be restrained by car seats.)
2. Authorized Emergency Vehicles
3. Taxis
4. Liveries
5. Buses, other than school buses

### Safety Belt Reference Chart:

AGE	REAR SEAT	FRONT SEAT	V.T.L. SECTION
DRIVER	N/A	SEAT BELT	1229(C), (3)
16 OR OVER	OPTIONAL	SEAT BELT	1229(C), (2)
4-15 YEARS	SEAT BELT	SEAT BELT	1229(C), (1 &2)
LESS THAN 4	CAR SEAT	CAR SEAT	1229(C), (1)



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## Summonses

### Unlawful Use of a Hand-Held (Mobile) Cellular Phone by an Operator of a Motor Vehicle - Traffic Infraction (V.T.L., Section 1225-c, subds. 2[a], 2[c], 3[a], 3[b], 3[c]):

- **Subd. 2(a)** - No person shall operate a motor vehicle upon a public highway while using a mobile telephone to engage in a call while such vehicle is in motion.
- **Subd. 2(c)** - The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a mobile telephone, unless otherwise provided by law.
- **Subd. 3(a)** - A defense to this law is attainable if the use of a mobile telephone is for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department.
- **Subd. 3(b)** - A defense to this law is attainable if the use of a mobile telephone is for any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district or company; or the operator of an authorized emergency vehicle as defined by V.T.L. Section 101.
- **Subd. 3(c)** - A defense to this law is attainable if the use of a mobile telephone is conducted with a hands-free mobile telephone.

### Motorized Scooters and Skateboards (VTL section 401 [1] [a])

The operation of a motorized scooter or skateboard on the streets of New York City violates this section of the V.T.L. (unregistered vehicle), among other charges. Individuals that are stopped for this infraction on a public street may be issued a summons, returnable to criminal court, or arrested. Should the offender be a juvenile, a Juvenile Report will be issued. In addition, ***the device will be seized as arrest evidence and invoiced.***





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### **Pedestrians (Sections 1150, 1151):**

- (a) Pedestrians shall be subject to traffic control signals and pedestrian control signals as provided in Section 1150, 1151 of these rules and to the lawful orders and directions of any law enforcement officer.
- (b) Right of way in crosswalks
  - 1) Operators to yield to pedestrians in crosswalk
  - 2) Pedestrian shall not cross in front of oncoming vehicles
- (c) Restrictions on crossings
  - 1) No pedestrian shall enter or cross a roadway at any point where signs, fences, barriers, or other devices are erected to prohibit or restrict such crossing or entry.
  - 2) No pedestrian shall cross any roadway at an intersection except within a crosswalk.
- (d) Operators to exercise due care. Notwithstanding other provisions of these rules, the operator of a vehicle shall exercise due care to avoid colliding with any pedestrian.
- (e) Hitchhiking and soliciting prohibited.
  - 1) Talking or selling: No person shall stand in the roadway to talk with or sell/offer to sell anything to an occupant of any vehicle.
  - 2) Soliciting rides: No person shall solicit a ride from the occupant of a vehicle by word or gesture.
  - 3) Washing, polishing, cleaning and assisting parking: No person shall approach an operator or other occupant of a passenger vehicle on any street, while the vehicle has stopped temporarily, is about to stop, is parked or is about to be parked, for the purpose of washing, polishing or cleaning such vehicle or any part of it.



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### CRIMINAL COURT SUMMONSES ("C" SUMMONS)

Thus far, we have discussed the preparation of the PERSONAL SERVICE SUMMONS in general terms. Now, we will discuss the preparation of this summons for violations returnable to Criminal Court. Generally, "C" summonses are issued to persons who violate specific rules of the New York City Administrative Code and Violations in the NYS Penal Law (i.e. Consuming Alcohol in Public, Urinating in Public, Disorderly Conduct, Unlawful Possession of Marijuana, etc.).

For these violations, the reverse of the top copy of the summons contains the "Criminal Court Information" section. This section is required for all violations returnable to Criminal Court. A summons with a properly completed "Information" section will eliminate the need for the issuing officer to appear in court on the return date to prepare a complaint and will enable the court to issue a warrant for a defendant who fails to appear. When preparing this section, ***you must indicate the specific actions of the offender, not just a recitation of the law***, for example:

- ***Incorrect*** – "The defendant did commit the Penal Law violation of Disorderly Conduct."
- ***Correct*** – "The defendant did sit in the roadway in the middle of the intersection at 50<sup>th</sup> Street and 5<sup>th</sup> Avenue, thereby obstructing vehicular traffic. When asked to leave, the defendant refused."

Additionally, you must ensure that the specific violation cited on the front of the summons is described. For example, the case will be dismissed if you indicate on the front of the summons that the defendant committed "Trespass," and incorrectly describe the Penal Law violation of Disorderly Conduct on the rear of the summons in the "Information" section.

The uniformed member or civilian complainant must sign the "Information," and the date must be entered. A summons will not be issued by uniformed members for violations not personally observed. If a misdemeanor is committed in the presence of a uniformed member, that member will sign the "Information" section. When not committed in the member's presence, that member must ascertain that a crime was committed and request complainant to sign the "Information." If complainant refuses, the member may sign on "information and belief," providing all details (as related to member by the complainant) are included in the "Information" section.



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### Warrant Checks

When issuing a Criminal Court summons, a warrant check must be conducted to determine if the individual is eligible for the summons, or is "wanted" and must be arrested. Notify Communications of the nature and location of the stop and request a warrant check:

- ***If the warrant check is positive (10-18), the officer will remove the individual to the command facility for further investigation.***
- ***If the warrant check is negative (10-19), the officer will issue a summons and release the individual.***

### Return Date – Criminal Court Summons

When preparing summonses returnable to Criminal Court, the summons return date, time, address of the court, and specific part (room) will be indicated on the specific sections on the front of the summons. At your daily roll call briefings, a specific return date will be provided for all summonses returnable to Criminal Court for that specific day.

### Issuance of a Disorderly Conduct Summons

The issuance of a Criminal Court summons for violation of Penal Law section 240.20 – Disorderly Conduct, at the scene of an incident in which the summoning member is the complainant, occasionally results in a civilian complaint against the member. To verify and document the circumstances of the incident, the summoning member will request the response of the patrol supervisor to the scene whenever:

- Physical force/restraint was used by the uniformed member, OR
- It was necessary to search or handcuff the violator, OR
- Violator was placed in, or transported from the scene in, a Department vehicle



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If the patrol supervisor is not available to respond, the violator will be removed to the command where the desk officer/supervisor will determine the validity of the charge and make an appropriate entry in the Command Log.

### PARKING SUMMONSES ("A" SUMMONS)

The appropriate summons to prepare upon observing a violation of the New York City Traffic Rules is the PARKING SUMMONS. The following definitions will be necessary in this section:

- **Highway** – Any public roadway, street, or avenue.
- **Abandoned Vehicle** – A motor vehicle shall be deemed to be abandoned if it is left unattended:
  - With no license plates affixed, for more than six (6) hours, on any highway or other public place.
  - On a public street or area which is not otherwise restricted by posted signs, including a residential area, in excess of seven (7) consecutive days.
  - For more than ninety-six (96) hours on the property of another without the permission of the owner.
- **Derelict Vehicle** – A motor vehicle which is so dilapidated, burned out, stripped, vandalized, etc., as to be of no apparent value other than scrap.

When issuing a summons for a violation of the traffic rules, a query of NYSPIN (New York State Police Information Network) through the FINEST system, if circumstances warrant, may be necessary to determine if the vehicle is reported stolen. The following are circumstances that may warrant such a query:

- Presence on vehicle of any summons issued to the vehicle on a previous date
- Vehicle has damage consistent with theft (e.g., broken windows, damaged locks)
- Vehicle discovered at a location where the parking of vehicles is unlikely or at a time that is unusual



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- Any suspicion by a member of the service arising either from the member's own observations or experience, or from credible statements made by others, that the vehicle may be stolen.

***If such a vehicle is deemed to be abandoned or derelict, a summons will never be issued.***

When indicating the location of the vehicle, the description must be specific. A member may need to indicate the number of feet north/south/east/west of street, avenue, or **front** or **opposite** specific address. For example:

- **Incorrect** – Midway between East 20<sup>th</sup> Street btwn 2<sup>nd</sup> and 3<sup>rd</sup> Ave.
- **Correct** – In front of 235 East 20<sup>th</sup> Street
  
- **Incorrect** – Opposite of McDonalds on East 23<sup>rd</sup> Street
- **Correct** – N/S East 23<sup>rd</sup> Street, 50 feet West of 2<sup>nd</sup> Avenue

Utilize the vehicle registration sticker as the primary source of information for vehicles registered in New York State. ***Any omission or mis-description of any of the following mandatory identification elements will result in dismissal of the summons:***

- License plate number
- License plate type
- Expiration date
- Make of vehicle
- Model of vehicle
- Operators name, if present

Cite only valid applicable violations and sections of the New York City Traffic Rules when issuing a Notice of Parking Violation. No violations of other rules or laws (e.g., VTL) will be cited on a Notice of Parking Violation.

No more than three summonses may be issued to any parked vehicle at the same location on the same day. In cases where more than three violations



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are evident, summonses should be prepared for the three most serious violations. Do not issue additional summonses to a vehicle displaying three or more summonses. In this case, the member will ascertain if the vehicle is abandoned, derelict or stolen.

Place the "service copy" of the Notice of Parking Violation and the orange self-addressed envelope on the windshield of the auto. During inclement weather (rain, snow) fold summons to ensure information entered thereon remains legible. After placing the summons on the vehicle, record full details of the event in ACTIVITY LOG, as well as appropriate captions of the CERTIFICATION OF PARKING SUMMONSES SERVED. The pink copy of the Notice of Violation will be attached to the CERTIFICATION OF PARKING SUMMONSES SERVED and turned in upon completion of the package of summonses. The remaining two copies will be delivered intact to the command and placed in the appropriate receptacle.

### **Parking Offenses Involving Vehicles from Another State**

When issuing a summons to vehicles registered outside of New York State, the officer will provide as much information as possible based on his/her visual observation of the vehicle. If the officer intentionally does not complete an information caption on the summons, a reason for the omission must be entered in the caption (e.g., unreadable, covered, or not shown). Write "**N/A**" in a caption when the required caption information is not available (e.g. registration stickers on New Jersey vehicles are not printed with an expiration date).

Certain violations involving registration and inspection requirements only apply to vehicles registered in New York State and are not applicable to vehicles registered outside of New York State.

Vehicles registered outside of New York State will not be issued a notice of parking violation for expired/missing registration, expired/missing inspection, improper display of a registration sticker, or improper display of an inspection sticker. These violations are only applicable to vehicles registered in New York State.

### **Parking Offenses Involving Diplomatic Related Vehicles**

Official "Diplomat," "Consul," and "S" (Staff) vehicle license plates, colored red, white and blue, are issued by the United States Department of State ONLY and will be one of the following three types:



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- **Diplomat** – plates bearing the word “Diplomat” imprinted thereon are issued to representatives of foreign missions, Secretariat of United Nations, and Organization of American States.
- **Consul** – plates bearing the word “Consul” imprinted thereon are issued to representatives of foreign governments having consular status.
- **Staff** – plates bearing the letter “S” imprinted thereon are issued to members of staffs of various foreign governments.

Although “diplomatic/consul/staff” plates will not be issued without proper insurance coverage, operators of such vehicles are not required to carry insurance cards. However, the operator must carry a certificate of registration. A Notice of Parking Violations will be placed upon an unoccupied, illegally parked vehicle bearing “Diplomat” or “Consul” registration plates that creates a safety hazard. The following violations create safety hazards:

- Double Parking
- Fire Zone
- Fire Hydrant
- No Standing
- No Stopping
- Bus Stop
- Parking in a Crosswalk
- Parking on a Sidewalk

If a Notice of Parking Violation is issued to a vehicle bearing diplomatic/consul registration plates, the code “DP” will be entered under the caption “Other” on the line used to identify the state of vehicle registration.

**Note:** Vehicles bearing the letter “S” (for staff) do not have parking immunity; however, if such vehicle is occupied, the occupants have diplomatic immunity and will be treated accordingly.

### Special Parking Identification Permits for People with Disabilities

The New York City Department of Transportation issues laminated parking permits to people with certain disabilities. This permit, which hangs from the vehicle’s rear-view mirror, is authorized for use on city streets. An operator of a vehicle displaying a NYC Special Parking Identification permit may park at:



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- All No Parking signs (except taxi stands) including those for: Street Cleaning Rules (formerly known as "*alternate side of the street*"), Diplomatic (DPL), New York Press (NYP), and authorized Signs for City, State and Federal Agencies.
- No Standing Except Trucks Loading and Unloading, except in the Garment District (in Manhattan, 35<sup>th</sup> to 41<sup>st</sup> streets, 6<sup>th</sup> to 8<sup>th</sup> Avenues).
- Meters without depositing a coin, including on-street metered spaces as well as off-street metered municipal parking facilities including muni-meter lots.
- In "Blue Zone" areas, the No Permit areas in downtown Manhattan and downtown Brooklyn.

An operator of a vehicle bearing a valid NYC Special Parking Identification permit ***may not double park or obstruct any traffic lanes and may not park at.***

- No Standing or Stopping signs (except as specified above).
- Fire Hydrants
- Bus Stops
- Crosswalks and Driveways
- Taxi Stands
- Garment District cross-town streets
- On sidewalks





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### THE ENVIRONMENTAL CONTROL BOARD (“ECB” SUMMONS)

The Environmental Control Board (ECB) is the city's most diverse administrative tribunal, adjudicating violations of the city's laws and rules as brought before it by the various city agencies empowered to monitor the city for compliance with the law. ECB's jurisdiction ranges from “quality of life” sanitation and vendor violations and important environmental issues such as air, water and noise pollution to other very serious health and safety concerns.

The Environmental Control Board is governed by a 13-member board comprised of seven members, including the Commissioner of Department of Environmental Protection (*who serves as Chair*) as well as the Commissioners of Sanitation, Buildings, Fire, Consumer Affairs, Police and Health Departments. The Board also includes six citizen members, required by the City Charter to have expertise in the following areas: real estate, small business, air pollution, noise pollution and water pollution. The citizen members are appointed by the Mayor and are confirmed by the City Council.

### Adjudications

The “Hearing Division” of ECB employs hearing officers to determine whether the City's allegations of Code violations are supported. You must properly cite the section of law or rule violated, the date and time of offense and the location of the offense, you must properly identify the respondent, and give details of what you observed to support your allegation that a violation of the Code has been committed.

### ECB Jurisdiction

ECB's jurisdiction includes:

- Air Code (including Air Asbestos) & Rules
- Building Code & Rules
- Canine Waste
- Community Right to Know Law & Rules
- Environmental Conservation Law (Lead Acid Batteries)
- Fire Prevention Code & Rules
- General & Food Vending Codes & Rules
- Hazardous Materials Law & Rules (Spill Bill)
- Health Code
- Medical Waste Code & Rules



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- Noise Code or Rules
- NYC Market Code & Rules
- Parks Department Rules
- Recycling Rules
- Sanitation Asbestos Code & Rules
- Sanitation Code, (*including dirty sidewalk, sidewalk obstruction, failure to clean 18 inches into the street*)
- Sewer Code & Rules
- Transportation Codes & Rules (Street Construction & Permits)
- Vehicle & Traffic Law (abandoned vehicles)
- Water Code & Rules
- Waste Transfer Station Rules

**Note: UNDER NO CIRCUMSTANCES WILL ECB VIOLATIONS BE RETURNABLE TO CRIMINAL COURT.**

In addition, **a Criminal Court Summons will NOT be prepared for violations under the jurisdiction of the Environmental Control Board.** The Board may only impose civil sanctions, i.e., monetary penalties. The Notice of Violation establishes a prima facie case. The burden of proof is by a “preponderance” of evidence, unlike a Criminal Court summons.

### **Rules Regarding an Incident in Which Both ECB & Criminal Court Offenses Are Involved**

- If an individual violates a statute that is returnable to ECB and is also charged with an offense returnable to Criminal Court arising from the same incident, the charges must be separate.
- When assigning a return date, SEPARATE dates will be used for Criminal Court summonses and for the ECB Notice of Violation.
- Upon observing a violation under the jurisdiction of the Environment Control Board, inform the violator of the offense committed.

A separate Notice of Violation and Hearing will be prepared for each offense charged. Refer to the Activity Log insert **COMMON ENVIRONMENTAL CONTROL BOARD NOTICE OF VIOLATION OFFENSES**. If the insert is not available on patrol, request the Desk Officer to refer to the **COMMON ENVIRONMENTAL CONTROL BOARD NOTICE OF VIOLATION OFFENSES** maintained at the desk.



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### Return Date – Environmental Control Board Summonses

When determining the return date for the offense charged, utilize the following guidelines:

- If food or property is removed, make return date 21 days after date of issuance unless that date is on a weekend or holiday, in which case the return date is the next business day.
- If no property is removed, make return date not less than 30 days or more than 37 days from the date of issuance.

Give the violator the pink (respondent) copy of the Notice of Violation. Record complete details in your activity log, as well as the appropriate captions on the *CERTIFICATION OF MOVING/CRIMINAL COURT SUMMONSES SERVED*. It should be noted that this is the same item utilized when utilizing *PERSONAL SERVICE SUMMONSES*. *ECB NOTICES OF VIOLATION* do not have a service record card.

In the event a violator cannot be properly identified, the member concerned should confer with the desk officer. ***The violator will be arrested - as a last resort only - when the violation committed has criminal sanctions in addition to civil penalties that may be imposed by the Environmental Control Board and the desk officer directs that the arrest be made.*** The Environmental Control Board has civil jurisdiction only; therefore, ***an arrest may not be made for a violation returnable solely to ECB.***

### Guidelines for the Issuance of E.C.B. Summonses

1. You MUST personally witness a violation in order to issue an ECB Notice of Violation and Hearing. (*Note: Unreasonable noise violations 24-218 and 24-220 are unclassified misdemeanors and you need not actually witness or hear the offense before taking action*).
2. You must take care in tearing apart the form to ensure that the violation number (found on top, beginning with the letter "E") is not obliterated or ripped off in error.
3. Warn the respondent that their failure to answer the violation will subject them to the maximum penalties allowed under the law.



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**Note:** After the Notice of Violation is filled out, the pink copy of the form is issued to the respondent, the original, with the Affidavit of Service is forwarded to ECB, and the bottom two (2) copies are for the agency's use. The original must be forwarded within five (5) days of issuance.

### **Canine Waste Law (Public Health Law Section 1310)**

Each person who owns, possesses or controls a dog must remove any feces left by the dog in any street, gutter, sidewalk or other public area. A person is in compliance with this law if he removes the waste and carries it away for disposal or puts the waste in a container, bag wrapper, etc., and deposits it in a litter basket. A person who disposes of canine waste in a "catch basin" or the sewer is not complying with this law.

**Note:** Do not take enforcement action against a blind person for violation of the Canine Waste Law, and use discretion when elderly or handicapped persons are observed violating the Canine Waste Law.

### **Dog to Be Restrained**

A person who owns, possesses or controls a dog will not permit the dog to be in any public place unless the dog is effectively restrained by a leash or chain not more than six (6) feet in length.

### **TRANSIT ADJUDICATION BUREAU ("TAB" SUMMONS)**

The Transit Adjudication Bureau (TAB) is an administrative court that was established to process and adjudicate summonses issued by police for violations of NYC Transit rules (*also known as the New York Codes, Rules and Regulations Governing the Use of the Transit System "NYCRR"*).

Prior to TAB, transit violations were under the jurisdiction of the already overburdened Criminal Courts, where they received low priority and no effective follow-up of unanswered summonses. In establishing TAB, NYC Transit created a more productive enforcement tool against violators. This is evidenced by the fact that the TAB collection percentage rate is more than twice that of Personal Service Summonses. A certain satisfaction should be derived from the fact that when a TAB summons – also known as a Notice Of Violation (NOV) - is issued, the respondent is twice as likely to pay the resultant penalty. Thus, your enforcement efforts are more likely to prevent the recurrence of such actions, thereby creating a deterrent effect.



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TAB has concurrent jurisdiction with the local Criminal Court (criminal matters), over infractions committed on the Transit System. TAB's jurisdiction extends only to those persons sixteen (16) years of age and older.

### Department Policy Regarding the Issuance of a T.A.B. Summons

The Department's policy regarding the issuance of TABs is that officers will issue TABs (if available), for violations of the NYC Transit rules in the subway whenever applicable. If either a Personal Service Summons or the TAB/NOV can be issued in a particular situation, the TAB/NOV should be issued.

If you are not assigned to the Transit Bureau, you will issue a Personal Service Summons when enforcing violations of the NYC Transit rules (NYCRR part 1050), which will be dealt with by Criminal Court. In addition, if there is property which is to be confiscated from an illegal peddler and must be invoiced, a Personal Service Summons must be prepared, returnable to Criminal Court.

If the violator commits a TAB/NOV offense and the situation escalates to an arrest (*e.g., assault, harassment, etc.*), the arrest will be made for the Penal Law violation and the TAB/NOV will be issued for the original offense. The TAB/NOV will NOT be attached to arrest papers but processed in the normal manner. In addition, the TAB/NOV serial number will be indicated on arrest reports.

### Guidelines for the Issuance of T.A.B. Summonses

Upon observing a person committing an offense for which a Notice of Violation may be served, the following guidelines should be followed:

- Inform the respondent of the offense committed and correct the condition.
- Determine the most appropriate course of police action to follow under the circumstances.

**Note:** Appropriate police action may consist of warning and admonishment, ejection from the transit system, issuance of a TAB / Notice of Violation, or arrest. The determination of the most appropriate action to take should be based on a prudent consideration of the severity of the offense, the apparent deliberateness or inadvertence of the act and the full circumstances of the occurrence. As mentioned earlier, when serving a TAB/Notice of Violation, you will maintain the demeanor of courtesy and professionalism expected of members of the Department.



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- If a TAB/Notice of Violation is to be issued, request the violator to show proof of identity and residence.
  - **DO NOT handle** the violator's wallet, purse, etc.
- If doubt concerning identity exists, notify the Desk Officer and be guided by his or her instructions relative to removing the violator to the Transit District of occurrence for investigation.
- If identity is verified, serve the TAB/Notice of Violation, and upon issuance immediately release violator.
- Enter only one (1) offense on each notice.
- If the violator commits offenses resulting in both the issuance of a Criminal Court Summons and a TAB/Notice of Violation, assign different return dates for each.
- Give the violator the **yellow** copy of the TAB/Notice of Violation appropriate for the type of offense. If the violator is ejected from the subway system, the **BLUE** copy "EJECTION REPORT" is turned in to the Desk Officer.
- Enter completed data in your ACTIVITY LOG.
- Detach the last copy of the TAB/Notice of Violation from those remaining after the violator's copy has been issued.
- Retain last copy detached until all notices from the same batch have been issued. Attach this copy to the CERTIFICATION OF TAB/NOTICES OF VIOLATION SERVED and deliver to immediate supervisor after all TAB/NOV have been served
- Deliver the remaining parts of the notice to the Desk Officer at the conclusion of the tour.

Only Transit Bureau members of the service who regularly perform enforcement duties on the subway are required to obtain full packets of TABs in accordance with the above procedure. However, if a member is temporarily assigned to a Transit Bureau command for enforcement duties, those members shall obtain a sufficient number of TABs from the Transit Bureau command



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where temporarily assigned. Unused TABs will be returned at the end of the assignment. Uniformed members of the service who are not assigned to the Transit Bureau will issue a Personal Service Summons when enforcing violations of the NYC Transit Authority Rules (NYCRR Part 1050), which will be adjudicated in Criminal Court.

If the TAB/NOV was issued on the basis of a complainant's statement, the Witness/Complainant box must be checked and the Witness/Complainant information section on the reverse side of the NOV must be completed. Before preparing the NOV, the complainant must be advised that his or her signature will be required and he or she MAY be required to appear at a hearing.

Remember, no matter how much time and care you take to issue a summons, it will be all for nothing if the information listed on the summons is incorrect or unverifiable. If the person issued a TAB/NOV does not pay, and the information you collected and entered on the TAB/NOV cannot be verified to assist in the collection of the fines, your time has been wasted. Here are some helpful hints when writing a TAB/NOV:

- High school/College Identification cards and N.Y. State drivers' licenses and NYS Non-Driver I.D. cards have been the most reliable identification used.
- Telephone calls to friends and relatives to verify information given has proven to be fairly effective in establishing credibility.
- Identification in the form of Medicaid cards and public assistance (HRA) cards have proven virtually useless as a means of locating respondents who fail to pay their fines.
- Social Security cards without additional verifiable information (*e.g., employers' name/address, home phone number etc.*) have proven to be a highly unreliable form of identification.
- When verified employer information has been obtained and recorded, the fines are four (4) times more likely to be paid than without such information.



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### Enforcement of Rules

It is believed that the reduction of crime is significantly assisted by aggressive summons enforcement. Many people who enter the transit system to commit crimes have no qualms about committing other offenses. If someone is going to take the train to commit a robbery, they are certainly unlikely to pay their fare or follow other minor rules. In fact, officers involved in Fare Evasion Sweeps, in which fare evaders are arrested, routinely discover weapons or outstanding warrants on perpetrators.

By enforcing rules, we can prevent criminals from entering the system and cause those on the system to be less likely to commit crimes therein. Since the Department adopted these patrol strategies, crime has been reduced.

Statistics indicate that enforcing the rules has a direct spillover into more serious offenses. By reducing rules violations, the department also reduces the level of fear between subway riders and encourages more people to pay their fare and use the transit system. Reducing disorder clearly makes for a safer transit system with less criminal activity and a better working environment for officers. Ultimately, everyone benefits from this philosophy.

The police response to unlawful behavior will be to inform the violator that their behavior is unlawful and that it must stop. In most cases, this will be immediately followed by the issuance of a summons, and/or ejection, or possibly, arrest. Obviously, there can be other circumstances that will lead you to use your discretion to take no further police action beyond that level of warning and admonishing the violator. Some examples: *a tourist who is caught smoking and is honestly unaware that it is not permitted on the subway or a person drinking beer on the subway on New Year's Eve (in fact Operation Orders are frequently published advising officers to use their discretion during parades and public events).*

### RETURN DATES

When issuing all of the above types of summonses, the violator will be requested to return to court on a specific date to answer for the charges stated on the summons. These dates vary according to summons type:





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## **Summonses**

### ***Criminal Court***

- As per FINEST message transmitted daily
- Enter address of borough Criminal Court in appropriate caption of the summons.
- Enter room number in captioned "Summons Part."

### ***Traffic Violations Bureau***

- Advise motorist to answer summons in accordance with the instructions printed on summons.

### ***Transit Adjudication Bureau***

- Make return date 28 calendar days from date of issuance, unless return date falls on weekend, regular day off or holiday. If return date falls on weekend, regular day off or holiday, make returnable on next business day thereafter.

### ***Parking Violations***

- Do not enter time or date returnable for summonses returnable to PVB (Information for violator is printed on the summons).

### ***Environmental Control Board***

- If food or property is removed, make return date 21 days after date of issuance unless that date is on a weekend or holiday, in which case the return date is the next business day.
- If no property is removed, make return date not less than 30 days or more than 37 days from date of issuance.

## **CONCLUSION**

In general, it is believed that merely warning and admonishing a person for a rules violation only corrects the immediate problem. By aggressively summoning violators, the message is sent that people must abide by the rules or risk receiving a fine or possible jail time. In most cases this enforcement action is effective in getting people to comply with the law.



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## **Summonses**

# **APPENDIX**



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## Summonses

**Notice of Parking Violation**

**PRINT ALL ENTRIES • USE BALL POINT PEN • PRESS HARD**

City of New York Rev. 7/98

Name of operator, if present: Notice of Violation

Last Name **1** First Name Initial

Permit Displayed: No  Yes  Operator Present, But ID Refused

# Type

OWNER OF THE VEHICLE BEARING LICENSE DATE REGISTRATION EXPIRES

PLATE MO. DAY YR. **2**

NY CT PA NJ MA FL Other PAS SRF COM Other  N/A

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

SEDAN VAN SUBN DELV Other ALTERNATE PLATE State

**THE OPERATOR AND OWNER OF THE ABOVE VEHICLE ARE CHARGED AS FOLLOWS:**

AM	Time	PM	Date of Offense	Time 1st Obs'd	Date 1st Obs'd	County
<input type="checkbox"/>	<b>4</b>	<input type="checkbox"/>		<input type="checkbox"/>	<b>4</b>	
Front of	Place of Occurrence				Opposite	Pct
<input type="checkbox"/>	<b>5</b>				<input type="checkbox"/>	
Code	Fine	In Violation of	Sign Restriction/			
	All Other Areas	Man. 96 St & So.	Sect. 4-08 (subsect. below) of NYC Traffic Rules	Other Information		
14	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	No Standing (C)		Days in Effect ("ALL", unless otherwise stated):		
16	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	No Standing except trucks (K2)		<b>6</b>		
17	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	No Standing except Auth. Vehicles (C4)		Hours in Effect ("ALL", unless otherwise stated):		
19	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	No Standing Bus Stop (C3)		Fr: <input type="checkbox"/> AM <input type="checkbox"/> PM		
20	<input type="checkbox"/> \$50 <input type="checkbox"/> \$55	No Parking (D)		To: <input type="checkbox"/> AM <input type="checkbox"/> PM		
21	<input type="checkbox"/> \$35 <input type="checkbox"/> \$55	No Parking, SCR (D1)		Other Description/Rider		
24	<input type="checkbox"/> \$50 <input type="checkbox"/> \$55	No Parking except Auth. Vehicles (D5)				
34	<input type="checkbox"/> \$25 <input type="checkbox"/> \$55	Expired Meter (H2)		Meter Operational <input type="checkbox"/> Yes <input type="checkbox"/> No		
		Meter #				
37	<input type="checkbox"/> \$25 <input type="checkbox"/> \$55	Overtime Parking Muni-Meter (J3)		Time Limit		
		Sub §		Hr.(s)		
<b>7</b>	<input type="checkbox"/> \$ <b>7</b> <input type="checkbox"/> \$ <b>7</b>					
40	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	Fire Hydrant (E2)		Feet From:		
46	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	Double Parking (F1)				
50	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	Crosswalk (E5)				
51	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	Sidewalk (E3)				
70	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	Registration Sticker (J3)		<input type="checkbox"/> Missing		
				<input type="checkbox"/> Expired		
71	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	Inspection Sticker (J6)		<input type="checkbox"/> Stkr #		
74	<input type="checkbox"/> \$55 <input type="checkbox"/> \$55	Missing/Improperly Displayed Plate (J2)				

**SEE REVERSE SIDE FOR IMPORTANT INFORMATION**

I personally observed the commission of the offense charged above. If no name appears above, the operator was not present and I affixed a copy of the Notice of Violation to the vehicle. False statements made herein are punishable as a class A misdemeanor pursuant to Section 210.45 of the Penal Law, unless otherwise stated.

Name/Signature of Complainant Squad Command

Complainant's Name (printed) Tax Registry No. Agency

**SERVICE COPY**

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### PARKING VIOLATIONS

#### *STOPPING, STANDING, AND PARKING OFFENSES*

- 1 Enter this information if violator is present.
- 2 The expiration month, day and year must be entered for vehicles registered in N.Y.S.
- 3 The information in this section should be taken from the registration sticker for vehicles registered in N.Y.S.
- 4 Do not use military time.
- 5 Indicate specific location of vehicle, e.g., 50 ft. N/S/E/W of street or avenue.
- 6 The day(s) and hours the regulation is in effect must be listed.
- 7 This information is obtained from **COMMON SUMMONSABLE OFFENSES (PD160-102)**.

#### Notes:

- a. Only one (1) violation per summons.
- b. Do not write in the margin of the summons. Additional information may be entered in the name area (top) of the summons.
- c. If a commercial vehicle is observed **DOUBLE PARKED**, enter length of time of no loading or unloading activity, e.g., "30M - N/A," indicating no loading or unloading activity for a thirty (30) minute period.
- d. If the vehicle does not match the sticker (sticker describes a van and vehicle is a sedan) enter information from sticker and note that the vehicle appears to be a sedan as indicated in note "b".



# POLICE STUDENT'S GUIDE

## Summonses

AA-500 (7/97)		COMPLAINT/INFORMATION	
400002503-0		Susp/Rev Check <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <b>1</b> Motorist Exhibited License <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>	
The People of The State of New York VS.			
Last Name		First Name	M.I.
Street Address			Apt. No.
City		State	Zip Code
ID Number		Date of Birth	Sex <b>2</b>
		MO <b>2</b> DAY YR <b>2</b>	
Lic. State	Lic. Class or ID Type	Date Expires	Operator Owns Vehicle
		MO DAY YR	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>
OPERATOR AND/OR OWNER OF VEHICLE BEARING LICENSE			
Plate No.	STATE NY CT PA NJ Other	Reg. Expires	
		MO DAY YR	
<b>3</b>	PAS OMT COM OML Other CHEV FORD HONDA DODG OLDS BUICK TOYT NISS Other		
	BEDDN SUBN VAN TRUCK MCY Other Veh. Yr. Veh. Color Alternate Plate State		
VIN No.			
THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS			
AM	Time	Date of Offense	County Precinct
<input type="checkbox"/>	<b>4</b>		
Place of Occurrence			
IN VIOLATION OF			
Sec <b>5</b>	Sub	V.T.L.	Traff. Rules Admin. Code Penal Code Other
Description of Violation, if Not Shown Below. (If returnable to Criminal Court, indicate Court Location and Date of Appearance below and COMPLETE, DATE, AND SIGN INFORMATION ON REVERSE SIDE.)			
SPEEDING		DISOBEY TRAFF CONT DEV	Uninspec. Veh. Unreg. Veh. Unlic. Oper.
MPH	In MPH Zone	<input type="checkbox"/> Sign Pave <input type="checkbox"/> Signal Marks	Uninsur. Veh. Corn. Veh. Bus Haz. Mat.
The person described above is summoned to appear at CRIMINAL COURT			Summons Part County
Located at			
Date of Appearance 9:30 a.m. <b>6</b> day of 19			
I personally observed the commission of the offense charged above. False statements made herein are punishable as a Class A Misdemeanor pursuant to Section 210.45 of the Penal Law. Affirmed under penalty of perjury.			
Rank/Full Signature of Complainant			
Complainant's Full Name (printed)			Command Code
Agency/NCIC		Squad	Tax Registry No.
I acknowledge receipt of this summons. I understand it is my responsibility to read and comply with the instructions on my copy, and that my signature below is not an admission of guilt.			
Name <b>7</b>		Date	

### TRAFFIC VIOLATIONS

*TRAFFIC INFRACTIONS (other than stopping, standing, and parking offenses)*

- 1 Conduct license check, if possible, and check appropriate boxes.
- 2 Enter date of birth and sex of violator.
- 3 Enter vehicle information from registration card or sticker.
- 4 Do not use military time.
- 5 Ensure that violation described matches section of law cited. Obtain info. from COMMON SUMMONSABLE OFFENSES (PD160-102).
- 6 No return date is required for violations returnable to Traffic Violations Bureau.
- 7 Violators signature is optional.



# POLICE STUDENT'S GUIDE

## Summonses

AA-500.5 (7/97)

**Officer's Notes** ❶

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Motorist's or Defendant's Employer ❷

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Motorist's or Defendant's Employer Address

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**CONDITIONS OF VIOLATION**

LIGHT CONDITIONS		ACCIDENT TYPE		PAVEMENT	
				DRY	
DAYLIGHT		TOUR OF DUTY		WET	
DARK				MUDDY	
FOG		DAY OF WEEK	NO. OF LANES	SNOW/ICE	
DUSK		MOTORIST OR DEFENDANT DESCRIPTION		SLUSH	
DAWN				AREA	
WEATHER		Eye Color _____		BUSINESS/COMM.	
				INDUSTRIAL	
CLEAR	SNOW	Hair Color _____		SCHOOL/PLAYGRD.	
CLOUDY	SLEET			RESIDENTIAL	
RAIN	FOG	Ht. _____ Wt. _____		HWY.	
PHOTO LICENSE <input type="checkbox"/> Yes <input type="checkbox"/> No				Ethnicity _____	
		PKG. LOT			
		Phone No. ❸		VIOLATOR	
				DRIVING ALONE	
				# OF OCCUPANTS	
				MORE THAN ONE VIOLATOR	

MOTORIST'S SPONTANEOUS STATEMENT:

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**NOTES OR DIAGRAM:**

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- 1 Uniformed members should record the circumstances of the incident on the rear of the "Officer" copy of the summons.
- 2 The defendant's employer information is intended for cases in which corporate substitution is possible.
- 3 Defendant's telephone number is not required in traffic offenses and should not be requested. For cases in which corporate substitution is possible, the telephone number of the corporate entity should be entered in this area.
- 4 Include the direction of travel and the type of street, as appropriate.



# POLICE STUDENT'S GUIDE

## Summonses

AA-500 (7/97)		COMPLAINT/INFORMATION	
400002503-0		Susp/Rev Check <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>	
The People of The State of New York VS.		Motorist Exhibited License <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>	
Last Name		First Name	M.I.
Street Address			Apt. No.
City		State	Zip Code
ID Number		Date of Birth	Sex
		MO <b>1</b> DAY YR	
Lic. State	Lic. Class or ID Type	Date Expires	Operator Owns Vehicle
		MO DAY YR	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>
OPERATOR AND/OR OWNER OF VEHICLE BEARING LICENSE			
Plate No.		Reg. Expires	
		MO DAY YR	
TYPE OF VEHICLE	STATE	<input type="checkbox"/> NY <input type="checkbox"/> CT <input type="checkbox"/> PA <input type="checkbox"/> NJ <input type="checkbox"/> Other	
<input type="checkbox"/> PAS <input type="checkbox"/> OMT <input type="checkbox"/> COM <input type="checkbox"/> OML <input type="checkbox"/> Other	MAKE	<input type="checkbox"/> CHEV <input type="checkbox"/> FORD <input type="checkbox"/> HONDA <input type="checkbox"/> DODG <input type="checkbox"/> OLDS <input type="checkbox"/> BUICK <input type="checkbox"/> TOYT <input type="checkbox"/> NISS <input type="checkbox"/> Other	
<input type="checkbox"/> SEDAN <input type="checkbox"/> SUBN <input type="checkbox"/> VAN <input type="checkbox"/> TRUCK <input type="checkbox"/> MCY <input type="checkbox"/> Other	Veh. Yr.	Veh. Color	Alternate Plate
			State
VIN No.			
THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS			
AM	Time	PM	Date of Offense
<input type="checkbox"/>	<b>2</b>	<input type="checkbox"/>	
County		Precinct	
Place of Occurrence			
IN VIOLATION OF			
Sec <b>3</b>	Sub	V.T.L.	Traff. Rules
		Admin. Code	Penal Code
		Other	
Description of Violation, if Not Shown Below. (If returnable to Criminal Court, indicate Court Location and Date of Appearance below and COMPLETE, DATE, AND SIGN INFORMATION ON REVERSE SIDE.)			
SPEEDING		DISOBEY TRAFF	CONT DEV
MPH	In MPH Zone	<input type="checkbox"/> Sign <input type="checkbox"/> Signal	<input type="checkbox"/> Pave <input type="checkbox"/> Marks
		Uninspec. Veh.	Unreg. Veh.
		Uninsur. Veh.	Com. Veh.
		Bus	Unlic. Oper.
		Haz. Mat.	
The person described above is summoned to appear at <b>CRIMINAL COURT</b>			Summons Part
County			
Located at <b>4</b>		<b>5</b>	
Date of Appearance	9:30 a.m.	<b>6</b>	day of 19
<b>7</b> I personally observed the commission of the offense charged above. False statements made herein are punishable as a Class A Misdemeanor pursuant to Section 210.45 of the Penal Law. Affirmed under penalty of perjury.			
Rank/Full Signature of Complainant <b>7</b>			
Complainant's Full Name (printed)			Command Code
Agency/NCIC		Squad	Tax Registry No.
I acknowledge receipt of this summons. I understand it is my responsibility to read and comply with the instructions on my copy, and that my signature below is not an admission of guilt.			
<b>8</b>	Name	Date	

### CRIMINAL COURT

*PEDESTRIAN OFFENSES AND TRAFFIC MISDEMEANORS (except unlicensed operator, unregistered vehicle and no insurance ID card).*

*SUMMONSABLE OFFENSES NOT RETURNABLE TO ANY OTHER AGENCY.*

- 1 Enter date of birth and sex of violator.
- 2 Do not use military time.
- 3 Ensure that violation described matches section of law cited.
- 4 Enter address of borough Criminal Court.
- 5 Enter room number.
- 6 Enter return date as per FINEST message transmitted daily.
- 7 Issuing officer must sign summons. If a civilian is the complainant and signs the INFORMATION, substitute the word "Officer" for "Complainant." In addition, draw a line through the words "I personally observed the commission of the offense charged above."
- 8 Violators signature is optional.



# POLICE STUDENT'S GUIDE

## Summonses

AA-500 (7/97)

**CRIMINAL COURT INFORMATION (DESCRIBE OFFENSE)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

WARRANT CHECK  Yes  No

I PERSONALLY OBSERVED THE COMMISSION OF THE OFFENSE CHARGED HEREIN. FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW, AFFIRMED UNDER PENALTY OF PERJURY.

Date \_\_\_\_\_ Signature \_\_\_\_\_

**DEFENDANT DESCRIPTION**

Eye Color \_\_\_\_\_ Hair Color \_\_\_\_\_ Ethnicity \_\_\_\_\_

Ht. \_\_\_\_\_ Wt. \_\_\_\_\_ Phone # \_\_\_\_\_

**ARRAIGNMENT**


Defendant pleads  Guilty  Not Guilty

Date \_\_\_\_\_ Judge \_\_\_\_\_

①

\_\_\_\_\_

②



\* 4 0 0 0 0 2 5 0 3 0 \*

The INFORMATION section must be completed by a member of the service issuing a summons returnable to Criminal Court.

A summons, with a properly filled out "INFORMATION" section, will eliminate the need for the issuing officer to appear in court on the return date to prepare a complaint and will enable the court to issue a warrant for a defendant who fails to appear.

Examples:

- Disorderly Conduct (Penal Law, Section 240.20, subd. 5): "The defendant did sit in the roadway in the middle of the intersection at 50th Street and 5th Avenue, causing a vehicular traffic jam. When asked to leave, the defendant refused."
- Trespass (Penal Law Section 140.05): "The defendant did refuse to leave the premises, 111 Broadway, an unfenced vacant lot, after Mr. Jones, the owner of the property asked him, in my presence, to leave the property or face arrest for trespassing."

In every case in which a civilian complainant is involved, enter name, address and telephone number of complainant along left margin.

The INFORMATION must include eyewitness (non-hearsay) allegations of fact describing acts of the defendant. An INFORMATION is not legally sufficient if the facts merely repeat the specific language of the law.

The INFORMATION must be signed by the uniformed member or civilian complainant, and the date must be entered.

A summons will not be issued by uniformed members for violations not personally observed.

If a MISDEMEANOR is committed in the presence of a uniformed member, that member will sign the INFORMATION. When NOT committed in member's presence, that member must ascertain that a crime was committed and request complainant to sign the INFORMATION. If complainant refuses, member may sign based on "information and belief," providing all details as related to member by the complainant are included in the INFORMATION.



# POLICE STUDENT'S GUIDE

## Summonses

No. E 09 2 707 818		ENVIRONMENTAL CONTROL BOARD NOTICE OF VIOLATION AND HEARING FOR CIVIL PENALTIES ONLY																	
City of New York, Petitioner vs Respondent:																			
LAST NAME (Print)		FIRST NAME	INITIAL Sex																
STREET ADDRESS																			
CITY		STATE	ZIP																
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="font-weight: bold;">TYPE OF LICENSE / PERMIT OR IDENTIFICATION NUMBER</td> <td>7 <input type="checkbox"/> Cert. of Auth.</td> <td>ISSUED BY</td> </tr> <tr> <td>1 <input type="checkbox"/> Consumer Affairs License</td> <td>4 <input type="checkbox"/> Vehicle Plate</td> <td>8 <input type="checkbox"/> Build Reg. No.</td> <td></td> </tr> <tr> <td>2 <input type="checkbox"/> Health Dept. License</td> <td>5 <input type="checkbox"/> Meter Number</td> <td>9 <input type="checkbox"/> Telephone No.</td> <td></td> </tr> <tr> <td>3 <input type="checkbox"/> Motorist Identification</td> <td>6 <input type="checkbox"/> Soc. Sec. No.</td> <td>10 <input type="checkbox"/> Other</td> <td></td> </tr> </table>				TYPE OF LICENSE / PERMIT OR IDENTIFICATION NUMBER		7 <input type="checkbox"/> Cert. of Auth.	ISSUED BY	1 <input type="checkbox"/> Consumer Affairs License	4 <input type="checkbox"/> Vehicle Plate	8 <input type="checkbox"/> Build Reg. No.		2 <input type="checkbox"/> Health Dept. License	5 <input type="checkbox"/> Meter Number	9 <input type="checkbox"/> Telephone No.		3 <input type="checkbox"/> Motorist Identification	6 <input type="checkbox"/> Soc. Sec. No.	10 <input type="checkbox"/> Other	
TYPE OF LICENSE / PERMIT OR IDENTIFICATION NUMBER		7 <input type="checkbox"/> Cert. of Auth.	ISSUED BY																
1 <input type="checkbox"/> Consumer Affairs License	4 <input type="checkbox"/> Vehicle Plate	8 <input type="checkbox"/> Build Reg. No.																	
2 <input type="checkbox"/> Health Dept. License	5 <input type="checkbox"/> Meter Number	9 <input type="checkbox"/> Telephone No.																	
3 <input type="checkbox"/> Motorist Identification	6 <input type="checkbox"/> Soc. Sec. No.	10 <input type="checkbox"/> Other																	
NOTICE ALSO SENT TO		FIRST NAME	INITIAL																
LAST NAME																			
STREET ADDRESS																			
CITY		STATE	ZIP																
The Respondent is charged with violation of Law/Rule.																			
Date of Offense	AM <input type="checkbox"/> PM <input type="checkbox"/>	County	BD. NO. Violation Code																
		M Bx Bkn Q SI																	
NYC ADMINISTRATIVE CODE/RULE		OTHER CODES																	
1. <input type="checkbox"/> "Air Code" Provisions	5. <input type="checkbox"/> Sanitation Provisions	9. <input type="checkbox"/> Other	9. <input type="checkbox"/> NYS Public Health Law																
2. <input type="checkbox"/> "Noise Code" Provisions	6. <input type="checkbox"/> General Vendor Provisions		10. <input type="checkbox"/> NYC Health Code Provisions																
3. <input type="checkbox"/> "Water Code" Provisions	7. <input type="checkbox"/> Food Vendor Provisions		11. <input type="checkbox"/> NYS VTL																
4. <input type="checkbox"/> "Sewer Code" Provisions	8. <input type="checkbox"/> Transportation Provisions		12. <input type="checkbox"/> Other																
SECTION		RULE																	
At Front of		Place of Occurrence																	
<input type="checkbox"/>		<input type="checkbox"/>																	
DETAILS OF VIOLATION																			
Property Removed <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>																			
<input type="checkbox"/> ALTERNATIVE SERVICE																			
		1 <input type="checkbox"/> Single Unit	3 <input type="checkbox"/> Commercial																
		2 <input type="checkbox"/> Multiple Unit																	
Mailable Penalty Schedule		Maximum Penalty For Violation																	
\$25 <input type="checkbox"/> \$50 <input type="checkbox"/> \$100 <input type="checkbox"/> \$250 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> Other <input type="checkbox"/>		\$ _____ or see reverse side																	
Vendor Multiple Offense Schedule (See Reverse Side) <input type="checkbox"/> 9		8:30 AM <input type="checkbox"/> 10:30 AM <input type="checkbox"/> 1:00 PM <input type="checkbox"/> 2:30 PM <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/>																	
Date of Hearing _____ Day of _____ 19__																			
Proceedings will be held under authority of the N.Y.C. Charter Section 1404 and rules promulgated thereunder.																			
<b>WARNING:</b> If you do not appear (or pay by mail if permitted) you will be held in default and subject to the maximum penalties permitted by law. Failure to appear or pay a penalty imposed may lead to suspension of your license or other action affecting licenses you now have or may apply for.																			
I, an employee of the below agency, personally observed the commission of the civil violation charged above. False statements made herein are punishable as a class A Misdemeanor pursuant to section 210.45 of the Penal Law. Affirmed under penalty of perjury.																			
RANK (TITLE) SIGNATURE OF COMPLAINANT		REPORT LEVEL (Fill 4 Spaces) Comm'd, Sqd, Unit, etc.																	
COMPLAINANT'S NAME (Printed)		TAX REGISTRY NUMBER	AGENCY																
<input type="checkbox"/> Petitioner wishes to appear, if hearing.		Further Instructions on Reverse Side																	

### ENVIRONMENTAL CONTROL BOARD

- 1 Enter license/permit number to identify respondent.
- 2 Check appropriate box.
- 3 Enter identification of other person responsible for violation, i.e., owner, lessee, etc., if any.
- 4 Enter from Common ECB Notice of Violation Offenses Card.
- 5 Describe details, including conditions if exigent circumstances exist, i.e., parade, fire, heavy traffic, etc
- 6 See Common ECB Notice of Violation Offenses Card for determination of "Must Appear" and "Penalty Schedule."
- 7 Obtain from Common ECB Notice of Violation Offenses Card.
- 8 Uniformed member must sign.
- 9 Enter command.
- 10 Enter "P.D."





# POLICE STUDENT'S GUIDE

## Summonses

### AFFIDAVIT (CERTIFICATE\*) OF SERVICE

State of New York, County of \_\_\_\_\_ **1** SS: The undersigned being duly sworn deposes and says: That deponent is not a party to the action, is over 18 years of age, and;

- 1**  At the time and place of occurrence did personally serve a true copy of this Notice of Violation on the respondent named therein.
- 2**  On \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_ AM/PM at \_\_\_\_\_ did personally serve a true copy of this Notice of Violation on the respondent named therein by delivering said copy [two copies] to: \_\_\_\_\_
  - the respondent.
  - a person of suitable age and discretion at respondent's place of business/abode.
  - an officer/director/managing agent/(other): \_\_\_\_\_ of respondent corporation.
  - designated agent in the Office of the Secretary of State, Albany, New York, as per Business Corporation Law §306(b).

Deponent herein describes the person served as follows:

- Male  Black Hair  White Skin  Under 5'  Under 100 Lbs.
  - Female  Brown Hair  Black Skin  5'0 - 5'3"  100 - 130 Lbs.
  - 14-20 Yrs.  Blond Hair  Yellow Skin  5'4" - 5'8"  131 - 160 Lbs.
  - 21-35 Yrs.  Gray Hair  Brown Skin  5'9" - 6'0"  161 - 200 Lbs.
  - 36-50 Yrs.  Red Hair  Red Skin  Over 6'  Over 200 Lbs.
  - 51-65 Yrs.  White Hair
  - Over 65 Yrs.  Balding
- Other Identifying Features \_\_\_\_\_

- 2** Alternative Service per NYC Charter §1404(d)(2)
  - At the time indicated on the front of this Notice of Violation.
  - At \_\_\_\_\_ AM/PM on \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_ I attempted to personally serve the herein Notice of Violation on the respondent named herein but was unable to do so because;
    - having attempted entry to the premises, I found the premises locked and no one responded to any bells, knocks or calls;
    - having entered the premises and having identified myself, I was:
      - advised by \_\_\_\_\_ that the respondent was not then present.
      - advised by \_\_\_\_\_ that no officer, director, managing agent or general agent of respondent was present.
      - unable to secure identification of the person(s) present.
    - Service could not be made because \_\_\_\_\_
  - Therefore, I affixed a copy of the herein Notice of Violation to the door of the premises at the time indicated above.
  - Therefore, I delivered a copy of the herein Notice of Violation to \_\_\_\_\_, described above, whom I believe to be an employee of respondent at the premises, because employee:
    - So identified him/herself.
    - Was performing work consistent with such employment.
    - Other \_\_\_\_\_

**4** Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Print Name \_\_\_\_\_  
 Sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
 Signature of Certifying Officer Administering Oath

\*If not sworn, this statement shall constitute a certificate of service.

Alternative Service Mailing Dates: \_\_\_\_\_

- 1 Complete this caption.
- 2 This caption/area is not used by this Department.
- 3 Complete as much of this section as possible.
- 4 Issuing member and supervisor must sign.



# POLICE STUDENT'S GUIDE

## Summonses

TRANSIT ADJUDICATION BUREAU											
VIOLATION NO. <b>T-VOID</b>		FOR TAB USE									
<b>Notice of Violation and Hearing — New York City Transit Authority vs. Respondent</b>											
Last Name			First Name						Initial		
Number		Street <b>1</b>					Apt.				
City				State				Zip			
Tel. Contact No. ( )			S.S.#								
DATE OF BIRTH	MONTH	DAY	YEAR	SEX	RACE	HEIGHT	FT. IN.		WEIGHT		
<input type="checkbox"/> School, or		<input type="checkbox"/> Name of Employer <b>2</b>									
Number		Street									
City				State				Zip		(Tel. No.)	
<b>3</b>	ID Was Observed	<input type="checkbox"/> Yes <input type="checkbox"/> No	Photo ID	<input type="checkbox"/> Yes <input type="checkbox"/> No	Type				No.		
<b>4</b>	Name of Parent or Guardian (if under 18)			Last Name			First Name			Initial	
<b>N.Y.C.T.A. RULE VIOLATION CHARGED (21 N.Y.C.R.R. PART 1050)</b>											
<b>5</b>	<input type="checkbox"/> 1 FARE EVASION 4(a)	<input type="checkbox"/> 2 FAIL TO PROVIDE ID. INFO 6(d)(3)	<input type="checkbox"/> 3 LITTER/SPIT/URINATE 7(a)	<input type="checkbox"/> 4 SMOKING/OPEN FLAME 7(b)	<input type="checkbox"/> 5 DRINKING/UNSEALED ALCOHOL 7(g)	<input type="checkbox"/> 6 UNSAFE RIDING 9(d)					
<input type="checkbox"/> STATUTE: TA RULES (21 N.Y.C.R.R. PART 1050) UNLESS OTHERWISE SPECIFIED		<input type="checkbox"/> OTHER RULES		Section/Subdivision							
DATE OF OFFENSE	MONTH	DAY	YEAR	AM	TIME	PM	PCT.	Post			
Station/Location											
Specific Location	<input type="checkbox"/> 1 Train	<input type="checkbox"/> 2 Platform	<input type="checkbox"/> 3 Mezzanine	<input type="checkbox"/> 4 Street Stairs	<input type="checkbox"/> 5 Toilet	<input type="checkbox"/> 6 Bus	<input type="checkbox"/> 7 Other				
DETAILS OF VIOLATION											
MAILABLE FINE \$25 \$50 \$60 \$75 \$100 NONE - YOU MUST APPEAR SEE DATE AND TIME BELOW											
WARNING: You are hereby directed, if not answering by mail, to appear in person for a hearing at the Transit Adjudication Bureau on or before the hearing date below. Failure to do so shall be deemed an admission of the violation charged and may lead to a default judgment and subject you to the maximum penalties provided by law. (SEE INSTRUCTIONS ON REVERSE SIDE.)											
<b>6</b>	HEARING DATE	MONTH	DAY	YEAR	<input type="checkbox"/> 1 8:30 AM	<input type="checkbox"/> 2 10:30 AM	<input type="checkbox"/> 3 1:00 PM				
Commission of the violation charged above was observed by me or by the witness/complainant named on the reverse side. At or near the time and place of occurrence I did personally serve a true copy of the herein Notice of Violation on the aforementioned respondent, unless "copy refused" is checked below. Atfirmed under penalty of perjury.											
<b>7</b>	Rank/Signature			Agency			Command				
(PRINT)		First Name		Initial		Last Name			Officer ID		
<input type="checkbox"/> COPY REFUSED		<input type="checkbox"/> WITNESS/COMPLAINANT				<input type="checkbox"/> FARE MEDIA OR PROPERTY CONFISCATED TAB					

### TRANSIT ADJUDICATION BUREAU - NOTICE OF VIOLATION AND HEARING (TAB/NOV)

- 1 If violator resides in a shelter, do not issue a TAB/NOV.
- 2 Enter employer name, address, and telephone number, as applicable.
- 3 Check appropriate boxes; enter ID information.
- 4 Enter the name of the violator's parent or guardian, if violator is under 18 years of age.
- 5 Check appropriate box or enter the applicable section/subdivision in the space provided.

**Note:** Do not check box "Other Rules." (This box is reserved for other jurisdictions.)

- 6 Enter appropriate hearing date listed on TAB hearing date calendar card.
- 7 Uniformed member must sign.

**Note:** All printed information must be legible.



# POLICE STUDENT'S GUIDE

## Summonses

### TRANSIT ADJUDICATION BUREAU

#### NOTICE OF VIOLATION AND HEARING

ISSUING OFFICER: USE THE SPACE BELOW TO RECORD WITNESS/COMPLAINANT INFORMATION OR DESCRIPTION OF CONFISCATED PROPERTY. MARK ADDITIONAL INFORMATION OR PROPERTY BOX(ES) ON FRONT OF NOTICE IF WITNESS/COMPLAINANT OR PROPERTY INFORMATION IS WRITTEN BELOW.

**IMPORTANT: REMOVE RESPONDENT COPY BEFORE COMPLETING THIS SIDE.**

WITNESS / COMPLAINANT 1: NAME (PRINT)	
<b>1</b>	
ADDRESS	NYCTA PASS NUMBER
CITY	STATE ZIP CODE DAY TELEPHONE
( )	

I personally observed the commission of the violation charged above.  
Affirmed under penalty of perjury.

**WITNESS / COMPLAINANT 1**  
**SIGNATURE: X**

WITNESS / COMPLAINANT 2: NAME (PRINT)	
<b>1</b>	
ADDRESS	NYCTA PASS NUMBER
CITY	STATE ZIP CODE DAY TELEPHONE
( )	

I personally observed the commission of the violation charged above.  
Affirmed under penalty of perjury.

**WITNESS / COMPLAINANT 2**  
**SIGNATURE: X**

DESCRIPTION OF CONFISCATED PROPERTY:
<b>2</b>
PROPERTY VOUCHER NUMBER:
<b>3</b>

**TRANSIT ADJUDICATION BUREAU**  
505 FULTON STREET, 6TH FLOOR  
BROOKLYN, N.Y. 11201  
(718) 237-2666

- 1 Enter witness/complainant information as appropriate.
- 2 Describe all confiscated property.
- 3 If property is confiscated, enter Property Clerk's Invoice Number.



# POLICE STUDENT'S GUIDE

## Summonses

### HOMEWORK QUESTIONS

1. Indicate whether each of the following would be eligible for a summons / notice of violation:

- |   |     |    |
|---|-----|----|
| A. 16 year old female                         | YES | NO |
| B. Intoxicated 20 year old male               | YES | NO |
| C. Man without valid identification           | YES | NO |
| D. Double parked car with "Diplomat" plates   | YES | NO |
| E. Taxi driver without a valid insurance card | YES | NO |

2. During a car stop, a motorist hands a police officer his driver's license and insurance card. The motorist is unable to produce a valid registration card. The officer should...

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3. Indicate who (if anybody) would be issued a summons for failing to wear a seat belt:

- A. 60 year old man riding in the front passenger seat \_\_\_\_\_
- B. 16 year old riding in the back seat \_\_\_\_\_
- C. 15 year old riding in the front passenger seat \_\_\_\_\_
- D. 30 year old man riding in the back seat \_\_\_\_\_
- E. 15 year old man riding in the back seat \_\_\_\_\_
- F. 35 year old driver \_\_\_\_\_

4. The NYC Department of Transportation issues laminated parking permits to people with certain disabilities. Indicate whether a vehicle with one of these permits can legally park in the following areas:

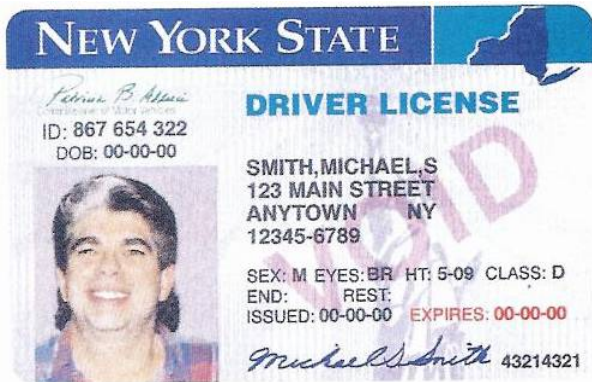
- |  |       |         |
|--|-------|---------|
| A. Double parking                            | LEGAL | ILLEGAL |
| B. Parking meter (without depositing a coin) | LEGAL | ILLEGAL |
| C. Fire hydrants                             | LEGAL | ILLEGAL |
| D. No Parking sign (Street Cleaning Rules)   | LEGAL | ILLEGAL |
| E. Bus stops                                 | LEGAL | ILLEGAL |
| F. Taxi stands                               | LEGAL | ILLEGAL |



# POLICE STUDENT'S GUIDE

## Summonses

5. P.O. Mays pulls a motorist over for running a red light ("B" Summons – returnable to Traffic Court). After approaching the vehicle, he observes a marijuana cigarette in the ashtray ("C" Summons – returnable to Criminal Court). Regarding the issuance of the two summonses, the officer should...
- Issue 2 summonses – both returnable to Criminal Court
  - Issue 2 summonses – both returnable to Traffic Court
  - List both offenses on one summons - returnable to Criminal Court
  - List both offenses on one summons - returnable to Traffic Court
  - Have the red light summons returnable to Traffic Court and the marijuana summons returnable to Criminal court.
6. Using the below information, today's date and time, and the location of E/B 20<sup>th</sup> St. at 3<sup>rd</sup> Ave. (N/W corner), issue a summons for the following violations:
- Defective right brake light (375 (40b) VTL) ("B" summons)
  - Possession of an open container of alcohol in public (22 oz. Beer) (10-125 (2b) AC) ("C" summons)
  - Double parking ("A" summons)







# POLICE STUDENT'S GUIDE

## Summonses

AA-500 (7/97) **COMPLAINT INFORMATION**

**400002503-0** Susp/Rev Check  Yes No   
 Motorist Exhibited License  Yes No   
 The People of The State of New York VE.

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ M.I. \_\_\_\_\_

Street Address \_\_\_\_\_ Apt. No. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

ID Number \_\_\_\_\_ Date of Birth \_\_\_\_\_ Sex \_\_\_\_\_  
 MO Y DAY YR

Lic. State \_\_\_\_\_ Lic. Class or ID Type \_\_\_\_\_ Date Expires \_\_\_\_\_ Operator Owns Vehicle  Yes No   
 MO DAY YR

**OPERATOR AND/OR OWNER OF VEHICLE BEARING LICENSE**

Plate No. \_\_\_\_\_ NY CT PA NJ Other \_\_\_\_\_ Reg. Expires \_\_\_\_\_  
 MO DAY YR

FAG	ONT	OSU	OML	Other	CHEV	FORD	HONDA	DODG	CLER	BUICK	TOY	NISS	Other
SEBNI	BUON	VAN	TRUCK	MCV	Other	Wch. Yr.	Wch. Color	Alternate Plate	State				

VIN No. \_\_\_\_\_

**THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS**

AM \_\_\_\_\_ Time \_\_\_\_\_ PM \_\_\_\_\_ Date of Offense \_\_\_\_\_ County \_\_\_\_\_ Precinct \_\_\_\_\_

Place of Occurrence \_\_\_\_\_

IN VIOLATION OF \_\_\_\_\_ VTI First Admin First Other  
 Plates Code Code

Sec \_\_\_\_\_ Sub \_\_\_\_\_

Description of Violation (if not shown below, if returnable to Criminal Court, indicate Court Location and Date of Appearance below and COMPLETE, DATE, AND SIGN INFORMATION ON REVERSE SIDE.)

SPEEDING		DISOBEY TRAFF CONT DEV		Uninspec. Veh.	Unreg. Veh.	Unlic. Oper.
MPH	In MPH Zone	<input type="checkbox"/> Sign	PAVS <input type="checkbox"/> Marks	Uninsur. Veh.	Com. Veh.	Bus Haz. Mat
		<input type="checkbox"/> Signal				

If the person described above is summoned to appear at CRIMINAL COURT Summons Recd. County \_\_\_\_\_

Located at \_\_\_\_\_

Date of Appearance 9:00 a.m. day of 10

I personally observed the commission of the offense charged above. False statements made herein are punishable as a Class A Misdemeanor pursuant to Section 210.45 of the Penal Law. Affirmed under penalty of perjury.

Print/Full Signature of Complainant \_\_\_\_\_

Complainant's Full Name (printed) \_\_\_\_\_ Command Code \_\_\_\_\_

Agency/NCIC \_\_\_\_\_ Squad \_\_\_\_\_ Tax Registry No. \_\_\_\_\_

I acknowledge receipt of this summons. I understand it is my responsibility to read and comply with the instructions on my copy, and that my signature below is not an admission of guilt.

Name \_\_\_\_\_ Date \_\_\_\_\_

AA-500 (7/97) **CRIMINAL COURT INFORMATION (DESCRIBE OFFENSE)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

WARRANT CHECK  Yes  No

I PERSONALLY OBSERVED THE COMMISSION OF THE OFFENSE CHARGED HEREIN. FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.15 OF THE PENAL LAW. AFFIRMED UNDER PENALTY OF PERJURY.

Date \_\_\_\_\_ Signature \_\_\_\_\_

**DEFENDANT DESCRIPTION**

Eye Color \_\_\_\_\_ Hair Color \_\_\_\_\_ Ethnicity \_\_\_\_\_

Ht. \_\_\_\_\_ Wt. \_\_\_\_\_ Phone # \_\_\_\_\_

**ARRAIGNMENT**

Defendant pleads  Guilty  Not Guilty

Date \_\_\_\_\_ Judge \_\_\_\_\_

① \_\_\_\_\_

② \_\_\_\_\_

\* 4 0 0 0 0 2 5 0 3 0 \*



# POLICE STUDENT'S GUIDE

## Summonses

### Notice of Parking Violation

**PRINT ALL ENTRIES • USE BALL POINT PEN • PRESS HARD**

City of New York  
Notice of Violation

Rev. 7/02

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Name of Operator if present  
Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Initial \_\_\_\_\_

Permit Displayed: No  Yes   
Type \_\_\_\_\_ Operator Permit Bu ID # \_\_\_\_\_

**OWNER OF THE VEHICLE BEARING LICENSE**      DATE REGISTRATION EXPIRES

PLATE	CD	PM	JULY	TH
-------	----	----	------	----

**VEHICLE TYPE**

1 <input type="checkbox"/> BUS	2 <input type="checkbox"/> TRUCK	3 <input type="checkbox"/> TAXI	4 <input type="checkbox"/> MOTORCYCLE	5 <input type="checkbox"/> BICYCLE	6 <input type="checkbox"/> OTHER	7 <input type="checkbox"/> TRAILER	8 <input type="checkbox"/> MOTORCYCLE	9 <input type="checkbox"/> BICYCLE	10 <input type="checkbox"/> OTHER	11 <input type="checkbox"/> TRAILER	12 <input type="checkbox"/> MOTORCYCLE	13 <input type="checkbox"/> BICYCLE	14 <input type="checkbox"/> OTHER	15 <input type="checkbox"/> TRAILER	16 <input type="checkbox"/> MOTORCYCLE	17 <input type="checkbox"/> BICYCLE	18 <input type="checkbox"/> OTHER	19 <input type="checkbox"/> TRAILER	20 <input type="checkbox"/> MOTORCYCLE	21 <input type="checkbox"/> BICYCLE	22 <input type="checkbox"/> OTHER	23 <input type="checkbox"/> TRAILER	24 <input type="checkbox"/> MOTORCYCLE	25 <input type="checkbox"/> BICYCLE	26 <input type="checkbox"/> OTHER	27 <input type="checkbox"/> TRAILER	28 <input type="checkbox"/> MOTORCYCLE	29 <input type="checkbox"/> BICYCLE	30 <input type="checkbox"/> OTHER	31 <input type="checkbox"/> TRAILER	32 <input type="checkbox"/> MOTORCYCLE	33 <input type="checkbox"/> BICYCLE	34 <input type="checkbox"/> OTHER	35 <input type="checkbox"/> TRAILER	36 <input type="checkbox"/> MOTORCYCLE	37 <input type="checkbox"/> BICYCLE	38 <input type="checkbox"/> OTHER	39 <input type="checkbox"/> TRAILER	40 <input type="checkbox"/> MOTORCYCLE	41 <input type="checkbox"/> BICYCLE	42 <input type="checkbox"/> OTHER	43 <input type="checkbox"/> TRAILER	44 <input type="checkbox"/> MOTORCYCLE	45 <input type="checkbox"/> BICYCLE	46 <input type="checkbox"/> OTHER	47 <input type="checkbox"/> TRAILER	48 <input type="checkbox"/> MOTORCYCLE	49 <input type="checkbox"/> BICYCLE	50 <input type="checkbox"/> OTHER	51 <input type="checkbox"/> TRAILER	52 <input type="checkbox"/> MOTORCYCLE	53 <input type="checkbox"/> BICYCLE	54 <input type="checkbox"/> OTHER	55 <input type="checkbox"/> TRAILER	56 <input type="checkbox"/> MOTORCYCLE	57 <input type="checkbox"/> BICYCLE	58 <input type="checkbox"/> OTHER	59 <input type="checkbox"/> TRAILER	60 <input type="checkbox"/> MOTORCYCLE	61 <input type="checkbox"/> BICYCLE	62 <input type="checkbox"/> OTHER	63 <input type="checkbox"/> TRAILER	64 <input type="checkbox"/> MOTORCYCLE	65 <input type="checkbox"/> BICYCLE	66 <input type="checkbox"/> OTHER	67 <input type="checkbox"/> TRAILER	68 <input type="checkbox"/> MOTORCYCLE	69 <input type="checkbox"/> BICYCLE	70 <input type="checkbox"/> OTHER	71 <input type="checkbox"/> TRAILER	72 <input type="checkbox"/> MOTORCYCLE	73 <input type="checkbox"/> BICYCLE	74 <input type="checkbox"/> OTHER	75 <input type="checkbox"/> TRAILER	76 <input type="checkbox"/> MOTORCYCLE	77 <input type="checkbox"/> BICYCLE	78 <input type="checkbox"/> OTHER	79 <input type="checkbox"/> TRAILER	80 <input type="checkbox"/> MOTORCYCLE	81 <input type="checkbox"/> BICYCLE	82 <input type="checkbox"/> OTHER	83 <input type="checkbox"/> TRAILER	84 <input type="checkbox"/> MOTORCYCLE	85 <input type="checkbox"/> BICYCLE	86 <input type="checkbox"/> OTHER	87 <input type="checkbox"/> TRAILER	88 <input type="checkbox"/> MOTORCYCLE	89 <input type="checkbox"/> BICYCLE	90 <input type="checkbox"/> OTHER	91 <input type="checkbox"/> TRAILER	92 <input type="checkbox"/> MOTORCYCLE	93 <input type="checkbox"/> BICYCLE	94 <input type="checkbox"/> OTHER	95 <input type="checkbox"/> TRAILER	96 <input type="checkbox"/> MOTORCYCLE	97 <input type="checkbox"/> BICYCLE	98 <input type="checkbox"/> OTHER	99 <input type="checkbox"/> TRAILER	100 <input type="checkbox"/> MOTORCYCLE	101 <input type="checkbox"/> BICYCLE	102 <input type="checkbox"/> OTHER	103 <input type="checkbox"/> TRAILER	104 <input type="checkbox"/> MOTORCYCLE	105 <input type="checkbox"/> BICYCLE	106 <input type="checkbox"/> OTHER	107 <input type="checkbox"/> TRAILER	108 <input type="checkbox"/> MOTORCYCLE	109 <input type="checkbox"/> BICYCLE	110 <input type="checkbox"/> OTHER
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**THE OPERATOR AND OWNER OF THE ABOVE VEHICLE ARE CHARGED AS FOLLOWS.**

AM	Time	PM	Date of Offense	Time 1st Obs'd	Date 1st Obs'd	County
----	------	----	-----------------	----------------	----------------	--------

Place of Occurrence \_\_\_\_\_

Code	Fine	Violation of	Sign Restrictions/
AM	PM	Section 4-09 (subject below)	Other Information
14	\$50 / \$55	No Stopping (C)	Days in Effect (ALL unless otherwise stated)
16	\$50 / \$55	No Stopping except trucks (K2)	Hours in Effect (ALL unless otherwise stated): Fr: <input type="checkbox"/> AM <input type="checkbox"/> PM To: <input type="checkbox"/> AM <input type="checkbox"/> PM
17	\$50 / \$55	No Stopping except Auth. Vehicles (C4)	Other Description/Rider
19	\$50 / \$55	No Stopping Bus Stop (C3)	
20	\$50 / \$55	No Parking (D)	
21	\$50 / \$55	No Parking, SCH (L1)	
24	\$50 / \$55	No Parking except Auto. V's rules (D5)	
34	\$25 / \$55	Expired Meter (H2)	Meter Operational: <input type="checkbox"/> Yes <input type="checkbox"/> No
37	\$25 / \$55	Overtime Parking Multi-Meter (J3)	Time Limit: _____ Hr(s)
40	\$55 / \$65	Fire Hydrant (E2)	Feet From: _____
46	\$50 / \$55	Double Parking (F1)	
50	\$55 / \$65	Crosswalk (E5)	
51	\$55 / \$65	Steeplewalk (E3)	
70	\$55 / \$65	Registration Sticker (J2)	<input type="checkbox"/> Missing <input type="checkbox"/> Expired <input type="checkbox"/> Sticker # _____
71	\$55 / \$65	Inspection Sticker (K)	
74	\$55 / \$65	Missing/Improperly Displayed Plate (J2)	

**SEE REVERSE SIDE FOR IMPORTANT INFORMATION**

Operator/owner will be notified of this notice classification if on same address. Information and general use of this notice is for informational purposes only. For more information, please call 311 or visit the City of New York website.

Form/Signature of Operator \_\_\_\_\_      Date \_\_\_\_\_      Printed \_\_\_\_\_

Complaint Name (print) \_\_\_\_\_      Tax Registry No. \_\_\_\_\_      Agency \_\_\_\_\_

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# POLICE STUDENT'S GUIDE

## Criminal Procedures

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT CRIMINAL PROCEDURE?

Criminal procedure is the study of the laws and rules that govern the criminal justice system. Many of the procedural rules discussed in this section stem from the United States Constitution and the Constitution of the State of New York. The Bill of Rights also contains several provisions that apply specifically to the area of criminal law.

Ideally, police officers would prefer the proverbial "smoking gun case" where they catch a criminal in the act. Unfortunately, this is more the exception than the rule. As a result, police are required to conduct investigations. These investigations may include questioning victims, suspects, and witnesses, collecting physical evidence at the scene, conducting surveillance, applying for warrants, etc.

Many rules within the criminal process were designed to limit government's intrusion on the rights of innocent people even though, in the end, some of those people may not be so innocent after all. Thus, many of the concepts in this section such as the right to counsel, the right to be protected against self incrimination, and the right to suppress unlawfully obtained evidence, to name a few, may become critical issues in the process of arresting and successfully prosecuting criminals.

Tied into the above factors is the reality that police, prosecutors, and judges often end the process before a case reaches maturity. Sometimes these cases end due to successful investigative work and sometimes due to improper investigative work. Still, others are dismissed because the person arrested did commit the act – but on legally defensible grounds. Most importantly, you should become familiar with the contents of this section because cases are too often dismissed as a result of improper police conduct at some stage of the process. This is what you, as a professional police officer, must learn to avoid.

### OVERVIEW OF THE CRIMINAL JUSTICE PROCESS

The process of criminal justice essentially begins with the criminal act and the investigation that follows. When an arrest is made the process goes into full swing as the defendant is brought into the court system. Some view the introduction of court involvement as the beginning of the criminal justice process. This, however, is not the case since the actions of police - *prior to making an arrest* - can impact the outcome of various steps within the process, such as conferrals with prosecutors, grand juries, pretrial hearings, and criminal trials.



# **POLICE STUDENT'S GUIDE**

## **Criminal Procedures**

Thus far, you have studied various components of the process, some of which will only be mentioned in passing, if at all in this section. They include street encounters, authority to arrest, and documenting initial investigations. Other sections, such as the collection of evidence, the arrest process, pretrial hearings and courtroom testimony will be discussed in greater detail in later segments of your Student's Guide.

This section will take you through the chronological sequence of events that are directly related to your actions throughout the process. It begins with a comprehensive discussion on search and seizure and continues with warrants, identification of suspects, interrogations, and right to counsel.

### **SEARCH AND SEIZURE**

This topic begins by discussing an important law enforcement power; the authority to search individuals and seize property. When used correctly, your authority relating to search and seizure is an effective law enforcement tool. Enforcement in this area of law must be based upon probable cause and utilized with a search warrant, or a court recognized exception to the search warrant requirement. It will give you authority to retrieve contraband, evidence, or fruits of a crime, and may aid in the conviction of a defendant.

It is crucial that you are knowledgeable of the rules that apply to search and seizure. Your knowledge will allow you to maintain a balance between this effective law enforcement tool and the public's right to privacy, and will enhance the Department's values to respect the dignity of all, to value human life and serve the community with courtesy and civility.

#### **The Fourth Amendment**

When the American Revolution ended, the people were concerned about giving too much power to the central government. They felt that much of their trouble resulted from the British government ignoring the wishes of the people. The colonists wanted to make certain their new government would treat them fairly. To accomplish this goal, they passed the Bill of Rights, which contain the first ten amendments to the Constitution. At first, these amendments applied only to the central (federal) government. It was felt that the local state government would be more responsive because it was closer to the people than the federal government. Also, the state government would be more easily controlled, making a bill of rights unnecessary for the states.



# POLICE STUDENT'S GUIDE

## Criminal Procedures

The Fourth Amendment addresses searches and seizures. It was included in the Bill of Rights to prevent unwarranted searches conducted by agents of the federal government. A **search** refers to an individual's interest in privacy, while a **seizure** deprives the person of dominion over his person or property. The Fourth Amendment provides:

*"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."*

To provide a clearer understanding of the 4<sup>th</sup> Amendment, it is helpful to divide it into two sections. The first part, which states that, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..." guarantees personal privacy and prohibits searches and seizures that are **unreasonable**. Unreasonableness has been interpreted by the Supreme Court to mean arbitrary and/or without a warrant or an exigency.<sup>1</sup>

The second section of the Fourth Amendment states: "... and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized." This section sets guidelines for the issuance of a warrant and makes it a requirement for conducting a lawful search or seizure. Although the Supreme Court has allowed several exceptions it has a definite preference for the use of a warrant.

### Application of the Fourth Amendment

It is important to recognize that the purpose of the Fourth Amendment is to protect citizens from *unlawful* governmental activity. Thus, it does not guarantee against *all* searches and seizures, just *unreasonable* ones made by agents of the government. In addition, it does not protect a citizen from an unreasonable search or seizure by another citizen that is **not** an agent of the government.

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<sup>1</sup> Exigencies are emergency type situations where no warrant is required. These will be discussed in greater detail later in the chapter.



# POLICE STUDENT'S GUIDE

## Criminal Procedures

### The Creation of the Exclusionary Rule

The Fourth Amendment establishes the standard for government searches; however, the Amendment says nothing about the penalty for its violation by government agents. As a result, in 1914 the United States Supreme Court, in the landmark case of *Weeks v. United States*, ruled that evidence obtained through an illegal search or seizure could not be used against an accused in a criminal prosecution. In 1961, the Court, in the case of *Mapp v. Ohio*, applied the rule to criminal actions in state courts, stating: "all evidence obtained by searches in violation of the Constitution is, by the same authority, inadmissible in a state court."<sup>2</sup>

Thus, the Exclusionary Rule ***prohibits evidence obtained by an unreasonable search and seizure from being used in court.*** Illegally obtained evidence cannot be used in a trial against a person charged with a crime. Moreover, other evidence which is discovered as a direct result of an illegal search - for example, a gun which is discovered by illegally seizing a safety deposit box key - will likewise be suppressed (excluded) under the doctrine the courts have named "***Fruits of the Poisonous Tree.***" This rule states that ***if the initial search is invalid, any evidence subsequently discovered as a result of that search must be declared invalid as well.***

In most arrest cases, the physical evidence that is discovered from a search is needed to obtain a conviction. Often, the Exclusionary Rule results in a guilty person being set free. The criminal is not punished for the crime he committed and he is free to commit more crimes. It is the court's hope that this result will cause law enforcement officers to conduct only reasonable searches and seizures.

Essentially, there are three reasons, or theories, that support the Exclusionary Rule.

1. **Personal Right.** The law seeks to restore injured parties to the position they held prior to a violation of law. Therefore, when a court excludes illegally obtained evidence, it restores the situation that would have existed if the illegal search had never occurred.
2. **Judicial Integrity.** If courts were to admit illegally obtained evidence, they would, in essence, condone improper police behavior. Thus, if a court is to dispense justice, it cannot punish or condemn criminal activity by private citizens while it ratifies illegal police conduct.

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<sup>2</sup> New York also applies the Exclusionary Rule to administrative hearings, probation, and parole revocation hearings



# POLICE STUDENT'S GUIDE

## Criminal Procedures

3. **Deterrence.** The most oft mentioned reason for the Exclusionary Rule is that the rule exists, not to remedy the current case, but to discourage improper police conduct in future cases. This is because the 4<sup>th</sup> Amendment was created to protect “innocent” persons from having their privacy violated by the government.

### How is the Exclusionary Rule Asserted?

In order to assert the Exclusionary Rule, one must establish that he or she had a privacy interest infringed, or violated, by the government. This is referred to as “**standing**.” In order to have standing under the 4<sup>th</sup> Amendment, the person must show that he possessed:

1. an actual **expectation of privacy**; and
2. that the expectation is one that society is prepared to recognize as **reasonable**.

### Areas Protected by the 4<sup>th</sup> Amendment

As previously mentioned, the 4<sup>th</sup> Amendment protects **persons** from unlawful government intrusion in the form of searches and seizures. This protection also extends to the following:

- **Private Homes** – People have a reasonable expectation of privacy in their homes.
- **Curtilage** – The immediate area, not necessarily enclosed, around a dwelling. However, an expectation of privacy is determined by:
  - Proximity to house;
  - Whether area is enclosed;
  - Uses of the area;
  - Steps taken to keep people away from area.

### Court Recognized Exceptions to the Search Warrant Requirement

There are no provisions in the 4<sup>th</sup> Amendment specifically authorizing a search without a warrant. However, the Supreme Court has recognized exceptions and, on the basis of necessity, approved searches without a warrant. New York State has adopted the searches approved by the Supreme Court and added further restrictions in some instances. No state may add any further exceptions to the necessity of the search warrant that have not been recognized by the U.S. Supreme Court.



# POLICE STUDENT'S GUIDE

## Criminal Procedures

The following is a complete list of the circumstances that would authorize you to conduct a search or seizure without a warrant and the only court-recognized exceptions to the search warrant requirement.

1. Search Incident to a Lawful Arrest;
2. Plain View;
3. Auto Exception;
4. Consent;
5. Emergency;
6. Stop/Question/Frisk;
7. Hot Pursuit;
8. Inventory.

### Search Incident to a Lawful Arrest

Searches incident to a lawful arrest account for the largest percentage of searches by police officers. The search is authorized because courts realize that at the moment of arrest it is necessary to:

- Prevent the prisoner from securing a weapon or object that would endanger the safety of the police officer or the public; and/or
- Prevent the prisoner from acquiring any object which might provide a means of escape; and/or
- Prevent the concealment or destruction of evidence.

### Elements of Search Incident to Arrest

**Valid Arrest.** Probable cause must exist before the arrest is made. If the arrest is not lawful, the fruits from the search will not be admitted into evidence. Most searches of the person held to be improper by the courts have followed illegal arrests. The arrests were held illegal because the police officer lacked probable cause to make the arrest initially. Probable cause to believe that a person committed an offense must exist before the arrest can be made. Evidence found after an illegal arrest may never be the basis of an arrest.

**“Good Faith” Arrest.** The arrest must be made in good faith. Even if the arrest is technically valid, if the court finds it was used as an excuse or “pretext” to make a search, the search will be regarded as unreasonable and the fruits of the search will be inadmissible. If you claim this exception, you must be able to show probable cause for the arrest and that the arrest was not made as an excuse to search.



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**Example:** A police officer arrests a traffic violator instead of issuing him a summons because the officer wanted to search.

**Note:** In situations where you cannot issue a summons, such as no identification, an arrest would be authorized. The arrest would then be in good faith.

**Limited in Time, Scope, Intensity.** The search must be limited in time, intensity and scope. A warrantless search, following a lawful arrest, is permitted in order to:

- Protect the officer, from a possible weapon or object that could endanger the officer.
- Prevent the escape of the prisoner.
- Prevent the destruction of evidence.

**Note:** While probable cause is needed to legally arrest, no separate standard of proof is necessary to conduct a search incident to arrest. This search is automatic, however, there are limitations on the search concerning:

- The time of the search in relation to the arrest;
- The degree of intrusiveness (to what extent the privacy of the person may be violated);
- The extent of the search.

**Intrusiveness** - The officer's search is limited to accessible areas since they afford the prisoner the means of immediately getting a weapon or concealing evidence. "Accessible" includes unlocked areas and areas that are locked, but have a key available.

**Scope** - The U.S. Supreme Court, in *Chimel v. California* (L.B.B. Vol. 1 #7 at the end of this chapter), stated:

"...it is reasonable for the arresting officer to search the person arrested in order to remove any weapons that might be used to resist his arrest or help him escape. Otherwise, the officer's safety might be endangered and the arrest itself frustrated. In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its



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concealment or destruction. The area into which an arrestee might reach in order to grab a weapon or destroy evidence may also be searched."

A gun on a table or in a drawer in front of a person under arrest may be as dangerous to the arresting officer as a gun hidden on the prisoner. Therefore, there is a basis for a search of the arrestee's person and the area within his immediate control; the area where he might gain possession of a weapon or destroy evidence. However, there is no automatic basis for routinely searching rooms other than the one in which the arrest occurs, or for searching through desk drawers in another room, or other closed or concealed areas in room searches. Such searches, unless conducted with another exception, may be made only with a search warrant. Therefore, if the police officer plans to arrest a suspect at his home, office or other premises, and has no exception to search the entire house, office, etc. for contraband or other evidence, a valid search warrant based on probable cause should be obtained before making the arrest. The point is if you have the time, it is best to obtain a search warrant.

The police officer may look into other rooms and closets for wanted or dangerous persons if he has reason to believe there is more than one suspect present. Such belief might rest on a factor as small as an unexplainable noise coming from another room. If during the course of a check of other rooms and closets he finds evidence that is in plain view, it may be seized.

However, the police officer has no right to look for evidence. He is only permitted to check for accomplices to protect himself. **This exception only applies when there is reason to believe that more than one suspect is present.**

### Points to Remember Regarding Searches Incident to Arrest

When a search is made incident to an arrest:

1. Be sure that **probable cause** has been established prior to making an arrest.
2. This search must follow a valid, lawful arrest.
3. If the arrest is based on the evidence seized and probable cause for the initial arrest **did not** exist, any evidence will be excluded.
4. The defendant will be charged with the crime for which he was arrested, based on probable cause.





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5. Additional charges will then be added if a search incidental to the arrest uncovers anything unlawfully possessed.

### The Following Guidelines Apply to Personal Property Possessed By Arrested Persons:

1. Containers concealed on the arrestee's person or in the clothes he is wearing, may be searched without a warrant contemporaneous to the arrest. The search is justified in every arrest situation. The search is automatic in that the officer need not suspect that weapons, contraband or evidence will be found.
2. Portable containers such as suitcases, attaché cases, clothing bags, handbags, shoulder bags, sports bags, duffel bags, etc., that are being carried by the arrestee or located within his grabbable area at the time of arrest **may be seized** contemporaneous with the arrest. Under normal circumstances, a search warrant must be obtained in order to search these items.
  - In order to search a seized portable container **without a search warrant**, the officer must be able to articulate a reasonable belief that at the time of the arrest the container contains: (1) a weapon; (2) a means of escape; (3) evidence which could have been hidden, destroyed or removed in the moments before the arrest.
  - As long as the suspect had control of the container at the time of the arrest, it may be searched even though the suspect is handcuffed and the container is within the exclusive control of the police, provided that the search is contemporaneous with the arrest and a reasonable belief exists that a weapon or means of escape could have been reached at the time of the arrest or evidence could have been destroyed/concealed at the time of the arrest.
  - A container may not be searched if it is apparent that it is so securely fastened that the person arrested cannot reach the contents inside or could not have reached the contents inside before being handcuffed.
  - If the contents are accessible, however, it may be searched.



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3. The contents of an unlocked container are to be considered accessible.
4. A locked container will be presumed accessible if the suspect has the keys in his possession or if it can be readily opened without damaging it.

**Note:** The courts have developed a standard of proof called a **reasonable belief**. It is required to search a portable container that is being carried by the arrestee at the time of arrest or to conduct a protective sweep for additional suspects in a constitutionally protected area incidental to an arrest.

### Arrest of an Auto's Occupant

Police may search the person arrested and containers concealed on the arrestee's person or in the clothes he/she is wearing, i.e., wallet, pillbox, etc., automatically.

When an officer arrests an occupant of a vehicle and has neither an independent basis to search the vehicle nor do the circumstances that supply probable cause to arrest the occupant supply probable cause to search the vehicle, the officer can conduct a limited search incidental to that lawful arrest. This exception to the search warrant requirement is much narrower in scope than the automobile exception. It exists to protect against the danger that the arrested person might gain access to a weapon or may be able to destroy or conceal evidence. A search incidental to an arrest must be limited to the area within the arrestee's immediate control. This area, known as the "grabbable area," is limited to the space within the arrestee's immediate reach. The grabbable area can never be measured in precise feet or inches, its boundaries must be reasonable. Therefore, **when an officer has lawfully arrested an occupant of a vehicle, and he or she has a reasonable belief that the vehicle contains a weapon, a means of escape, or evidence related to the crime for which the occupant was arrested, the officer may search the grabbable area within the passenger compartment or any containers within that grabbable area immediately after the arrest.** If the search of the person or the passenger compartment reveals evidence that would create probable cause to believe that contraband, fruits of a crime, or mere evidence is present in the vehicle then this nexus would lead to the automobile exception.

The court ruled that this nexus, or connection, is a flexible standard. The search is not limited to the crimes for which the suspect is formally arrested. For example, the Court has upheld a search, after an arrest for a traffic infraction,



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when the circumstances surrounding the stop gave the arresting officer probable cause to believe the car contained a firearm.

In addition, this inquiry is not limited to facts uncovered in the "narrowly constricted time frame immediately before and during the automobile stop." The proper inquiry is whether the circumstances as a whole, including facts learned before the car stop, gave the officer probable cause to search the vehicle. The Court noted that "when the occupant of a vehicle is arrested, the very circumstances that supply probable cause for the arrest may also give the police probable cause to believe the vehicle contains contraband, evidence of a crime, a weapon or some means of escape. If so, a warrantless search of the vehicle is authorized . . ."

### **Plain View Exception**

The Plain View Exception exists when a police officer is in a constitutionally protected place and he/she inadvertently observes contraband or other evidence. Strictly speaking, the Plain View Exception is not a search; the officer just happens to observe the evidence while he or she is engaged in his/her lawful duties. For example, if an officer while on his or her post was invited into the back of a store by the owner who hoped to gain advice on security, and while back there the officer observed illegal drugs, he or she would properly seize the drugs and arrest the owner. The drugs were in plain view. The officer would not have violated any of the owner's rights in having seized them.

The Plain View Exception requires the following:

- 1) The officer must be where he has a legal right to be;
- 2) The officer must inadvertently see the item of evidence;
- 3) The police officer has reasonable cause to believe that items to be seized are contraband, mere evidence or fruits of a crime;

### **Automobile Exception - Search of Motor Vehicles**

The Fourth Amendment guarantees privacy by protecting "persons, houses, papers and effects". As a result, automobiles are guaranteed protections under the Fourth Amendment. This protection is somewhat limited because the courts rationalize that cars are primarily a means of transportation and not repositories of property. They and their contents are often visible and are subject to government regulation. Additionally, cars are inherently mobile and can quickly be moved to unknown locations beyond the jurisdictional reach of an



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officer. Therefore, search requirements must be different. The Courts have been more lenient towards automobile searches because automobiles have a lesser degree of Fourth Amendment protection than a home.

In 1925, an exception to the warrant requirement was carved out by the Supreme Court in its landmark decision, *Carroll v. United States*. Because of this case, a warrantless search of a vehicle is permitted under the following specific circumstances:

- 1) There is "**probable cause**" that **evidence** or contraband is contained in a vehicle; and
- 2) **Exigent circumstances** exist (e.g., obtaining a warrant is not possible or practical because of the mobility of the vehicle to be searched).

### ***Carroll v. United States***

On September 29, 1921, government agents tried to buy whiskey from three men in an apartment in Grand Rapids. After a price of \$130.00 per case was agreed upon, the three men indicated they would have to go to the east end of Grand Rapids to pick up the liquor and that they would return in a short time. They were seen leaving in an Oldsmobile Roadster, but they never returned to the apartment. On October 6th, the agents saw two of the men traveling east from Grand Rapids to Detroit in the same Oldsmobile. The agents followed them but lost track of them in East Lansing, halfway between Grand Rapids and Detroit. On December 15th, the agents saw the men again. This time, however, the agents stopped the car, searched it and saw it contained 68 bottles of liquor.

The Supreme Court held that a warrant is not necessary when probable cause exists to search a vehicle on a highway. A car is mobile, the occupants are alerted, and the contents of the car may never be found again. Therefore, an immediate search of the car is permissible. This decision, called the ***Carroll Doctrine***, has proved over the years to be an important tool of law enforcement.

### **Current Rule of Automobile Exception**

If a police officer has probable cause that a vehicle contains evidence or contraband (regardless of whether moving or parked), the officer may, without a warrant, search any part of the vehicle, locked or not, and any containers within the vehicle as long as such containers are large enough to hold the evidence for which the officer is searching.



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**Note:** If a police officer has probable cause that a container (a suitcase, for example) holds evidence *prior* to the container being placed in a vehicle, the police officer would need a warrant to search that container. In other words, a police officer is not allowed to "create" the automobile exception as a matter of convenience.

If a police officer has probable cause that evidence is contained in a particular area of the vehicle (the trunk, for example), the police officer may search that specific area and any container in that area large enough to hold the item for which the police officer is searching. If the police officer does not find the evidence he is looking for in that particular area of the car (i.e., the trunk), he may then search the rest of the vehicle and any container therein large enough to hold the item for which the officer is searching.

If a police officer has probable cause that evidence is located in a particular container (a red suitcase, for example) somewhere in the vehicle, the police officer may search the entire vehicle for the container. If the police officer finds the container, the officer may then open it. If, during the course of a vehicle search, a police officer discovers a firearm or narcotics, the police officer may logically infer that he has probable cause that more firearms or narcotics may be located in other areas of the vehicle. Therefore, the automobile exception would attach and the police officer would be able to search the entire vehicle and any package or container capable of holding the firearm or narcotics.

If the evidence the officer is looking for is not found within the container, the officer may then search the entire auto and any container within the vehicle large enough to hold the evidence for which the officer is searching. If the officer finds the items for which he/she is searching, the search must cease.

**Note:** The distinction between auto exception and the search of an auto incident to a lawful arrest of an occupant is that while both require probable cause that evidence or contraband is present inside the auto, the search incident to a lawful arrest is preceded by a lawful arrest of an occupant and a nexus between the arrest and the probable cause to search the vehicle. There is no provision in the law that gives a police officer the right to automatically search a vehicle. Probable cause must be established whether the automobile exception or the search incident to a lawful arrest exception is applicable.



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*Consider the following situations:*

1. A man commits an assault by beating his wife with his fists and flees in his auto. The car is stopped by a patrol car and the man is placed under arrest. The arresting officer may search the grabbable area of the vehicle but not the entire vehicle based on these facts. There is no probable cause to search the entire auto.
2. A man commits an assault by beating up his wife with a baseball bat and flees in an auto with the bat. The car is stopped by a patrol car and the man is placed under arrest. The arresting officer is aware a bat was used in the attack. The arresting officer may search the auto for the bat. Under the search incident to a lawful arrest exception, the police officer has probable cause to search any area of the auto capable of containing the weapon used in the attack. The officer can articulate a nexus between the assault and the auto.
3. A man beats his wife with a bat and flees on foot. As he passes his auto that is parked on the street, he puts the bat inside, closes the trunk and continues to flee on foot. The man escapes, but an eyewitness informs a police officer the bat is in the trunk. The police officer has probable cause to search the auto under the Automobile Exception and may break into the trunk, if necessary, to recover the bat.

### Search by Consent

Generally, the law allows the person who has a right of possession to consent to a search of the premises. Possession does not necessarily mean ownership or title. The Constitution does not address who has the legal title to the premises. Rather, what it is concerned is the right of the individual to be protected from unreasonable searches by the government or its agents in any constitutionally protected place, be it a home or another location. ***The one who has a right to possession (expectation of privacy) is the one who is protected; therefore, he is the one who must give consent.***

***Tenants*** - One who receives the right to possession but not ownership of a house, apartment, room, office building, ranch, farm, etc. The length of time a person is a tenant or the existence of a written agreement is not important. A tenant, while he has the right of possession, is the one who can give consent to a police officer to search the premises. If the tenant consents and the search uncovers evidence, that evidence may be used against the tenant or person present therein, if probable cause exists to make an arrest. If the tenant or person with the right of possession is not present, no one else may give consent



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to a search of his premises. Even the owner or superintendent cannot give consent. The owner surrenders his right of possession once he rents to a tenant.

**Joint Tenants And Common Occupants** - Where two or more persons possess the premise, one may give consent to a search that would be effective against all the occupants. If two men share an apartment or a hotel room, and one is a suspect, a police officer could get valid consent from the roommate to search the room for evidence as long as the search is limited to areas mutually possessed. But if part of the room or apartment is exclusively used by the suspect, i.e., his own private room or private closet, drawer, etc., that part of the premises could not be searched without a warrant or consent of the suspect. In mutually possessed areas, if both persons are present and one objects to the search and the other consents, the consent given by the one person would be valid against the person refusing to give consent. In theory, the parties have given up their right to privacy to each other; therefore, they could give it up to the police.

**Partners** - The same principles as above applies to partners. The rule is that if two persons share the right to use or occupy a premise, either one may consent to a search and any evidence found may be used against either occupant.

**Husband And Wife** - Both a husband and a wife have equal right of possession to the family home and property possessed. The same principles as above, regarding consent, apply. However, one may not consent to the search of the personal effects which are solely possessed by the others.

**Parent And Child** - Parents may consent to search the home in which they permit their child to live. However, if the child is "emancipated" (an emancipated minor is a person under 18 years of age that is totally self-supporting), he or she would be considered a tenant and the parents would be considered landlords or owners. In cases where the child is emancipated, the parents could not give consent to search areas that the child exclusively possesses.

**Host And Guest** - Generally, the host can consent to a search of the premises. The fruits of the search may be admissible against the guest. This permission only applies to the premises itself, not the guest's personal property. However, when the host is not present, a guest or visitor, lawfully present, has a constitutional right to object to an unreasonable search of the premises if the fruits of the search could be used against him. It should be noted that without actual authorization, the guest cannot consent to the search of the premises in the absence of the person in possession.



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**Custody** - If an owner gives another person full control of his property, that person can consent to a search of the property in the same way the owner could. A valid consent was given where a friend consented to searching the trunk of a borrowed car. But where limited control is given no consent to search can be given (e.g., if the property is in custody for the purpose of storage or shipment, the person in temporary possession cannot consent to search).

**Hotel Room** - The police cannot use the consent from the management of the hotel to search a guest's room. However, if hotel employees, not acting as police agents or at the request of the police, make a search, any fruits obtained from the search will be admissible.

### Elements of a Search Based on Consent

**Voluntary Consent** - In general, a valid consent must be given voluntarily; that is, it must not be coerced. Courts consider this question carefully. Some courts doubt that consent can ever be given freely. One case said that no sane man who denies his guilt would ever be willing to let the police search his room for contraband that is certain to be discovered. The U.S. Supreme Court has stated that a consent to a search would be carefully looked at. In other cases, the courts have said the criminal might think he could outwit the police; he may consent to a search because he thinks the police will not find anything. For example, where the evidence is secreted, i.e., trash can, a washing machine, hollow pencil, etc.

**No Duress** - When the police claim consent to search was voluntarily given, they must show that there was no duress or coercion present. Even if a police officer acts in good faith, a court may sometimes infer duress from other factors:

- **Time** - Police arriving in the middle of the night may appear to be coercive. The best time to request a consent search, if possible, is during the day or during normal business hours.
- **Number Of Officers** - A larger group of officers than necessary may seem like a show of force. The court may say that the person was frightened into giving consent.





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- **Displaying Weapons And Symbols Of Authority** - The sight of a weapon or uniformed police officer, or even a shield, may seem coercive to a person about to be asked for consent. It is best for the officer to tell the person that he or she does not have to give consent, and that he will not suffer if he refuses. While this is a better course of action, a police officer is **not** required to tell the person from whom he requests consent to search that such person has the right to refuse.
- **Language** - Should be in the form of a request to search; not an order.
- **Approach** - Avoid unnecessary appearance of force; flashing lights, sirens, numerous police cars.
- **Entry** - When a police officer asks for, and receives permission, to enter a premises -he is not trespassing; any contraband in plain view could be seized. But consent to enter is not a consent to search; such consent must be independently obtained. Once inside lawfully, anything he sees in plain view could be used in establishing probable cause for an arrest. If it is illegal to possess it, it may be seized and used in evidence against the possessor.
- **Fraud** - Consent to search obtained by fraud is not valid and, therefore, unreasonable. Consent obtained by saying such things as, "You might as well let us search because we can always get a warrant," or, "If you let us search, we may not have to arrest you," seem to coerce a party to permit the search against the person's will.
- **In Custody** - Where a person is under arrest or in custody, it is very difficult to show that consent to search was freely given. The very fact that he is a prisoner strongly suggests coercion. In such cases, it is most difficult to prove that the prisoner voluntarily consented to a search.
- **Age** - Consent to search a premises should not be taken from children under 16 years of age.



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### Searches by School Authorities

Although school officials are not law enforcement personnel, the case law requires that they establish **probable cause** before effecting any searches of their students. The standard of probable cause may not be as strict as that required of law enforcement but probable cause is nevertheless required.

With regard to student lockers, school officials can search them and authorize the police to search them provided the school retains title and a strong possessory interest in the locker.

### Inventory Procedure

Similar to the plain view exception, the inventory exception is not a search for evidence. It is **an administrative procedure** aimed at protecting the prisoner's property from loss or damage while in police custody. To that end, it is reasonable and proper that an officer inspect all items that come into the officer's custody. For example, when the property is too large to remain with the prisoner or when it presents a danger to the officer, the officer should inventory those items listing each one on a property invoice. Upon the prisoner's release he/she will be able to reclaim his/her property and the City and the officer will be free from any civil claim that the property was lost or damaged. Since the reason for such inspection is not to obtain evidence of a crime; it is not considered a search within the definition of the Fourth Amendment and is governed by different standards.

This procedure must be used solely as a measure to safeguard property and not as a means to search for evidence. However, if while conducting an inventory of personal property the officer finds contraband or incriminating material, he may seize it and commence criminal charges against the owner. If asked in court about the discovery, the officer must make it clear that his sole purpose for conducting the inventory was to protect the suspect's property and comply with Department procedure and that the discovery was purely inadvertent. The discovery of contraband or incriminating material does not require a police officer to stop the inventory procedure and apply for a search warrant

Automobiles represent a large amount of personal property that comes into police custody. This Department, for example, must safeguard a stolen vehicle that has been recovered by police. The following guidelines will be adhered to when conducting an inventory of a vehicle in police custody:



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- 1) The interior passenger compartment of the auto may be searched; however, it must be kept in mind that the purpose of an inventory procedure is not to find evidence but to protect persons and property. Thus, the scope of the inventory search must be consistent with the above purpose.
- 2) The trunk, glove compartment, console and any closed containers found in the auto during the inventory search can be opened and their contents inventoried. If any of these items are locked, an officer should attempt to obtain the key from the driver, owner, passenger, etc. The above items should not be opened if to do so would cause more than minimal damage to them, unless there is an emergency, the item is in plain view, or may be inferred by its outward appearance, or valid consent was given.

The inventory procedure is not, however, limited to automobiles. Suitcases, handbags, duffel bags and similar items, if unlocked, must be inventoried after an arrest if there is no person present to whom the prisoner wishes that his property released. Property taken from a person can be opened, even if locked, if only minimal damage will occur or if the officer feels the container contains weapons, explosives, hazardous materials, or toxic substances that pose immediate danger.

The courts will closely review such seizures to determine their true purpose. If the circumstances show that the real purpose was to search for evidence, the fruits of the search will not be admitted into evidence. For instance, should an officer conduct an inventory not authorized by Department procedures, any evidence uncovered will be excluded. Cutting into the upholstery to look for narcotics, or vacuuming the inside of a car for hair or other physical evidence are examples of conduct that would not fall under the inventory procedure.

### Emergency Exception

Police act daily to save lives and to prevent physical injury. Where an emergency exists and immediate police action is needed to protect lives or property, police can search without a warrant. There are three (3) elements that must be satisfied before the police may rely on the emergency exception to a search without a warrant:

- 1) There must be probable cause an emergency exists; **and**



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- 2) The search must be confined to the area where the emergency is believed to exist; **and**
- 3) The purpose of the search must be to "cure" the emergency and **not** to seize evidence.

### Hot Pursuit

The exigent circumstances known as hot pursuit may be best illustrated under circumstances where the police have established probable cause and are chasing a suspect for the purpose of making an arrest. When these conditions exist, the police may follow the suspect into any constitutionally protected area, i.e., the suspect's home or a third party's residence. This is usually based upon an officer's direct observation of the suspect's flight. An exception may occur when an officer momentarily loses sight of the suspect and is informed by a third party of the suspect's location.

When a police officer enters a premise in hot pursuit, he/she may enter those areas of the premise that the suspect has entered to search for the suspect and/or any weapons the officer has probable cause the suspect possesses. If during the course of the pursuit the officer finds more evidence, contraband, or fruits of the crime, it may be seized and it will be admissible as evidence. Once the suspect is apprehended the search is generally over unless the weapon has not been recovered and the premise cannot be secured.

### Arrests in the Home Under Exigent Circumstances

***Exigent Circumstances Defined:*** When the police have probable cause to believe that if they don't act immediately, a person will be endangered, or a suspect will escape, or evidence will be hidden, altered or destroyed before they are able to obtain a search warrant, a warrantless search is permitted under the Fourth Amendment.

***A police officer cannot enter the home or residence of a suspect simply to make a routine arrest unless one of the following three conditions exists:***

1. The officer can set forth facts indicating that **exigent circumstances** exists; or
2. The officer has **consent** to enter the premises; or
3. The officer has an **arrest warrant**.



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### MISCELLANEOUS SEARCH AND SEIZURE ISSUES

**Garbage.** Garbage left in a public or common area may be searched without a warrant. A warrant should be obtained, however, if there is probable cause to believe the garbage contains evidence and there is no immediate need to seize it. Furthermore, absent exigent circumstances, garbage located within private property should not be searched without first obtaining a warrant.

**Driving While Intoxicated (D.W.I.) Checkpoints.** D.W.I. checkpoints are constitutional if administered in a non-arbitrary manner maintained in accordance with uniform procedures such as a roadblock.

**Vehicle Dismantlers.** The N.Y.S. Vehicle and Traffic Law provides that all vehicle dismantlers must maintain a record (called the police book) of all vehicles or parts coming into their possession and the subsequent disposition of such vehicles or parts. The statute further permits the police inspections of such premises without a search warrant. The N.Y.S. Court of Appeals held this statute unconstitutional maintaining that it lacked standards for the dismantling industry to follow and inspection criteria for the guidance of the police. Thus, in order to search the premises of a vehicle dismantler, probable cause must be obtained. Vehicle dismantlers remain subject to other V.T.L. requirements, such as record keeping and the obligation to maintain a police book.

### WARRANTS – GENERAL

#### Types of Warrants

**Arrest Warrant:** A court order directing a police officer to arrest a defendant and to bring him before such court for the purpose of initial arraignment.

**Bench Warrant:** A court order directing a police officer to take a defendant who has previously been arraigned into custody.

**Supreme Court Warrants:** A Police Department liaison from the Warrant Section must collect warrants from each court, photocopy them, and send high priority "worst of the worst" (WOW) warrants to borough warrant squads so that investigations will begin immediately. The original warrants are delivered to the Warrant Section's Central Warrant Unit.



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**Criminal Court Warrants:** The court clerk sends information on warrants issued to the Office of Court Administration, which enters the data into their system (CRIMS). All warrants entered into the Court Administration system are printed at the Central Warrant Unit, usually within one (1) day of issuance. The data is then manually entered into the Warrant File.

**Family Court Warrants:** These warrants are processed in a manner similar to Supreme Court warrants. Urgent child abuse warrants are treated like Supreme Court high priority warrants and are investigated immediately upon receipt at the appropriate warrant squad. Other Family Court warrants, after processing at Central Warrant Unit, are distributed to precincts for investigation.

### Investigative Tools

There is a wealth of information available to the police officer in many different computer databases. You will receive in depth information regarding these databases during your computer school training. Some of these databases are:

- **NYSPIN** is the New York State Police Information Network. It can retrieve a subject's criminal record from the Division of Criminal Justice Services (DCJS) and the National Crime Information Center (NCIC). Misdemeanor warrants entered into NYSPIN through the Warrant Master File are available throughout New York State. It is also used to transmit messages to and from other law enforcement agencies concerning arrested fugitives and extradition matters.
- **NCIC** is a national database. Felony warrants are entered into NCIC through the Warrant Master File and are available to police officers nationwide.
- **CRIMS** (Court Record Information Management System) provides court records relating to a defendant. CRIMS is used to verify the status of a warrant. It provides the last status on a criminal court case.
- **NYSID #** New York State Identification number - provides a numerical code kept on file in Albany of anyone who has ever been fingerprinted. The specific fingerprint pattern is assigned a series of numerals and can identify an individual who gives a false name when arrested.
- **COLES Check** provides the telephone number of a subject *when you only have an address*, or provides the address when you only have the telephone number.



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**Note:** The NYC Housing Authority keeps records of all residents residing in public housing complexes. This information can be obtained by visiting the Management Office in a particular housing development or by asking neighbors who reside there of the subject's whereabouts.

### ARREST WARRANTS

**Contents of Arrest Warrant:** An arrest warrant must contain:

1. Date of issuance;
2. Name of issuing court;
3. Name of offense concerned;
4. Name of defendant, or any name or description by which he can be identified;
5. Police Officer(s) to whom addressed;
6. Judge's endorsement.

### Execution of a Warrant (C.P.L. Section 120.60)

**Who Can Execute A Warrant:** A warrant of arrest may be executed by:

- A. Any police officer to whom it is addressed; or
- B. Any other police officer delegated to execute it; or
- C. A parole officer or probation officer under special circumstances.

### Where a Warrant May Be Executed (P.G. 208-01)

- A. An arrest warrant issued by a judge of the District Court, the New York City Criminal Court or by a Superior Court judge sitting at a local court may be executed **anywhere in the state**.



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- B. An arrest warrant issued by a city, town or village court may be executed:
- In the issuing county or an adjoining county; or
  - Anywhere else in the state **with a written endorsement** by the local Criminal Court of the county of arrest.

### When and How a Warrant is Executed (C.P.L. Section 120.80)

- A. A warrant of arrest may be executed on any day of the week and at any hour of the day or night.
- B. Unless there is physical resistance, flight or other factors making normal procedure impractical, the arresting officer must:
- Inform the defendant of the warrant and the charge indicated on it;
  - On request, the officer must show the defendant the warrant if it is in the officer's possession.
- C. The officer need not have the warrant in his or her possession at the time of the arrest. However, the officer must show the warrant to the defendant as soon after the arrest as possible.
- D. To make the arrest, the officer may use force consistent with Article 35 of the Penal Law.
- E. An arrest warrant does not authorize a police officer to enter any premise in which he reasonably believes that the defendant is present. Only the address listed on the arrest warrant may be forcibly entered. If the person wanted is at a third-party residence, then a search warrant must be obtained unless you have consent of a person who has power and control over the premise or exigent circumstances exist (hot pursuit, gunshots, screams, etc.).

However, before he enters he must make a reasonable effort to give notice of his authority and state his purpose to the occupant, unless giving notice will:





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- A) Result in defendant's attempting to escape; or
- B) Endanger the life or safety of the officer or another; or
- C) Result in the destruction or hiding of material evidence.

**Note:** If the officer is authorized to enter the premises without giving notice, or after giving notice he is not admitted, he may, if necessary, **enter by breaking**.

### **Warrant of Arrest: Post-Arrest Procedure (C.P.L. Section 120.90; P.G. 208-42)**

The procedure after effecting an arrest on a warrant deviates depending upon where the arrest is made and the offense listed on the warrant.

#### **Felony Warrant**

If an arrest is made based on a felony warrant within New York State, the defendant will be brought to the court that issued the warrant. It does not make a difference where the arrest is made as long as it was made in New York State.

#### **Misdemeanor or Petty Offense Warrant**

If an arrest is made based on a misdemeanor or petty offense warrant, and:

- The arrest takes place in the county in which the warrant was issued – or an adjoining county – the defendant will be brought to the court that issued the warrant.
- The arrest takes place outside of the county in which the warrant was issued – or an adjoining county – the defendant has the option of being brought to the local criminal court.

### **Warrant of Arrest: Bench Warrant (C.P.L. Section 530.70)**

A bench warrant is a post-arraignment process. It is issued when a defendant has been arraigned and released on bail or on his own recognizance and fails to return for a subsequent court appearance. It can be issued by N.Y.C. Criminal Court, District Court or by a Superior Court judge sitting on a local Criminal Court. (Read Patrol Guide Reading: Section 208-42 Arrest on a Warrant)



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### Desk Appearance Tickets

The NYPD issues Desk Appearance Tickets (D.A.T.'s), in lieu of detention, to a large number of individuals arrested for certain misdemeanors and violations. Unfortunately, in many cases, individuals fail to appear, resulting in the issuance of a warrant. According to Office of Court Administration statistics, of the D.A.T.'s issued in the City of New York, nearly half of the defendants failed to appear on the designated return date, and a bench warrant was issued.

### Criminal Court Summonses

Under New York law, a summons may be issued for certain low level offenses. A summons directs a person to appear in Criminal Court on a later date. Failure to appear on that date can result in the issuance of an arrest warrant. Summonses are the primary method for dealing with quality of life offenses. In the past, wanted fugitives who committed minor offenses such as turnstile jumping or drinking beer on the street were issued summonses and released. Because of the department's stricter screening standards, and access to central criminal databases, these mistakes are easier to avoid.

### Patrol Officers' Duties

Officers assigned to precincts and all other patrol duties will:

- Conduct a warrant name check via FINEST on every person arrested, regardless of the offense, (*i.e., all violations, misdemeanors and felonies*) to determine if a person is wanted or under investigation by this Department. Officers in the field can apprehend fugitives in the course of daily activities by conducting name checks; the matching of a name and date of birth to computer records of those who are wanted.
- Conduct warrant inquiry checks as a routine part of patrol duties when you encounter criminal suspects or individuals who will be issued summonses. Subjects brought to commands for investigation will also be checked.
- Conduct name checks of respondents prior to service of Orders of Protection for domestic violence cases. While serving these orders, officers can apprehend those respondents who are wanted. Experience in other states has shown that these respondents often have arrest records for other violent crimes.



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- Conduct name checks prior to all court and adjudicative appearances, to determine if the person whom they are testifying against is wanted on a criminal charge or warrant since the original date of arrest or issuance of a summons.
- Visit selected released parolees to advise them of the Department's knowledge of their presence in the community.
- Use name checks extensively in the field as part of quality of life operations, car & bicycle stops, fare evasion operations, and other street encounters.
- For the purpose of conducting warrant name checks via your portable radio, two (2) radio codes have been introduced for dispositions from Central on name checks:

**10-18** Warrant check shows an Active warrant - Arrest will be made.

**10-19** Warrant Check negative - No "hit" on name. Individual may be summonsed and released.

### Transit Bureau

The Transit Bureau has a unique role in warrant enforcement because many individuals who are wanted regularly ride the subway system. Officers assigned to the Transit Bureau work with precinct warrant officers to obtain photos of those wanted for felonies. Transit Bureau officers continue to conduct fare evasion sweeps where large numbers of individuals are stopped after evading the subway or bus fare. A name check of the violator is conducted prior to their release in search of open warrants.

### Housing Bureau

The Housing Bureau dedicates officers to work with precinct personnel and members of the Fugitive Enforcement Division. Together they conduct joint operations within housing developments. When appropriate, the Department works with the Housing Authority to pursue evictions of select fugitives. Two officers from each PSA are assigned to warrant duties.



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### SEARCH WARRANTS

#### Purpose for Which a Search Warrant May Be Issued

A search warrant may be issued authorizing the search and seizure of property that constitutes evidence or contraband. The most commonly used method to obtain one requires that a police officer, after conferring with his supervisor and the District Attorney's Office, appear before a Criminal Court or a Supreme Court Judge who, upon determining the validity of the application, will approve it and issue the warrant.

**Note:** Although CPL section 690.36 allows for oral applications of search warrants, members of the service that are faced with a situation that requires an immediate application for a warrant- during a time when court is closed- will confer with their supervisor who will determine the need for such an application. Such requests may only be processed by Department attorneys, upon conferral with the borough executive/counterpart.

#### Execution of the Warrant

A search warrant must be executed between **6:00 A.M. and 9:00 P.M.**, and it must be executed **within ten (10) days** after the date of issuance. The officer is required to announce his authority (the warrant) and his purpose (to conduct a search). He may detain any person present, but he may only search them if they are specifically named on the warrant or if the warrant specifies that every person found in the premise is to be searched. Unlike an arrest warrant, the officer must have the search warrant physically with him. If to preserve evidence or to prevent escape, the officer needs to enter silently (a no knock warrant); the judge must specify this on the warrant. Last, as in the case of an arrest warrant, an officer may break into a premise to execute a search warrant, if necessary. A search warrant must be addressed to a police officer whose geographical area of employment includes the county of issuance.

#### Scope of the Search

The scope of the search is limited to the area specified on the warrant. If while conducting the search the officer discovers contraband or fruits of the crime, the officer may seize them immediately, even if these particular items are not listed on the search warrant. But, if on the other hand, he discovers "mere evidence" (for example, a blood-stained shirt), and that "mere evidence" is not specifically named on the search warrant, the officer should secure the area and obtain a second warrant naming that item specifically.



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### Receipt for Property Removed

You must give a receipt - for any property you seize - to the person who possessed the property, whether the property was taken from his person or the premises. If no person is present, it should be left in the place where the property was found. You must then immediately return the warrant, the written inventory of property seized, and the property itself (if possible) to the court named in the search warrant.

## INTERROGATIONS

### Miranda v. Arizona

Police officers and society at large feel more secure in assigning guilt when the person has admitted his or her wrongdoing. Confessions have always been used as an added means of proving the guilt of persons involved in criminal activity. In some cases, where there is little or no physical evidence or eyewitnesses, a confession or admission becomes a critical factor. In some criminal prosecutions, defense attorneys have won acquittals or had charges against their clients dropped, as a result of suppressed or inadmissible confessions.

In 1966, the landmark case on this issue was decided by the Supreme Court of the United States (*Miranda v. Arizona*, 384 US 436). This decision mandates that when persons are in custody and the police want to interrogate them (known as **custodial interrogation**) the police must inform these persons that:

1. They have a right to remain silent.
2. They have the right to the presence of an attorney.
3. Anything they say can be used against them in court. If they cannot afford an Attorney, one will be appointed for them prior to any questioning if they so desire

The Miranda decision thus requires a police officer to advise suspects of their Fifth Amendment right against self-incrimination and their 6th Amendment right to counsel whenever they are interrogated while in custody. If defendants have not been so advised and they are questioned by police, their pre-trial statements are not admissible in court to prove their guilt. Therefore, it is very important that police officers be aware of the point at which the suspect is considered to be in custody.



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### Definitions of Terms

1. **Custody** – Any restraint of a person that would lead a reasonable person to believe that she or he is not free to leave.
2. **Interrogation** – Asking questions designed to elicit responses from the suspect that may acknowledge guilt, or implicate the suspect as being a party to a crime.

### What Is Custodial Interrogation?

Custodial interrogation takes place where persons are led, as any reasonable person would be, to believe that their freedom has been restrained in any significant way. Significant restraint is determined by the circumstances under which a person is interrogated. Time, place, atmosphere and the extent of the questioning are essential elements in each determination. The facts and circumstances of each situation must be carefully examined in applying these standards.

Any physical restraint, for example: holding suspects, handcuffing them or pointing your gun at them, is considered placing a person in custody. General, on-the-scene questions, that are limited, are not considered interrogation and thus, even though a person is in custody, warnings need not be given if there is no interrogation.

The test is objective; that is, based upon the reasonable man. The test as laid down by the New York State Court of Appeals is stated as follows:

"The test is not what the defendant thought, but rather what a reasonable man, innocent of any crime, would have thought had he been in the defendant's position."

Simply stated, the issue is whether the person is free to go. If not free to go, then custody exists and when coupled with interrogation, Miranda warnings are required. The Courts will generally consider all the circumstances of the interrogation to determine if the suspect was actually in custody.

As a general rule, the following elements will be used to determine if a person is in a custodial interrogation situation:

- 1) The nature of the interrogator, for example, is he/she intimidating or bullying the defendant? Is he/she in uniform? Visibly armed? Is there more than one interrogator present?



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- 2) The type of suspect you are dealing with. The type of person the suspect is will greatly influence the point at which he/she is considered to be in custody.

Factors include:

- a) The suspect's age (the younger the suspect is, the more likely the courts will find the suspect is in custody);
  - b) The suspect's mental or physical condition (intoxicated or ill);
  - c) The suspect's intelligence (low I.Q.);
  - d) The suspect's sophistication and experience with life as well as the Criminal Justice System (past arrests or other involvements with the law).
- 3) The location and time of the questioning. Generally, "on-the-scene" questioning is not custodial interrogation, but taking a person from his home or other familiar surroundings to another place for questioning will bear strongly on the issue of custodial interrogation. The lateness of the hour will also have some bearing on the custodial interrogation issue.
- 4) The following areas are also factors in determining whether there is custodial interrogation:
- a) The ***nature of the investigation*** - What crime do you suspect the subject of having committed?
  - b) The ***length of time*** it takes to question the suspect. The longer the period of questioning, the more likely that it is custodial interrogation. Therefore, try to keep the questioning as short as possible.
  - c) The ***manner*** in which the interview is conducted; for example, was the suspect separated from others. This is particularly important in the area of questioning juveniles. Whenever questioning juveniles, a parent or guardian must also be advised of the child's constitutional rights, if available.



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The presence of the above factors may make an "on-the-scene" investigation custodial even when the subject has not been arrested. A police officer is not required to warn each and every person he speaks to before questioning him. It is only required when the questioning is custodial.

As a guide for members of the force in the area of Miranda Warnings, the following points are worth noting:

- 1) You should know the Miranda Warnings.
- 2) You must have and use your memo book insert or Activity Log cover containing the Miranda Warnings. Do not try to give them from memory. The exact wording of the warnings will become very important when you get to court.
- 3) Miranda Warnings must be given when juveniles are in custody and you want to interrogate them. In addition, a parent or someone in *loco parentis* (in control of the juvenile) such as a legal guardian should be present if a juvenile waives his rights (discussed in greater detail in a subsequent chapter).
- 4) Whenever a person is in custody, you must advise that person of his or her constitutional rights before interrogating him or her, even if the person has not been told that he/she is under arrest. It must be noted that the Supreme Court in the Miranda case defined custody "as the deprivation of a person's freedom in any significant way."

### The Miranda Warnings

- 1) Police officers are required to give to every person in police custody, whom they intend to question, the following warnings (which are printed on the cover of every Activity Log):
  - a) "You have the right to remain silent and refuse to answer questions. Do you understand?"
  - b) "Anything you do say may be used against you in a court of law. Do you understand?"
  - c) "You have the right to consult an attorney before speaking to the police and to have an attorney present during any questioning now or in the future. Do you understand?"
  - d) "If you cannot afford an attorney, one will be provided for you without cost. Do you understand?"





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- e) "If you do not have an attorney available, you have the right to remain silent until you have had an opportunity to consult with one. Do you understand?"
  - f) "Now that I have advised you of your rights, are you willing to answer questions?"
- 2) Each warning must be given. It is not enough that some are given. When the warnings are not given properly, the courts will not permit the admission or confession to be used as evidence against the defendant.
  - 3) The warnings should be read in a loud clear voice. After each question, persons in custody should be asked if they understand the statement or question. If they state that they understand, ask them what they wish to do with respect to each question. If the person in custody does not understand English, or if there is any doubt that he/she understands English, an interpreter, (who must be obtained through the Operations Unit) should be used. Failure to obtain an interpreter may jeopardize the use of the confession or statements if the court determines that the suspect is not capable of understanding English.
  - 4) If at any point the person in custody indicates he/she does not wish to answer any questions and that he/she wishes an attorney, all questioning **must** cease.
  - 5) Advising a person who is in custody of his/her rights more than once after he/she has refused to waive his/her rights is improper. Even if he/she does make a statement, the court may interpret your repeated requests as coercion.
  - 6) After being read these rights, the suspect must waive them by answering "**yes**", or the equivalent, to each specific miranda question and to the waiver question, before the interrogation may start. The waiver need not be expressly articulated, although that is the best method. The waiver may be implied from the suspect's conduct. However, the officer must be able to describe in detail the actions of the defendant that constitute the alleged waiver. An individual's silence to the waiver question can never be interpreted as a valid waiver. These rights must be **voluntarily, intelligently** and **knowingly** waived. Any "waiver" secured in violation of the rules on coercion - discussed previously - is not considered voluntary.

The police, acting on behalf of the people of the State of New York, bear a strong burden in showing that the defendant waived his or her rights voluntarily, intelligently and knowingly.



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The following will be factors in determining whether a defendant's rights were voluntarily, intelligently and knowingly waived:

1. Individual is under the influence of drugs or alcohol;
2. There is a language barrier;
3. Individual has a low I.Q. or where it is obvious to the officer that the defendant is not "too bright";
4. Age of the subject;
5. Previous contact with the police;
6. Coercive nature of the questioning.

### Right to Remain Silent

If, after the rights have been read, a person states that he or she does not want to talk to the police, he or she may not be questioned. Even when a person has waived his/her rights and talks to the police, he or she is free to change his or her mind at any time and refuse to continue with the interrogation. In such cases, all questioning must cease at that point. Repeatedly giving the warnings until a waiver is obtained is not permissible.

However, under certain circumstances, a person who has invoked his or her right to remain silent may be read the Miranda rights a second time to determine whether he or she will answer questions. This second reading would be appropriate if:

- 1) There is a reasonable amount of time between the first and second reading of the Miranda warnings;
- 2) The questioning is to be done by another police officer;
- 3) The suspect indicates that he/she has changed his/her mind and wishes to speak to the police.

**Note:** A specific request for a lawyer invokes a suspect's **Right to Counsel**. In such cases, a person may not be given subsequent warnings nor validly "waive" his or her rights unless his lawyer is actually present when he or she does so. This is covered more fully in the next section, "Right to Counsel."



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### Right to Counsel

The New York State Court of Appeals, in interpreting the New York State Constitution, has created "Right to Counsel" rules that are more restrictive than those recognized by the United States Supreme Court or, for that matter, most other states. Thus, when a "Right to Counsel" has been established, an attorney ***must be present*** at any questioning of a suspect and a suspect may not waive his/her right to an attorney unless the waiver occurs in the physical presence of the suspect's attorney. The key to understanding these complex rules is to grasp when the right to counsel attaches on a specific charge.

#### The "Right to Counsel" attaches in the following situations:

- 1) Whenever suspects are in custody and indicate they want an attorney.
- 2) Whenever suspects are in custody on a particular charge and have an attorney on ***that*** charge;
- 3) Whenever a suspect is **in custody** and an attorney contacts the police advising them that he represents the suspect.

**Note:** Once an attorney calls the police looking for a person in custody, the right to counsel attaches. This is so whether the call is to the location where the person is detained, or not. Thus, for example, a call to 911 would prohibit the questioning of the suspect concerned.

**Note:** In the above-described situations #s 1, 2, and 3 - the suspect who is **in custody** and is represented on the charge for which he is in custody, also has an absolute right to counsel on any unrelated charges about which the police may want to question the suspect.

**Note:** A suspect who is in custody and is represented by an attorney on a **prior unrelated charge(s)** would have an absolute right to counsel on the prior unrelated charge(s), but would not have an absolute right to counsel on the current charge(s) for which the suspect is not represented.

- 4) Even when a suspect is **not in custody**, but has retained an attorney with respect to the particular matter under investigation, and the police are aware that an attorney has been retained, the suspect has an absolute right to counsel regarding matters for which an attorney has been retained.



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- 5) Whenever an attorney advises the police he represents a suspect who is **not in custody**, the suspect has an absolute right to counsel regarding any matters on which the attorney represents the suspect.
- 6) **Whenever an accusatory instrument has been filed**, the suspect has an absolute right to counsel on charges covered in the accusatory instrument.

**Note:** In situations # 4, 5 and 6 the suspect may be questioned on unrelated matters for which the suspect is not represented by counsel.

### Questioning Without Giving Miranda Warnings

You owe a duty to the public to investigate crimes and suspicious conditions. The law does not require that the Miranda Warnings be given every time you ask a question. We have already seen that the police officer who responds to a radio assignment and finds a large crowd gathered can ask questions such as, "What happened here?" or "How long ago did the shooting take place?" These are questions of general inquiry and at the time they are asked, no one is in a custodial interrogation situation.

There may be situations that pose a threat to public safety which outweigh the rule protecting a person against self-incrimination. In two (2) court decisions, the "**public safety**" or "**emergency**" exception was created, whereby a police officer may question a person in his/her custody prior to reading him the Miranda Warnings. The purpose of this exception is to minimize or eliminate an immediate danger of physical injury to the police and/or the public. The nature of the danger should be of a kind where immediate police action is required to protect the safety of the person(s) involved; for example, a missing person, bomb threat, a concealed weapon in a public place.

This exception should not be used for the sole purpose of obtaining evidence with which to prosecute the suspect. If it is used as a trick to circumvent the Miranda requirements, then the suspect's statements and any evidence derived from the statements will be inadmissible in court. Once the danger has been eliminated, the Miranda Warnings must be read and a valid waiver obtained before any further police questioning takes place.

### Questioning Of Juveniles

The courts and the legislature have attempted to provide every protection to persons under the age of 16 when they are subject to custodial interrogation.



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In accordance with the ***Family Court Act***, a police officer must:

- 1) Immediately notify the parent or guardian legally responsible for the care of the juvenile that he has been taken into custody.
- 2) Not question the child unless he and the parent or guardian have been advised:
  - a) Of the child's right to remain silent;
  - b) That the statements made by the juvenile may be used in a court of law;
  - c) Of the child's right to have an attorney present at such questioning; and
  - d) Of the child's right to have an attorney provided for him without charge if he cannot afford one.
- 3) The parent or guardian, if available, must be present with the child when the warnings are given to both. In addition, the parent or guardian must be present during the questioning if they are available.
- 4) When questioning a juvenile, Miranda warnings should be read to the juvenile while the parent/guardian is present. The juvenile may be questioned if he/she waives the Miranda rights in the presence of the parent/guardian. The parent/guardian does not have to separately waive the Miranda rights; they only need to be advised of such rights. **However, if the parent/guardian objects to the questioning or requests an attorney for the juvenile, no questioning should occur, even if the juvenile is willing to answer questions.**
- 5) The child can only be questioned for a reasonable period of time. Each case will be different, but factors such as: the age of the child, the seriousness of the crime, the presence of the parents, etc., will help you decide what is reasonable.
- 6) The questioning must take place in a facility designated by the Chief Administrative Judge. Most precincts have a room that has been approved as appropriate for questioning juveniles. Any statements or admissions obtained as a result of questioning in other than an approved location will be inadmissible in court. A Juvenile Offender (prosecutable in Supreme Court) should also be questioned in these designated locations in order to protect statements that are made should the case eventually be transferred to Family Court.



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### **Questioning of Juveniles without Parent/Guardian Present**

Normally, the questioning of a child without their parent/guardian present should not be done. However, if circumstances make questioning essential, you should be guided by the following:

- 1) Every reasonable effort has been made to notify the parent or guardian.
- 2) Determine the necessity for questions at this time.
- 3) The age of the juvenile.
- 4) The apparent intelligence of the juvenile.
- 5) The ability of the juvenile to understand the Miranda Warnings.

If a decision is made (based on the above factors) to question a juvenile, the following procedure will be followed:

- The juvenile will only be questioned at a designated facility.
- A good faith attempt must be made to have a competent adult, other than law enforcement personnel, present during any questioning; i.e., a relative, clergyman, teacher, etc.
- The juvenile and competent adult must be advised of their rights as previously stated.
- Special care must be taken to insure that juveniles understand their rights and the effect of a waiver of those rights.

In any situation where a juvenile is questioned in the absence of his parent or other person legally responsible for his care, the officer must be prepared to establish beyond a reasonable doubt that the statement or admissions were voluntarily and intelligently made, and that prompt valid attempts to reach the child's parents were made.

When giving the Miranda Warnings, you must indicate in your Activity Log that the juvenile was given his or her rights in the presence of a parent or guardian or, if the parent/guardian cannot be contacted, the efforts made to reach the parent or guardian must be fully outlined. In addition, the actual responses to the questions are to be indicated.



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### Ramifications of Failing to Adhere to the Miranda Requirements

The Supreme Court, in the Miranda Case, clearly indicated that any evidence obtained as a result of an inadmissible confession would also be inadmissible. This is known as "***the fruits of the poisonous tree doctrine.***" For instance, while making a confession of a murder, the prisoner tells the officer where he hid the gun he used. If the confession is inadmissible, for example, the officer did not properly warn the defendant of his rights, the court will also refuse to admit the weapon as evidence because it was obtained as a result of the improper confession.

An exception to this rule is where the gun was in such a place that the police would have found it, even without the defendant's confession or statement (Inevitable Discovery Rule). However, there should never be a time where you do not give the Miranda Warnings properly.

When an officer makes an arrest, careful consideration should be given to the proper implementation of all judicial and constitutional requirements and consider the following points:

- You are permitted to ask general questions on the street without warning persons of their Miranda rights so long as they are not in a "Custodial Interrogation" situation.
- Once you reach the point in your questioning where suspects are not free to leave, they are in custody.
- Officers may not question a suspect in custody, whom they know to be represented by counsel or who has requested counsel on the charge for which he/she is presently in custody unless the suspect waives his/her rights in the presence of his/her lawyer.
- Special rules apply to juveniles. It is essential that the juvenile's parent or guardian be present and advised of the youth's constitutional rights before any statements will be admitted into evidence.
- If suspects do not understand the rights as set forth on your activity log cover, attempt to explain them in your own words. If they still do not understand, then any questioning is improper, since they cannot intelligently waive a right, which they do not understand, and you should treat it as a refusal to answer any questions.



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Notwithstanding the rules set forth in the preceding paragraphs, the following exceptions are applicable:

***Non-Custodial Interrogation*** - Statements made by persons being questioned who are not in custody and free to go, will be admissible provided they do not have an attorney on the matter.

***Spontaneously Volunteered Statements*** - Those statements which are made freely by a person and are not the result of any inducement, coercion or encouragement, will be admissible.

### THE EYEWITNESS IDENTIFICATION PROCEDURE

The police officer often responds to a scene moments after a crime is committed. In those instances where the suspect has left the scene, it is essential that the responding officers record and broadcast an accurate description, thereby enhancing the possibility of a swift and proper apprehension. Proper eyewitness identification can be an effective tool in the apprehension and prosecution of criminal suspects.

**Note:** Identification procedures ordinarily are not necessary where the witness or victim and the, perpetrator are known to each other, including relatives or other close acquaintances or the perpetrator is apprehended by a police officer in the act of committing an offense. Any doubt concerning the need for - or legality of - conducting a lineup or show-up should be resolved by conferring with the Patrol Supervisor or Desk Officer.

### LINEUPS

***Identification Lineup*** – This involves the placing of a criminal suspect in a lineup with at least five (5) other persons for the purpose of identification by victim or witnesses. Prior to conducting a lineup, the detective supervisor concerned or a qualified supervisor of an investigative unit will be consulted and will personally supervise the entire procedure.





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### The Suspect's Rights

- A suspect must be advised of his Miranda Warnings only if he is going to be interrogated - whether before, during, or after the lineup.
- A suspect must be advised that he will be placed in a lineup so that his identity may be established concerning a particular crime or crimes.
- If a suspect has a lawyer and the lawyer requests to be present at the lineup, allow him or her a reasonable time to appear.
- In the rare instances where the lineup must be held immediately, and it is unreasonable to await the arrival of the lawyer, the lineup can be conducted without him or her. However, there will be a heavy burden on the officer conducting the lineup to prove there was a compelling need to go forward immediately to avoid jeopardizing the investigation. A thorough written record of all the factors that went into the decision to hold the lineup without the lawyer must be made.
- If a prisoner is already incarcerated, and the police wish to place him/her in a lineup to be held in connection with the charge for which he/she is in jail, the prisoner has an **absolute right to counsel** at the lineup. The police must obtain a court order to remove the prisoner and place him or her in the lineup, and they must arrange to have the lawyer present.
- If an accusatory instrument has been filed, the suspect has an **absolute right to counsel** at the lineup, only for those charges relating to the accusatory instrument.
- If the police discover that a suspect in a new crime is already in jail on an **unrelated offense**, they can obtain a court order, remove him from jail and place him in a lineup for the new charge. The prisoner has a right to counsel at the lineup for the new crime, but this right is not absolute and can be waived by the prisoner.

**Note:** In New York, an “absolute” right to counsel means the defendant cannot waive his right to a lawyer without the lawyer being physically present.



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### The Attorney

- A. If an attorney is present at the lineup site, he **must** be allowed to view the lineup.
- B. If the attorney for the suspect is present during the lineup, he shall be permitted to observe the manner in which the lineup is conducted. He may view the lineup in the room in which it is conducted or, if he prefers, in a place in which he cannot be observed. (**Note:** If necessary, a witness' identity may be shielded by use of a mask or face covering.)
- C. The suspect's attorney should not be permitted to talk to any of the witnesses participating in the identification of the suspect. He shall be free, however, to confer with his client. The attorney should be permitted to hear the officer's interview of the witness after viewing the lineup.
- D. If the attorney makes suggestions to improve the fairness of the lineup, the officer conducting the lineup should follow them if he deems the suggestions reasonable and practical.
- E. The attorney should not be permitted to interfere with the conduct of the lineup but should be advised that all suggestions concerning the lineup should be addressed to the officer conducting the lineup.

### The Police Officer Conducting the Lineup

- A. The member of the service conducting the investigation is responsible for the proper conduct of the lineup. The officer should personally make sure that everyone is advised as required.
- B. The officer should see that the identifying witnesses are interviewed before the lineup. If there is more than one witness, they should be interviewed separately and, if possible, a description of the suspect(s) should be obtained and recorded by the officer.
- C. The officer should make a complete record of:
  - The details of the procedure used;
  - Specific statements of any person (i.e., speaking the words used at the scene of the crime);



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- Any actions of the group required to aid identification (i.e., trying on clothes, etc.);
  - All responses or statements made by viewing witnesses;
  - Names, addresses/commands of all persons present, including but not limited to suspects, victims, other witnesses, police officers, other officials (D.A.), any lawyer, friend, or relative of the suspect.
- D. The officer must make sure that the viewing witnesses see no person who is to be placed in the lineup before the lineup; for example, you cannot use police officers who have had any contact with the witnesses.
- E. The officer should prepare a sheet of paper with a circle representing each person in the lineup. This is to be used by a witness to note persons he or she recognizes. After identification is made, the paper should be marked and retained.
- F. A lineup report (PD303-141) should be completed for each lineup.

### The Lineup Procedure

Whenever a lineup is to take place, the following procedure should be used (except in emergency situations and on-the-scene show-ups):

- A. The suspect should be viewed with at least five (5) other persons (fillers). No one can be used who may be known to any witness.
- B. All persons in the lineup must be of the same sex and race.
- C. All persons in the lineup should be about the same age, height and physical makeup, i.e., an obvious 16-year-old could not be shown with adults; a suspect with red hair cannot be shown with black-haired persons; a suspect with a scar on his face cannot be shown unless all persons in the lineup have some similar markings, or a bandage or something similar is covering the area.



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- D. All persons in the lineup should be similarly clothed, i.e., if the suspect has a suit on, everyone should wear one; police officers used as fillers must not be allowed to wear any distinctive part of a police uniform (pants, etc.); if the suspect is unusually dressed, or in so distinctive a manner as to stand out from the others, this clothing should be covered in some manner.
- E. The suspect should be allowed to pick his position in the lineup.
- F. All non-suspect participants must be advised that they should not in any manner reveal who the suspect is (i.e., turning towards the suspect.).
- G. The suspect must not be interrogated while the viewing witnesses are present.
- H. No person in the lineup may be asked to say or do anything connected with the crime unless *all* are asked to do the same thing; (i.e., "This is a robbery" or "Put up your hands").
- I. The officers conducting the lineup should not in any manner indicate who the suspect is, nor should they help the witness to identify the suspect (i.e., "Is this the guy?" or "How about the guy in the brown coat?").
- J. Two (2) or more victims or witnesses are not permitted to view the suspect at the same time, nor are they permitted to speak with each other before or during the lineup. Also, after one witness has viewed the lineup, he should be separated from other witnesses.
- K. No witness may be told whether or not another witness has made an identification of someone.
- L. Witnesses must be told not to speak if they recognize someone in the lineup. They should mark the position of this person on the position sheet given to them.
- M. Witnesses must be present at the lineup scene.
- N. If necessary, the witnesses may be masked or hidden while viewing the lineup. If the suspect has counsel, counsel should be able to see the witness viewing the lineup.



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- O. A photograph should be taken of the lineup as viewed by the identifying witnesses, unless it is videotaped.
- P. If at any stage of this procedure problems develop, the supervisor in charge should consult with the Legal Bureau or the District Attorney.
- Q. If minors under eighteen (18) years of age are recruited as non-suspect lineup participants.
  - Obtain written permission of parent or legal guardian prior to lineup. (Use consent forms printed in English or Spanish as appropriate.)
  - Institute measures to isolate minors from harmful influences in area of lineup.
  - Have representative of Youth Services Section present, if possible.
  - Prevent photographs of lineup from being used for purposes other than evidence.

### PROMPT ON-THE-SCENE SHOW-UPS

This is a one-on-one display of a suspect to a victim, usually within minutes after a crime is committed. A suspect fitting a description given by a witness is held for identification by the witness. This is standard practice, but it raises two questions:

- Is the suspect entitled to counsel?
- Is this one-on-one identification (show-up) prohibited when conducted promptly, or where there is a hospital emergency?

The answer to both questions is "NO." However, certain factors must exist before a show-up is considered a "prompt on-the-scene identification." These factors are:

- Time;
- Area;
- Reasonableness;
- Fairness.



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Putting these factors together, a police officer should conduct a prompt on-the-scene show-up identification if:

- A. Within a reasonable time after the crime was committed, the officer catches the suspect, and
- B. The suspect is caught in an area reasonably near the scene of the crime, and
- C. The officers show the suspect to the witness as fairly as possible under the circumstances.

This type of show-up is permitted because any delay may cause the detention of innocent persons, as well as reduce the reliability of any identification made.

### **Guidelines for Prompt On-The-Scene Show-Ups**

This is the most difficult area in eyewitness identification for which to set guidelines. The one-on-one display of a suspect to a victim is suggestive in nature; the witness is not asked to pick out a perpetrator from a group. Therefore, if it must be conducted fairly, generally the following must be adhered to when conducting a prompt on-the-scene show-up:

- A. The apprehension and viewing of a suspect should take place within minutes. There is no set time limit, however. If more than an hour had elapsed since the commission of a crime, a show-up should not be employed (conduct a lineup at the station house).
- B. The suspect must be apprehended within an area that could be reasonably covered within the time he was caught.
- C. A suspect should be shown to one victim or witness at a time.
- D. A suspect should be shown to a witness in the fairest manner possible under the circumstances:
  - He or she should not be shown with handcuffs on, if possible – considering safety and prevention of escape; and
  - Officers should not make statements to influence the witness.



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- Do not ask witnesses "Is this the guy?" Rather, ask "Do you recognize anyone?"
- E. Transporting a suspect back to the scene of a crime is considered an arrest and must be based upon probable cause. It is therefore important that officers at a crime scene secure and broadcast a detailed description. Where a broadcast description is not detailed or no other basis for an arrest exists, you may forcibly stop a suspect under C.P.L. 140.50 (Stop, Question and Frisk), but the victim should be brought to the location where the suspect is being detained for viewing and possible identification, unless this is practically impossible (i.e., victim is seriously injured and/or likely to die). Then, the intrusion must be completed as soon as possible.
- F. Show-ups should not be conducted at the station house.

### Emergency Hospital Show-Ups

An emergency show-up may be utilized provided the following guidelines and procedures are followed to ensure it is reasonable and fair.

- A. It should be a one-on-one showing of a suspect to the victim.
- B. It will only be utilized when a victim of a crime that is critically injured and likely to die has been removed to the hospital and may die before a lineup procedure can be employed.
- C. A suspect who is under arrest may be removed to hospital for a show-up.
- D. A suspect who is stopped under C.P.L. 140.50, Stop and Question, may be removed to the hospital for a show-up due to the seriousness of the injuries, etc.
- E. A show-up under these circumstances should be done as fairly as possible with as little suggestion as possible.

### Show-Ups and Right to an Attorney

Generally, suspects may be viewed in an on-the-scene show-up or hospital show-up when there is an emergency. Suspects need not be given an opportunity to obtain an attorney for photo, emergency and on-the-scene identifications.



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### GROUP IDENTIFICATIONS

Occasions will arise where an officer will ask a witness if he/she can pick out the suspect from a group of persons not in police custody.

Accompany a witness to an area where suspect is likely to be with other persons, i.e., let the witness watch persons coming and going from suspect's place of employment, at a park, playground, etc.

#### Procedures

- A. Allow a witness to view the area, with instructions to look carefully at people on the street, in doorways or in stores, etc.
- B. If a police officer sees a possible suspect, he may draw the witness' attention in that direction.
- C. The officer should avoid pointing out a single individual, or if necessary, do so in a non-suggestive manner.

### PHOTO IDENTIFICATIONS

The United States Supreme Court recognizes the legitimate role of photo identification in law enforcement. Improper use of photographs by police may sometimes cause witnesses to make mistakes in identifying criminals. Generally, when a suspect is in custody, a lineup, not a photo identification, should be used.

Photo identification may be used when:

- The suspect is **not** in custody and the victim and/or witnesses can describe him, but his identity is unknown - **mug file**.
- The suspect is **NOT** in custody and the victim and/or witnesses can describe him, and there is some idea - based on the description or other information - who the suspect is - **photo array**.

**Note:** The display of a single photo of a suspect to a witness is prohibited.





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### How to Conduct a Photo Identification

A **Mug File** is used when the suspect's identity *is unknown*.

- The source of all photos used should be known (i.e., photos supplied by the Identification Section or precinct detective files, mug books) and recorded. Individual marking of photos is not necessary.
- If more than one witness is involved, each witness should view the photos separately, not in each other's presence.
- The officer must record whether the witness(es) made an identification. The fact that a witness did not identify the photo of a suspect who is later arrested could be important in determining the guilt or innocence of the person.

A **Photo Array** is used when the police have a *suspect in mind*, but **not in custody**.

1. At least six (6) photos should be used.
2. Photos should be placed on a table or desk top, similar to a lineup.
3. All persons in the photos should be physically similar. Nothing in the photos should make the suspect's photo stand out.
4. If mug shots are used, any marks on the photos that show they are mug shots (i.e., numerals) should be covered. Where possible, mug shot photos should not be used with other types of photos. Where it is necessary to use both, however, the photos should be as similar as possible.
5. Each witness must view the photos separately and apart from any other witness. No witness should be told whether or not another witness identified a photo.
6. Investigating officer may not:
  - Help a witness pick a photo;
  - Answer questions that may suggest the identity of the suspect;
  - Pressure or encourage the witness to pick out a photo;
  - Set photos to draw attention to a particular photo.



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7. Where there is more than one (1) suspect, each suspect's photo should be viewed separately in different photo groupings. The use of fillers from a previous photo viewing by the same witness is prohibited.
8. All photos used should have a notation on the rear and should be kept in case they are needed in court. Each photo notation should show the time and the date used, case name and position in photo grouping.
9. The officer conducting the viewing should keep a written record of the whole procedure including:
  - All persons present during the viewing;
  - All photos used and their source;
  - A visual outline of how photos were displayed;
  - Whether or not an identification was made;
  - Whether witness(es) had difficulty in identifying a suspect or picked out one (1) or more photos before picking out the suspect's photo;
  - Any statement made by witness(es) concerning the photos during or after the viewing;
  - The time it took for the witness(es) to identify a suspect.
10. There is no right to counsel at a photo identification procedure.
11. Positive identification on a *photo array* gives an officer probable cause to make an arrest.

### CONCLUSION

Your job is only as easy as the cooperation you receive from witnesses. Be patient and treat each job as the different and unique case it is. When stopping suspects on the street (show-up procedure), and when consistent with your personal safety, explain the reason for the stop. When identification is not made, release the suspect immediately, prepare the necessary Department



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## **Criminal Procedures**

forms and attempt to explain the intrusion. Remember, although as a member of the department you pledge to aggressively fight crime, you are still committed to respecting the dignity of each individual and rendering your services with courtesy and civility. You will appear more professional and will advance the Department's desire to be trusted by the community. More importantly, that person you treat courteously may assist you in some investigation in the future.



# **POLICE STUDENT'S GUIDE**

## **Collecting and Processing Evidence**

### **WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT COLLECTING AND PROCESSING EVIDENCE?**

Many members of the service believe that it is primarily Detectives who gather evidence and conduct preliminary investigations at the scene of past crimes. Often, this is not the case. As the responding officer you will be called on to interview victims/witnesses and to identify, gather, preserve and safeguard potential evidence. This chapter will discuss the proper way to conduct these investigations, as well as, the procedure for preserving evidence for court. Any information or objects that a police officer gathers during an investigation or arrest may become evidence in court. Failure to handle, preserve and voucher this evidence properly will have a negative impact on the potential criminal case.

### **PRELIMINARY INVESTIGATIONS**

It is the responsibility of the officer on patrol to respond to the scene of a reported crime and conduct a preliminary investigation. This section will provide insight and guidance regarding the types of assignments you will encounter on patrol and your role as the responding officer.

#### **Alarm Investigations**

Officers on patrol are frequently alerted to possible crimes by alarms, both audible and silent. These can come to your attention as a pick-up job (one not previously reported), or from the Communications Division.

Frequently, a telephone call to 911 will result in a "10-11 Alarm" assignment. This can result from a civilian hearing a building or auto alarm and notifying the police. The activation of a silent alarm can also result in a notification to the police (Example: a manually-triggered alarm, such as a bank holdup alarm or an electronic alarm which detects a window breaking, a door opening or motion inside a premise).

When certain alarms are activated, they cause a prerecorded message to be transmitted, either to 911 or to an alarm company. If an alarm company is notified, they will call 911 and advise whether an alarm company employee is also responding. It is important to note this, as you may find alarm company personnel on the scene. Be sure that you properly identify any person found at the scene.



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## Collecting and Processing Evidence

Each alarm assignment requires a thorough investigation to determine its authenticity. These assignments are common, and frequently result from an accidental activation of the alarm. You should never assume that you are dealing with "another routine alarm job." Consider each assignment you respond to as "founded" until an investigation proves otherwise.

Bank robbery ("*holdup*") alarms require a carefully planned response. Avoid making a premature entry into the premises; wait until you have requested and received adequate backup. If an alarm is founded (meaning a crime has occurred), you should conduct a preliminary investigation into that crime. Your investigation may reveal that no crime has occurred. The Communications division dispatcher would then be notified and the assignment would be classified (disposition) as "unfounded" or "unnecessary." This is a fairly common occurrence, particularly when dealing with a "taped" alarm.

The Chronic Alarm Abuser Procedure was established to save manpower by reducing police response to locations when three or more alarms (within a three month period) were determined to be unnecessary or unfounded. When responding to Radio Code signal 10-11 (Alarm Condition) and an investigation at the scene determines that the transmission of the alarm was unnecessary or unfounded. You will prepare a NOTICE OF UNNECESSARY ALARM (PD 310-120) (Patrol Guide procedure 214-08).

### **Burglary Investigations**

The crime of burglary is a serious crime that deeply impacts the lives of its victims. Therefore, it is very important that you are knowledgeable of procedures utilized to bring these cases to a successful solution. Burglary investigations involve both residential and commercial properties.

When assigned to handle a "past burglary," officers should extend every consideration to the complainants. Although the actual monetary loss is sometimes small, the thought that their place of business or the sanctity and privacy of their home has been violated is extremely disconcerting not only to the victim, but to the community in general.

The first information you should obtain from the complainant during your investigation is how the entry was made, the time of entry and the manner in which the burglary was committed (the burglar's *modus operandi*). A canvass will be conducted for all burglary complaints. You will record the results of the canvass in the "DETAILS" portion of the COMPLAINT REPORT WORKSHEET.



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## Collecting and Processing Evidence

Attempt to learn the identity of the burglar if possible. Try to ascertain who had prior knowledge of the existence and location of the property taken. You will need information about the property, such as:

- A list of items taken, including a description, serial numbers, model numbers, etc.
- A brief history of important items taken.

The complainant should be requested to indicate if any items (other than property stolen) have been moved, so that those items can be checked for fingerprints. Fingerprint evidence can establish the presence of a suspect at a crime scene if he or she touched an object at that scene. Three types of imprints or impressions may be encountered:

- **Latent:** Impressions (usually invisible) that remain on objects because of the secretion of natural body fluids such as perspiration, oils and acids. These must be developed via fingerprint powders or chemicals.
- **Patent** (visible): Fingertip impressions that remain on objects because of the presence of some substance on the fingers such as blood, paint and dirt. These must be photographed because the prints may not be preserved and they cannot be developed by lifting.
- **Plastic** (visible and molded into an object): Impressions that are formed when the fingers have touched soft materials such as putty, butter or wax.

The clarity of latent fingerprints is dependent on factors such as:

- The amount and composition of a person's body secretions that change at various times and under various conditions.
- The object's surface characteristics - Latent fingerprints will usually not be found on a coarse surface, rusted metal, heavily grained leather or a dust-covered item.
- The elements to which the fingerprints have been exposed - rain, snow, high humidity and wind will reduce the probability of obtaining an identifiable print.

Items that must be processed for latent prints should be handled carefully. Latex gloves should be worn when handling. Avoid crushing, bending, folding, etc. To ensure that a thorough investigation is conducted of all burglaries that occur in private residences or commercial establishments, the Evidence Collection Teams will conduct an investigation to detect any latent prints or



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## Collecting and Processing Evidence

physical evidence, which may disclose the identity of the perpetrator involved. Therefore, if the officer conducting the preliminary investigation finds that there is a possibility that latent prints are present, he must request the response of Evidence Collection Team through communications. If you are not ECT qualified, do not handle items unnecessarily.

After interviewing the complainant and ascertaining whether the possibility of latent prints exists, a search of the scene for other physical evidence should be made. Search both inside the premises and outside the point of entry. Look for:

- Tool marks, obvious fingerprints, vehicle tracks, bits of clothing fiber, footprints, scratches, damage inside the premise, etc.
- Check the roof, fire escape, or other areas for property left behind by the perpetrator.

When the investigation is completed and you have obtained the required information for the Complaint Report worksheet, you should instruct the complainant to call the precinct and obtain the complaint number. The information and complaint number may be needed to file an insurance claim.

In the event that keys have been taken, reassure the complainant that burglars rarely, if ever, return to the scene while anyone is at home. It is, however, wise to change the locks after such an occurrence to prevent it from happening again (**do not recommend a specific locksmith**). You may also advise the complainant of the following two services provided by the Department, free of charge:

- **Crime Prevention Officers** - are available for assistance in recommending prevention measures against burglary.
- **Operation Identification** - under the guidance and direction of the Crime Prevention Officer, citizens can borrow a special engraver to mark their personal possessions.

At times, you may become aware of a burglary which involves apparent forced entry and the victim (person in charge of the premise) is not present, or aware that the premise has been broken into. This may occur when an alarm system is activated, or when a neighbor or passerby notices a door or window ajar.

When an apparent forced entry is discovered, and the person in charge of the premises is not present, you will request and await the arrival of the Patrol Supervisor BEFORE entering the premises. This does not preclude you from taking summary or other police action, which may be warranted by the



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## **Collecting and Processing Evidence**

circumstances (for example, the immediate pursuit of a suspect or immediate action required to protect life or imminent threat of property damage). Upon arrival at the scene, the Patrol Supervisor will supervise the search of the building/premises, utilizing required uniformed personnel only (officers in civilian clothes should not be used).

When this investigation is completed (and also in case of emergencies, such as fires), it may become necessary to notify the owner of a business establishment. Pending the arrival of the owner of the business or the occupant of the premises, the Patrol Supervisor will arrange for the safeguarding of the building/premises by a uniformed member of the service.

The timely assessment of emerging patterns is critical to solving burglaries. To properly combat this crime, responding officers must conduct proper canvasses, record all relevant information, and provide investigators with any follow-up intelligence. Be sure to check the precinct pin map to ascertain whether there is a pattern of burglaries in the sector you are assigned to, or within an adjoining sector.

### **Grand Larceny Investigations**

Under NYS Penal Law section 155.30, there are 10 ways to commit a grand larceny. While the specifics of this offense (a felony) will be discussed in a later chapter, grand larceny generally deals with the taking of property valued at over \$1000 or property (regardless of value) taken directly from the person of another.

Examples:

- A man's pocket is picked on a crowded street corner.
- A man's new car is stolen from in front of his house.

When investigating a grand larceny, the officer should obtain the following information (if applicable):

- Identify the type of property taken.
- Was property purchased new?
- When was it purchased?
- What was its original purchase price?
- Does the person have a receipt available?
- What is the current condition of the property?
- What is the current market value of the property?





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## **Collecting and Processing Evidence**

If Credit cards were involved:

- Were the credit cards cancelled?
- Which Credit Card company?
- Are the account numbers available?
- Were the credit cards used after the theft?
- If so, how much was charged and where were they used?
- Does the credit card company offer insurance against theft or damage?
- Does the person plan to file a claim with the insurance company?

If investigating a report of a stolen computer, the officer should find out:

- Brand, model, speed, processor type, etc...?
- Owned or leased?
- Date of purchase/lease?
- Expiration date of lease?
- Purchased/leased from?
- Internet service Yes/No?
- Internet address? (E-mail)

Internet service records will be checked from time theft occurred to see if service is being accessed.

Some questions that should be raised if there is a report of a stolen cellular phone from a complainant:

- Name of phone service (e.g., Sprint, Verizon, AT&T)
- Is there a service contract?
- Length of contract?
- Expiration date of contract?
- When was cell phone last used?
- What is the telephone number of the cell phone?
- Does the phone require a PIN number?

All phone records will be checked from the time theft occurred to see if the same numbers are being called.



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## **Collecting and Processing Evidence**

### **Assault Investigations**

After safely assessing the situation, the first responsibility of the responding officer is to aid the victim. This will be done, even if it allows the suspect to escape. If the perpetrator is still on the scene, common sense would dictate that an arrest should be immediately effected, as long as this can be done without endangering the victim. The officer should realize that in addition to providing aid, proper attention must be given to identifying the perpetrator of the crime. All assault cases require that you interview the complainant. Try to ascertain the required information while rendering aid to the victim. Witnesses should also be interviewed (separately, if possible). Always obtain the following information:

- Type of assault and degree of injuries
- Weapons used (if any)
- Identity of the perpetrator (if known).

If the perpetrator has fled the scene, determine the following:

- Method and direction of flight, including description of any vehicle used (with plate number) and possible destination.
- Full physical description of the perpetrator(s) and weapons used or possessed.

Once a description has been obtained, an alarm should be transmitted via radio. This is so that other officers in the area will be alerted to check possible escape routes. Some descriptions you obtain will be limited; others will be lengthy and very detailed. In order to alert other officers quickly, quickly provides as accurate a description as possible. Then as soon as practical, transmit a more complete description.

Any weapons or other items involved in the crime should be safeguarded and processed as evidence. The higher relative evidential value of information obtained from things as compared to information obtained from persons has been firmly established in courts throughout the world.

### **Sex Crime Investigations**

The first police officer on the scene of a sex crime plays an important part in minimizing trauma and in maximizing the chances of successful prosecution. In these cases, you must realize that the victim is probably suffering the most traumatic experience of his/her life. You should, therefore, demonstrate extreme patience, compassion and understanding in these encounters.



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## Collecting and Processing Evidence

- Do not touch the victim.
- Address the victim by title and name.
- Don't ask judgment questions.
- Try to develop a "helping" relationship with the victim
- Interview the victim, (if victim requests - allow same sex officer to conduct the interview).
- Explain the need to ask detailed, graphic questions.
- Use professional terminology.
- Avoid using judgmental language or questions.

More specifically, be aware that the victim and their family are literally experiencing a catastrophe, that their normal responses and functions may be impeded to the point of helplessness. It is up to you to serve as a "shoulder" for them to lean on.

Conversely, you must avoid coming on too strong. Try to build a sound helping relationship. You should not be overbearing in attempts to gain information. Address him/her by title and surname (e.g., Ms. Jones, I am Officer. . . . I am here to help you). Remember, the victim has just been dehumanized and humiliated. Addressing him/her in formal terms will help restore their dignity. You must be reassuring, allowing the victim to ventilate any hysteria, and you must try to convince him/her that you are there to help.

If you are the first officer on the scene, safeguard the crime scene and request the Patrol Supervisor to respond. Ensure the victim of their safety. Let him or her know that you are there to help. It is absolutely essential that the victim feel safe and that you are patient and comforting. Victims have often expressed that their immediate reaction upon seeing a uniformed police officer was that of "the cavalry coming to the rescue."

Executive Law mandates that victims of sex offenses be interviewed in a private setting. Private means an enclosed room from which the occupants are not visible or otherwise identifiable and whose conversations cannot be heard from outside such room. Only those persons directly and immediately related to the interviewing of a victim (ex. rape crisis counselors) will be present during the interview unless the victim objects to the presence of such persons. Where appropriate, the parent or parents of the victim, if requested by the victim, may be present during the interview.

The preservation of evidence in sex offense cases is very important. The victim should be asked **not to** wash or douche, brush her teeth, use mouthwash and will be accompanied to the hospital (or private physician) to obtain medical assistance and physical evidence of the crime.



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Accompany the victim to the hospital, and advise him/her that they will be examined by medical personnel in the privacy of an examination room. At the hospital, the doctor treating the victim will obtain evidence from the victim's body and place it in the **Sexual Offense Evidence Collection Kit** (you will not be present). The **evidence kit** will be invoiced at the precinct of occurrence.

**Note:** If it is suspected that the victim was drugged to facilitate the crime, then a **Drug Facilitated Sexual Assault, Blood and Urine Specimen Collection Kit** will be utilized.

Your observations of the scene, as well as the appearance of the victim should be documented in your Activity Log. In addition, torn or stained undergarments, clothing or bed sheets should be safeguarded for subsequent serological examinations. Each item will be invoiced at the precinct of occurrence. The processing of this evidence will be addressed later in this chapter.

Forcible rape and other specified sex offenses discussed in Patrol Guide procedure 207-07 require the referral of the case to the Special Victims Squad. In addition, if the sex offense in question is forcible rape, the services of the Crime Scene Unit may be required. The Patrol Supervisor will determine this need based upon the circumstances of the case. **Under NO circumstances will the identity of a sex offense victim be released to the media or other unauthorized persons.**

In an effort to enhance the services provided to victims of sex offenses, the New York State Executive Law as it relates to the Fair Treatment Standards for victims of sex offenses has been amended. The new law mandates that this Department provide written notice to victims of sex offenses with the name, address and telephone numbers of the nearest Rape Crisis Center. This is essential, as the victim should have a "support" base to assist him/her in dealing with, and recovering from this crisis. This referral will be documented on the Complaint Report under the "Details" section.

### Robbery Investigations

Robbery is the taking of property from another with the use of force, or taking property with the threat of its imminent use. When investigating robberies, the interview with the complainant is the most crucial source of information. Therefore, it is imperative that you arrive without delay at the scene, as the victim will most vividly recall what transpired during the crime. Some responsibilities of members responding to robbery complaints include:



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- **Know where you are going** - it is of paramount importance to know the address and exact location. It is equally important to know the building address before entering the location as well as the cross streets. The type of location should also be considered (commercial, residential, street, etc). The Communications dispatcher will supply all pertinent information to you when you are assigned to the job.
- **Be aware of the area** - look for perpetrator(s) along with hiding areas and possible escape routes. If uncertainty exists of an area or location, await arrival of back-up units!
- **Assess the robbery scene and situation-** Determine the correct classification of the incident (is it a robbery?, a larceny?, a burglary...). Gather accurate information about suspects' behavior and descriptions. Determine if back-up is needed, and request assistance of specialized units, if necessary. Keep Communications informed of important facts initially gathered at the robbery scene and perform a thorough search of the area. Be aware of perpetrators changing their appearance.
- **Secure the robbery crime scene** - the first officer at the scene must safeguard evidence, weapons and any other items that may be of use in an investigation. Witnesses must be secured and isolated from each other. It may facilitate the investigation to have witnesses removed to the command if possible. Some "witnesses" may in actuality be perpetrators who were attempting to escape by blending in with the crowd. Use appropriate tactics to ensure your safety.
- **Protect the victim** – advise Communications dispatcher to tell the victim to lock interior doors after a suspect has left so re-entries and hostage situation is avoided. Your first responsibility after the danger is over is to search for and attend to any injured persons. Request medical assistance if needed.
- **Apprehension / Custody**
  1. If you are not assigned to a robbery scene, don't go there. Stay in the area, cover likely escape routes and await a description. Look in parking lots and commuter lots for "switch cars," etc.
  2. Ask for descriptions of pants and shoes. Perpetrators committing a robbery often only change clothes from the waist up.
  3. Always ask if there is a security camera at the location.
  4. With available resources, check garages, parking lots, etc.



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5. Street muggers often run into large stores, hotels, restaurants and movie theaters.

Generally, you should not enter in-progress robbery locations. Obtain cover and await their exit. Watch for get away vehicles. Don't get in the middle! In well planned robberies, the "switch car" is within ½ mile of the robbery location.

In robberies, the perimeter is just as dangerous as the scene. Be alert because perpetrators could be coming **towards** you to make their escape. Use concealed deployment and observe. A hostage situation can develop if you are seen.

Interview complainant and any witnesses to ascertain what type of robbery occurred:

- Was there any weapon displayed or inferred?
- What property was removed?
- Immediately transmit any description of perpetrator(s) and other pertinent information, i.e., weapons, direction of flight, over your radio.
- Accuracy, speed & completeness are the elements of an alarm.
- If an area search is conducted with negative results, transport the complainant and/or witnesses to PDS or RAM if possible.
- If complainant or witness cannot return to command, immediately notify command via a telephone and advise assigned Detective.

### Homicide Investigations

The homicide investigation is the most physically and psychologically challenging of all criminal investigations. Police Officers frequently respond to assignments involving dead human bodies. Until determined to be a non-suspicious/natural death, the first officer on the scene should work under the assumption that an offense is involved, (treat all DOA's as suspicious, until you know further) and take the following precautions:

- Preserve the crime scene
- Prevent unauthorized persons from entering
- Detain witnesses
- Preserve the integrity of the evidence

All dead human body cases require a notification to the Patrol Supervisor, Desk Officer, and the Precinct Detective Squad. The detectives will conduct the investigation to determine whether a crime has been committed, and any



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subsequent investigation to identify the perpetrator. Patrol officers can assist in this investigation.

Once the detectives have initiated an investigation, your role is generally limited to providing assistance as directed by the patrol supervisor. At times, you may be directed to invoice and/or transport physical evidence.

### **CRIME SCENES**

Crime scenes are established to safeguard evidence and detain witnesses for further investigation. What the first officer on the scene does, or fails to do, in protecting and preserving the crime scene will often determine whether the suspect is identified and apprehended. Speed is an essential element as the condition of the crime scene may quickly deteriorate.

The record of events that transpired during a crime is recorded at the scene and can be reconstructed by scientific technology. The record is very fragile, consisting of such things as a drop of blood, a fingerprint, or a strand of hair. They can easily be destroyed if procedures and precautions discussed herein are not carefully noted.

What follows will outline the important duties of the first officer on the scene of a reported crime. The role of the uniformed officer is pivotal in the protection of physical evidence. In certain serious cases, the Patrol Supervisor or investigating Detective will request Crime Scene Unit (CSU) to collect required evidence. If the first officer on the scene fails to properly perform his or her duties, there will be little for the investigators to collect. As a result, a strong possibility exists that any further investigation necessary to apprehend the perpetrator(s) will be fruitless, or there will be insufficient evidence to convict anyone who is arrested.

With today's advanced technology, DNA testing takes just hours to complete and needs only minute samples to create a genetic marker. Detectives can now retrieve a suspect's DNA from the slightest residue of a sneeze. Just as we learn to look for fingerprints to identify the perpetrator of a crime, we need to think routinely about evidence that may contain DNA.

A crime scene is defined as the area where a crime was committed including routes to and from the location where additional evidence of the crime may be found. The size of the initial crime scene will depend on the circumstances. Initially, the crime scene should be very large. As time progresses and facts indicate, it may be reduced in size.



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- If the incident occurred inside one room of a private home, an apartment, small business premises, etc., the **entire** premises should be considered the crime scene.
- The crime scene should not be reduced in size or released without the approval of the Detective Bureau duty captain.
- If the crime scene is released before daylight, ESU will always be asked to respond back to perform a daylight search.

**Inner Perimeter** - Includes the crime scene and the immediate surrounding area.

**Outer Perimeter** - The purpose of the outer perimeter is to attempt to apprehend perpetrators, identify witnesses, and prevent physical evidence from being inadvertently removed (garbage trucks collecting garbage, mail boxes, etc). The size of the outer perimeter will depend on the circumstances of the incident and will include potential escape routes. Initially an outer perimeter of a four-block area would not be considered unreasonable. Uniformed members of the service should be posted on this perimeter as well as apartment building lobbies in the immediate area of the crime. If assigned to outer perimeter or lobby, uniformed members assigned should interview person(s) leaving the area and, if possible, identify those persons.

**The first officer at a crime scene is in charge of the scene until the arrival of a Supervisor or Detective.** Your first duty is to ascertain the need for medical assistance. Arrest any perpetrator(s) if they are still present on the scene, but the victim is the first priority. Check the victim to determine whether they are still alive. Be aware of moving the victim or objects. If the victim is alive and injured, render reasonable aid. If the victim is conscious, question him or her about the incident. Descriptions and means of flight should be broadcast immediately via your portable radio. A dying declaration may need to be obtained (discussed later in this chapter).

The first officer on the scene has the responsibility to determine the size of the crime scene. If the crime scene is indoors in an apartment, carefully back out of the door and close it. Permit no one to enter the scene unless they are directly involved with the investigation. Be courteous, professional & respectful with any officers who may "just want to have a look," but remind them that you are obligated to record their name, command, time of arrival and departure and their reason for being there. You should also remind them that they may be required to appear before a Grand Jury, hearing or trial. If the crime scene is outdoors, it should be marked off and secured by using items such as rope, ribbon, boxes, crime scene tape, chairs, garbage cans. Crayons or chalk should never be used.





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Establish the crime scene as large as initially warranted. If the crime scene is determined to be smaller than earlier anticipated, it may at that time be reduced. However, to expand a crime scene is difficult since an opportunity has been created for contamination during the time the scene was unprotected.

Crime scene signs and tape prohibiting passage are carried in RMP's and should be posted until a search is completed. In large areas, a sufficient number of officers should be posted to establish police lines. Again, only authorized personnel should be permitted to enter the area. Residents, family members and bystanders must be kept away. Members of the service not immediately concerned with the case are to be restricted from entering the sealed area.

EMS personnel are frequently present at crime scenes involving injured victims. These emergency medical personnel have existing procedures which govern their operation at such incidents, and their involvement is generally limited to care of the victim, determining death and, if in a public place, the removal of the victim (when requested by this Department). You should caution these persons not to disturb evidence when providing emergency aid to the victim.

If the crime scene is indoors, **do not:**

- Use or flush the toilet;
- Use the telephone;
- Smoke or use ashtrays;
- Run any water in the sink;
- Turn lights on or off.

If the crime scene is a bank robbery:

- Do not allow surveillance cameras to be touched;
- Detain witnesses, suspects or persons with any information;
- Close off the teller window involved.

On occasion, it may be necessary to alter the crime scene to protect evidence, as in the case of a blood stain in direct sunlight, where a window shade may be drawn. It might be necessary to open a window because of noxious fumes, or for an EMS technician or paramedic to roll an injured victim over to provide medical care. Any alteration to a crime scene should only occur if absolutely necessary. However, the remainder of the scene should remain untouched. Document and make sure that all interested parties are informed of the alterations.



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Firearms are frequently a part of crime scenes. As long as there is no risk of injury, **do not touch** the firearm. Resist the urge to pick it up, just leave it where it lays, and ensure the gun is not disturbed. There are situations where a firearm will have to be moved (A gun lying in the street with crowd gathering). If the gun must be moved, pick it up by the knurled surface on the grip, using only two fingers to do so, and place it in the trunk of an RMP (an officer should be posted to remain with the RMP to maintain a "chain of custody"). If firearm or other firearm related evidence is to be processed for fingerprints, handle all items while wearing latex gloves.

In any case, a firearm which is part of a crime scene involving a shooting contains a wealth of information which is best left unaltered. If it is necessary to move the firearm from the location where it was discovered:

- Point it in a safe direction
- DO NOT put fingers near the trigger
- DO NOT push or pull any levers of knobs
- DO NOT unload the weapon
- DO NOT change or adjust any setting on the weapon.

Ultimately, it will become necessary to unload the firearm in order to process it as evidence. If you are unable or unsure of how to "make the weapon safe," notify the Desk Officer. This should not be done until *after* the responding Crime Scene Unit has completed their investigation.

Any witnesses or persons with information pertinent to the crime should be detained. Obtain their names, addresses, and home, business, cellular or pager numbers.

To verify the identity of witnesses, you should request documents that will provide "positive identification," (Driver's License, vehicle registration, credit cards, social security cards, military I.D., medical plan cards, etc.). We should seek the cooperation of witnesses by appealing to their civic pride and sense of justice. Make activity log entries of all pertinent information including names of all persons entering the crime scene.

The Patrol Supervisor (or PDS member or other Detective, if the Patrol Supervisor is not available) will assess the crime scene and determine whether the services of the Crime Scene Unit will be required. The Crime Scene Unit will be requested in the following crimes: (Refer to Patrol Guide procedure 212-04).

- Homicides;
- Forcible rapes;
- Robbery or hijacking with injury caused by a firearm;



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- Assault with a dangerous instrument and victim is likely to die;
- Burglaries involving forced safe and / or circumvented alarms;
- Any other crime in which services of the crime scene Unit will assist in the investigation.

### GENERAL RULES FOR COLLECTING EVIDENCE

The proper gathering of evidence is a major factor in the successful prosecution of criminal cases. When it becomes necessary for you to collect evidence at a crime scene, the rules listed below should be followed to assure that the evidence you have collected is both meaningful to the investigation and can be properly presented in a court hearing. For material to be admitted into evidence, its integrity must be maintained.

One of the ways of doing this is by controlling its "**chain of custody.**" The chain of custody may be defined as a record of the persons who have handled, examined or stored the evidence. The chain of custody begins when the evidence is discovered and continues until the time it is presented in court. It is best to make the chain as short as possible, (least number of people handling the evidence), since the possibility that evidence has become contaminated increases with the number of people who have handled it. One should be prepared to establish possession at all times! The NYPD has established procedures to be utilized when handling evidence. The procedures **MUST** be carefully followed to maintain this chain of custody. All evidence that is recovered should be properly:

- **Recorded** - Use notes, sketches and measurements of the location where the evidence was discovered. For example: a suspected blood stain found at a Crime Scene would be recorded as follows, "A reddish brown stain found on the ground, in the rear courtyard of 289 East 117th Street. It was located 6 feet south of the north wall and three feet east of the metal fence post."
- **Collected** - By careful handling so as not to damage or contaminate the evidence.
- **Identified** - By a detailed description of the article and the officer's initials in order to preserve the chain of custody. When you appear in court on a case involving physical evidence, you are required to prove that the evidence presented is the same property found at the scene of the crime. In order to be able to do this, the officer must have "marked"



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the evidence. Each piece of evidence should be clearly marked for future identification with the officer's initials.

- **Packaged** - To avoid contamination, destruction or loss. Seal the entire package, requiring the seal to be broken if the package is opened.

**Note:** Confer with the Desk Officer if you believe that taking a photograph of the evidence may be beneficial to the prosecution of the case.

### DNA Evidence

DNA, or deoxyribonucleic acid, is the fundamental building block for an individual's entire genetic makeup. It is a component of virtually every cell in the human body. A person's DNA is the same in every cell. For example, the DNA in a man's blood is the same as the DNA in his skin cells, semen and saliva.

DNA is a powerful tool because each person's DNA is different from every other individual's, except for identical twins. Because of that difference, DNA collected from a crime scene can either link a suspect to the evidence or eliminate a suspect, similar to the use of fingerprints. It can also identify a victim through DNA from relatives, even when no body can be found. When evidence from one crime scene is compared with evidence from another, they can be linked to the same perpetrator locally, statewide, and across the nation.

Forensically valuable DNA can be found on evidence that is decades old. However, several factors can affect the DNA left at a crime scene, including environmental factors (e.g., heat, sunlight, moisture, bacteria, and mold). Therefore, not all DNA evidence will result in a usable DNA profile. Just like fingerprints, DNA testing cannot tell you when the suspect was at the crime scene or for how long.

The human body has three trillion cells. All except red blood cells contain DNA. Even after being multiplied millions of times, DNA is invisible to the naked eye. DNA is contained in blood, semen, skin cells, tissue, organs, muscle, brain cells, bone, teeth, hair, saliva, mucus, perspiration, fingernails, urine, feces, etc. To avoid contamination of evidence that may contain DNA, always take the following precautions:

- Wear gloves.
- Use disposable instruments or clean them thoroughly before and after handling each sample.
- Avoid touching the area where you believe DNA may exist.
- Avoid talking, sneezing and coughing over evidence.



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- Avoid touching your face, nose, and mouth when collecting and packaging evidence.
- Air-dry evidence thoroughly before packaging.
- Put evidence into new paper bags or envelopes, not plastic bags. Do not use staples.

### Processing Property

As a Police Officer, your responsibility is to process the many types of property that come into the custody of the Department. Property must be carefully classified, identified, documented and safeguarded. There are two reports that are utilized to record all property; the **PROPERTY CLERK'S INVOICE** and the **PROPERTY CLERK'S MOTOR VEHICLE/BOAT INVOICE**.

In addition to preparing a Property Clerk's Invoice, certain types of property that come into police custody require the implementation of other related procedures.

Property coming into the custody of the Police Department may be placed into several categories, including:

- Arrest evidence;
- Investigatory;
- Decedent's property (deceased person);
- Peddler property;
- Found property;
- Other (prisoners' personal property, safekeeping).

The locations where property will be stored are:

- The property room;
- The narcotics/controlled substances locker;
- The gun locker;
- Property Clerk's storage facilities.

There is a Property Clerk's storage facility located in each borough. Ultimately if the property is not disposed of at the command level (returned to the owner, sent to the lab, etc.) it will be forwarded to the Property Clerk for final disposition.



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The Police Laboratory will only accept a Property Clerk's Invoice that contains detailed and specifically itemized descriptions of the property submitted:

- Vague, non-detailed descriptions are unacceptable, e.g., "one sealed bag containing miscellaneous items."
- Improperly prepared invoice (s) will be returned to the invoicing command.
- The invoicing command will be required to correctly prepare the Invoice and re-deliver the evidence to the lab immediately.

### PROPERTY CLERK'S INVOICE

Many of the captioned areas on the Property Clerk's Invoice are self explanatory. When preparing the Property Clerk's Invoice, entries are made in ALL captions. Use "N/A" (not applicable), "UNK" (unknown), or the word "NONE," where appropriate. Other captions on the invoice include:

#### TYPE OF PROPERTY

**Arrest Evidence** - if the property is being invoiced in conjunction with an arrest, the offense captions, as well as captions dealing with prisoners, etc., will be completed by the arresting officer (A/O).

**Investigatory Evidence** - such as narcotics or weapons recovered under circumstances requiring analysis or investigation.

**Found Property** - any property which is turned over to the Department for return to its rightful owner.

**Decedents' Property** - valuable property removed from a D.O.A. and safeguarded.

**Peddler Property** - property removed from peddlers.

**Other Property** - for example, safeguarded prisoners' property (currency, jewelry, etc.)

Do not use "Pairs" or "Sets." For example write "2 shoes," not "a pair of shoes." When describing jewelry, you will use the type, design, color of metal, color of stones, inscription / markings. Since we are not jewelers, we use general descriptions (Example: A gold ring would be listed as a "yellow metal" ring).



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### **Remarks Section**

On a Property Clerk's Invoice or Property Clerk's Motor Vehicle/Boat Invoice, the following information is required to be included in the "REMARKS" Section:

- If there is more than one prisoner, finder or owner involved, enter the additional names and address.
- Recovered firearms will be checked through SPIS (Stolen Property Inquiry Section) and the results entered here.
- Circumstances of found property, decedent's property or other categories.
- Any other inquiries made to SPIS or other agencies and any results.
- Aided numbers, accident numbers, license and permit numbers.
- Other pertinent information not included on the Property Clerk's Invoice.
- Additional names, addresses and numbers where there are multiple prisoners and arrest numbers, finders, owners and complainants.

Once a Property Clerk's Invoice has been typed, the Desk Officer will review it, affix his/her own signature, and break down the invoice into appropriate copies. There are instructions on the rear of the Invoice explaining how the form is broken down.

One copy is printed on green paper and is known as the "Evidence Release/Investigation Copy" of the Property Clerk's Invoice. In arrest cases, this copy must be attached to forms forwarded to court, or brought to the Assistant District Attorney concerned by the arresting officer.

### **Property Clerk's Motor Vehicle / Boat Index**

Utilized by this Department to voucher motor vehicles or boats that come into police custody for such reasons as; rotation tow (explained in a later lesson), arrest evidence, investigation, safekeeping, forfeiture, to determine true owner, etc.

### **Property Index**

When a Property Clerks Invoice or a Property Clerks Motor Vehicle / Boat Invoice is prepared, a record of the invoice must be made at the command on the Property Index and in the Property Log. A new Property Index is prepared for each 24 hour period. The primary responsibility for the maintenance of the Property Index rests with the Command Clerk.



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### Property Log

The Desk Officer will make entries in the Property Log whenever a Property Clerk's Invoice or Property Clerk's Motor Vehicle/Boat Invoice, Jewelry Security Envelope, Plastic Security Envelope, Plastic Deposit Bag, serially numbered Lock-type Envelope for narcotics, Lead Seal or Peddler Seal are used.

### Security Envelopes and Lead Seals

**Pre-Numbered Security Envelopes** – Used for all small property items except:

- Evidence requiring serological examination (blood, semen and other bodily fluids).
- Computer evidence (floppy disks etc).
- Controlled substance/marijuana will be placed in a Narcotics Envelope before being placed in a Plastic Security Envelope. In addition, controlled substances that contain phencyclidine (angel dust) will be put in a Plastic Security Envelope and sealed prior to being placed in a Narcotics Envelope.
- Jewelry must be placed in separate Jewelry Security Envelope.

**Containers and Plastic Security Envelopes** - In order to properly seal a container (other than NYPD Plastic Security Envelope), a member of the service must:

- Fasten the container securely with masking tape in a manner to prevent loss/contamination of the evidence and to ensure that if the container is opened there would be obvious damage to the container and/or masking tape.
- Sign name legibly across the border between the masking tape and the container.

An NYPD Plastic Security Envelope has adhesive on the envelope flap and does not have to be fastened with masking tape; however the vouchering officer's name must be legibly signed across the border between the flap and the envelope.

**Security Lead Seals** – Utilized when invoicing property:

- Without serial numbers;
- Without identifying marks;
- Difficult to describe.





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Request Security Lead Seals from Desk Officer and place Security Lead Seal on property as required:

- Use one seal for different items in same case, where possible;
- Leave room on wire for inspection of items;
- Attach seals in presence of Desk Officer and other interested parties;
- Record serial numbers of Security Lead Seals used on Property Clerk's Invoice and in Activity Log.

The following procedures are performed under the supervision of the Desk Officer:

- Complete captions on the envelope and attach security lead seals, where necessary.
- Place items in envelope and seal in accordance with instructions.
- Enter Plastic Security Envelope or Jewelry Security Envelope serial numbers on Property Clerk's Invoice, adjacent to related items.
- Present sealed envelope to the Desk Officer.  
(Read P.G. procedure 218-10)

### **Evidence Card**

The RETURN OF EVIDENCE CARD contains information to assist crime victims/complainants in recovering property invoiced as evidence and will assist the District Attorney's office and the Property Clerk in expediting the return of crime victims'/complainants' property. Property held as arrest evidence by this Department may only be returned by the Property Clerk after the owner has obtained a release from the District Attorney. The Return of Evidence Card informs the crime victim/ complainant concerning the procedure to be followed in obtaining a District Attorney's release for their property.

***A Separate Property Clerk's Invoice will be prepared for:***

- Prisoner's personal property;
- Firearms;
- Narcotics;
- Hypodermic containers (P.G. 218-24);
- Computer evidence (P.G. 218-31);
- Sexual Offense Evidence Collection Kit (P.G.218-33);
- Any other sexual offense evidence (P.G.218-33);
- U.S. Currency and/or negotiable instruments earmarked for forfeiture (P.G.218-38).



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List each piece of evidence requiring laboratory analysis, as a separate item on the P.C.I. (Property Clerk's Invoice). Each item will be given a separate "Item number" on the P.C.I. and each item of evidence will be specifically described by the invoicing member. Package evidence as per Department procedures and write the corresponding P.C.I. number, as well as, the "Item number" on the outside of each package/container submitted to the laboratory. If the evidence being submitted for analysis is secured in multiple packages/containers, mark each package/container as "Bag 1 of \_\_, Bag 2 of \_\_". Prepare a Request for Laboratory Examination and submit to Desk Officer for review. (Refer to P.G. procedure 218-09).

### **Practical Evidence Collection**

**Arson** - Accelerant or other flammable material that comes into custody of the Police Department, should be placed in a clean, airtight, metal or glass container, sealed with masking tape, and immediately delivered to the Police Laboratory. This type of evidence should be handled in a well-ventilated area.

**Alcohol** - The container will be corked closed and secured, around the opening, with tape. The container can be placed in a Plastic Security Envelope. The container should be stored in an upright position until delivery to the Laboratory. Alcohol will only be submitted to the Police Laboratory in relation to an arrest for violation of Section 1192 of the Vehicle & Traffic Law, and an open container of alcohol is seized.

**Bloodstains/Serology/DNA/other biological evidence** - (except firearms) Submit the whole article if practical, be it clothing or fabric, blood, paint, semen, etc. This type of evidence should be delivered to the Medical Examiner's Office, Evidence Unit for examination. The Police Laboratory will not accept this type of evidence. Bloodstains, Serology, DNA or other biological evidence and any other body fluid/biological evidence should be packaged in paper bags or boxes. Do not seal in a plastic security envelope. Additionally, an orange biohazard sticker must be affixed to the package. This evidence must be refrigerated; therefore, it must be delivered immediately.

**Questioned Documents** – Any piece of paper, where the authenticity of the writing or the source of the writing must be determined, will be submitted to the Questioned Document Unit. These items include, but are not limited to, checks, bank robbery notes, and harassing letters. The evidence may be secured in a Plastic Security Envelope. Do not write on the security envelope when evidence is inside. Cardboard inserts should be used in the security envelope to prevent evidence from bending or folding. Handle with tweezers or knuckles of fingers at the edge of paper. Place in a plastic envelope for further viewing. Do not fold or



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write on the envelope! Typewriters, adding machines, check writers, computer printers, personal computers and other instruments should be submitted if possible. Do not change the settings on these machines. (Read P.G. procedure 218-09).

***Hair & Fiber*** - Evidence that contains possible hair and/or fiber evidence should be handled carefully to prevent loss of any evidence. If the evidence is wet or bloodstained, or has other serological or biological evidence thereon, it should not be packaged in plastic, instead it should be placed in a sealed paper bag. If the evidence is dry, and it does not have bloodstain, serological, DNA or other biological evidence thereon, it should be packaged in a Plastic Security Envelope or any bag/container that will prevent the hair or fiber evidence from being lost.

***Latent Fingerprints***- Handle objects carefully to avoid destroying possible prints and transferring your own fingerprints onto the object. Latex gloves should be worn. Avoid crushing, bending, folding the evidence. Items being delivered to the Police Lab for fingerprint analysis should be placed in a plastic bag, not a paper bag (If item required for prints and bloodstain serological/ DNA other biological evidence, then place in a paper bag).

***Locks*** – If a lock is submitted to the Police Lab for analysis, then the key to that lock must also be invoiced and submitted to the Lab. If no key is available, do not submit the lock for analysis.

**Note:** All evidence containers, other than plastic security envelope should be sealed with masking tape in a manner to prevent loss of the evidence and to prevent contamination. The invoicing member's signature must be placed across the seal to maintain the chain of custody. (P.G. 218. 23)

### **Sexual Offense Evidence Collection Kit**

The Sexual Offense Evidence Collection Kit is used by physicians in hospitals to gather evidence from a victim of a sex offense. The kit is used to standardize the collection and processing of evidence in sex crime cases. It contains slides, swabs and envelopes to collect evidence. Sexual offense evidence (not including the sexual offense evidence collection kit) is defined as bloodstains, serology, body fluids and or other biological evidence (clothing, bedding, undergarments, etc.) to be analyzed for the purpose of obtaining a DNA profile (Read P.G. procedure 218-33).



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## **Collecting and Processing Evidence**

A sexual offense is one of the following crimes:

- Rape
- Criminal Sexual Act
- Aggravated sexual abuse
- Sexual abuse
- Sexual Misconduct

Upon completion of the medical examination:

- Take possession of the Sexual Offense Evidence Collection Kit and other sexual offense evidence.
- Ensure that physician and complainant's names are entered in the appropriate caption and sign for evidence in the appropriate caption.
- Remove evidence to precinct of occurrence and prepare a Complaint Report Worksheet, P.C.I. and Request for Laboratory Examination.

When the Sexual Offense Evidence Collection Kit is sealed by hospital personnel, the seal may only be broken by a member of this department who is authorized to do so.

### **Drug Facilitated Sexual Assault Blood and Urine Specimen Collection Kit**

A Drug Facilitated Sexual Assault Blood and Urine Specimen Collection Kit will be utilized for the collection of blood and urine when it is suspected that the victim of a sexual assault was drugged. This kit is separate from the Sexual Offense Evidence Collection Kit. This kit is composed of two grey-topped blood tubes and a urine container for the collection of specimens, and must be invoiced, on a separate PCI, with a separate request for lab exam (for toxicology).

If it is suspected that the victim of a sexual assault was drugged (based on victim or witness statements, or other evidence), investigating officers must inform hospital personnel and request that this kit be used. This kit must then be immediately taken to the Medical Examiner, Evidence Unit for testing.

### **Processing Computer Evidence**

In today's computer age, many homes and businesses are equipped with personal computers. Most of these computers are for personal or business use; however some are used to commit crimes.

The Computer Crimes Squad within the Detective Bureau are responsible for assisting in the investigation of complaints, involving the use of computers, and for enhancing arrests, preserving evidence and providing expert testimony in



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court. The unit is also responsible for providing technical assistance in properly securing computer evidence and conducting computer forensic examinations. Officers must notify the Computer Crimes Squad between 0600 to 2000 hrs, Monday through Friday. All other times you will notify the Office of the Chief of Detectives.

Properly mark all computer evidence as follows:

- Affix identifiable mark to hardware.
- Label items as indicated peripherals were connected together (i.e. monitor 1, CPU 1, Keyboard 1), and tag all wires indicating which peripheral they were attached to.
- Count and package similar floppy disks in paper envelopes, however, do not remove any disk(s) from disk drives. These will be secured by affixing a strip of masking tape across the drive's opening. The vouchering officer will initial the masking tape.
- Plastic Security Envelopes should not be used when vouchering floppy disks because they can cause a discharge of static electricity which can destroy the data on the disk.
- Do not write on floppy disks.
- Voucher all computer related evidence, which are to be delivered to Computer Crimes Squad separately from other property being invoiced.
- Prepare Request for Laboratory Examination.

### Found Property

Found property valued at ten dollars or more is required to be reported to and deposited with the police. Upon coming into possession of found property:

- Prepare appropriate captions on Accident Information Exchange / Acknowledgement of Found Property report. Give this as a receipt to the finder of the property.
- Enter facts in your Activity Log.
- Prepare a P.C.I. and submit it along with the property to the Desk Officer.

If a M.O.S. comes into possession of found property on the subway system, other than U.S. currency or contraband, deliver such property to NYC Transit Railroad Clerk (Refer to P.G. procedure 218-26).



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### VOUCHERING CURRENCY

Currency comes into the possession of the Police Department under a variety of circumstances, two general categories are: Evidence, such as proceeds from a crime, marked money used in an investigation, etc. and non-evidence, generally either found money or property of a deceased person. Prior to preparing the P.C.I., it is necessary to be able to identify money which has special value, and the specific invoicing procedure for such property.

When listing U.S. currency, each denomination will be given a separate item number, and the quantity of each denomination will be entered. U.S. coins, however, will be entered as a single item, with the total number of all coins entered in the quantity column. The value of U.S. currency will ONLY be entered in the Cash Value Column and totaled at the bottom of this column.

ITEM	QUANTITY	DESCRIPTION	CASH VALUE	
1	5	USC \$20.00 bill	\$100	.00
2	6	USC \$10.00 bills	\$60	.00
3	3	USC \$1.00 bills	\$3	.00
4	11	USC assorted coins	\$1	.38

**Numismatic Value** - Includes all gold coins (new U.S. gold \$1.00 coin is not considered numismatic), all U.S. silver coins bearing a date of 1964 or prior, and extremely old bills.

**Sentimental** - special markings and/or special packaging such as:

- bills placed in frames;
- bills taped on store walls;
- bills marked ("Happy 5th Birthday Robert").

When determining numismatic/sentimental value, members should be guided by the circumstances under which the currency was found (e.g., location, type of packaging, special markings, encased in frames or books, etc.). If doubt exists, such currency will be deemed to have numismatic/sentimental value, and will not be deposited in a bank.



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### Processing Currency Not Required as Evidence:

- Prepare P.C.I. and make entry in Activity Log;
- Deliver P.C.I. and currency to Desk Officer;
- Desk Officer will directly supervise vouchering officer when placing currency into plastic deposit bag.

Non-evidence, non-sentimental/numismatic currency will be packaged in a plastic deposit bag. It will then be deposited at an authorized Chase Bank night deposit vault.

### Processing Possible Numismatic/ Sentimental Currency:

Follow normal invoicing procedures, except:

- **Do Not** deposit into bank;
- **Do Not** initial or stamp;
- Indicate on P.C.I. under "remarks" possible numismatic/sentimental currency;
- Itemize coins by quantity;
- **Do Not** enter monetary value in "Cash Value: column;
- Utilize Plastic Security Envelope.

### Processing Currency Required as Evidence:

- Inform Desk Officer of details and count currency in his/her presence. The Desk Officer will determine if currency will be marked with evidence stamp
- If currency is stamped the vouchering officer will initial the face of each bill and prepare a P.C.I.
- If currency is marked with evidence stamp, list each denomination as a separate item and indicate quantity of each denomination.
- List each denomination of unstamped bills as a separate item and indicate quantity of each item. The serial number of each bill must be listed.
- Verify amount listed on the P.C.I., insert currency in serially numbered Plastic Security Envelope and seal in presence of desk officer.



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**Currency will not be stamped if:**

- Sentimental;
- Numismatic;
- Unaltered\*;
- Foreign;
- Bloodstained.

\*Unaltered - means currency that must remain in its original condition because it is treated with dye, marked, or US currency processed for forfeiture.

**DO:**

1. Record by denomination
2. List each serial number
3. Send to Property Clerk

**DO NOT:**

1. Initial
2. Send to bank

EVIDENCE		NON-EVIDENCE	
SENTIMENTAL NUMISMATIC UNALTERED FOREIGN BLOODSTAINED	OTHER	SENTIMENTAL & NUMISMATIC \$	OTHER
Don't Stamp	STAMP	DON'T STAMP	
Don't Initial	INITIAL	DON'T INITIAL	
RECORD BY DENOMINATION		RECORD BY DENOMINATION	
Include Serial #	NO Serial #	Include Serial #	NO Serial #
Send to Property Clerk	Send to Property Clerk	Send to Property Clerk	Deposit in bank





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### Counterfeit Money

When counterfeit money is detected and it is determined that the passer is an innocent victim or there is no indication who passed it:

- Have person write name and date across the face of the bill or scratch initials on coin.
- Sign rank, name, shield number and date on bill or scratch initials on coin.
- Take possession and report to Desk Officer.

Counterfeit money is not invoiced. It is sent to the Patrol Borough (except in an arrest situation where it is treated as evidence and invoiced). It will then be forwarded to the United States Secret Service. (Refer to P.G. procedure 212-47.)

### PROCESSING FIREARMS & FIREARM-RELATED EVIDENCE

Police officers on patrol handle and process many different types of firearms. Certain firearms and firearm-related evidence may require a laboratory examination by the Firearms Analysis Section, the Office of Chief Medical Examiner (OCME) Forensic Biology Unit, or both. Other firearms are merely held by this Department for safekeeping purposes. Therefore it is important that you are able to distinguish between these different types of firearms and their procedures.

A firearm which is part of a shooting should not be touched, moved, or disturbed unless absolutely necessary. The same holds true for firearm related evidence found at such a scene. Firearms may also come into your possession for other reasons (seized for unlawful possession, found, or the lawfully possessed property of a deceased person). Ultimately, all firearms to be invoiced must be unloaded. Whenever possible, the firearm should be made safe without destroying evidence. As the Patrol Guide points out, if a firearm is unfamiliar or it appears to be difficult to unload, safeguard it in its original condition and notify the desk officer. **Do not** attempt to unload it.

The maintenance of the "Chain of Custody" is of considerable importance when a firearm or firearm related evidence is involved. The Firearms Analysis Section, a part of the Forensic Investigation Division, has the responsibility for conducting examinations of firearms and related evidence.



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Finally, all laboratory examinations are initiated by the preparation of a REQUEST FOR LABORATORY EXAMINATION. This form is prepared for all lab exams, including firearms and firearm related evidence examinations. The complete procedure for processing firearms and ballistic evidence will be covered in the Student's Guide under the **Weapons** chapter.

### Firearms Analysis Section

The Firearms Analysis Section of the Forensic Investigation Division is responsible for the analysis of firearms and firearm related evidence. Firearms, ammunition and fired casings and bullets are examined to identify manufacturer and type. Firearms Examiners from the Firearms Analysis Section provide expert witness courtroom testimony on their analysis and conclusions. Some other tests that are performed at the Firearms Analysis Section are:

- Bullet Resistant Vest Tests- Shooting suspected bullet resistant vests following Criminal Procedure Law guidelines to determine if a vest is bullet resistant.
- Distance Tests - Determining a range of distance from the muzzle of a firearm (end of the barrel) to a victim. This test is usually done with a Laboratory Criminalist and/ or a Medical Examiner.

A Firearms Examiner in addition to identifying the manufacturer and type of firearm and ammunition will check for proper function of the firearm and will determine if there is evidence of discharge. The Operability test declares if the firearm works and if the ammunition is live and also provides example test fires of bullets and casings.

Fired casings and bullets receive unique individual marks from the firearm they pass through. These marks are accidental and are a type of tool mark. From use and wear of the tools that make firearms, scratches and imprints are left on the metal of the firearm. The firearm then becomes the tool to the ammunition being fired through it transferring these scratches and imprints on the fired casings and bullets. Bullets receive their marks from the rifled barrel of a firearm. The purpose of rifling is to rotate the bullet passing through the barrel and increases its stability, velocity, and accuracy. Casings receive their marks from the firing pin impression, breech face, chamber, extractor and ejector marks. A Firearms Examiner will compare fired casings and bullets under a comparison microscope. This microscope allows the examiner to view and compare two items of evidence side by side for their unique pattern of marks.



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### PREPARATION OF THE REQUEST FOR LABORATORY EXAMINATION

The proper preparation of a REQUEST FOR LABORATORY EXAMINATION is extremely important. The Police Laboratory cannot properly process or examine evidence if you do not make specific requests for the type of test you want performed. For example, when a firearm is invoiced and you wish to determine whether the firearm is operable, you can request a "Ballistics Exam." If more specific tests are needed, describe what you wish to be done. If you wanted to know how far the firearm was from the victim of a shooting when fired, you must specifically ask for this to be determined.

Completely fill in all captions giving a clear description on what occurred, where the evidence came from and what questions you may want the Lab to answer. Information relative to the complaint, offense and defendant/ suspect should be as complete as possible, this is necessary to associate *Modus Operandi* of cases.

When completing the evidence submitted captions, use the exact same item number, description, and identifying marks as stated on the invoice. The caption "Where Obtained" asks you to indicate from whom or from what location you received these items. Were they obtained from the defendant's right shirt pocket, or from a suspect's car? Was the firearm from under the roof landing of 380 5th Avenue? BE SPECIFIC.

### TEMPORARY REMOVAL OF INVOICED PROPERTY FROM THE COMMAND (P.G. Procedure 218-06)

When it is necessary to temporarily remove invoiced property from the command to court or other authorized agency, the uniformed member will do the following:

- Request property from the Desk Officer (give a reason for removal).
- Enter P.C.I. number, destination of property, and signature in Property Receipt Book.

When property is to be returned to the command, the uniformed member will do the following:

- Obtain receipt if property is retained by court or other authorized agency and make Activity Log entries.
- Deliver property or receipt to Desk Officer.



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## **Collecting and Processing Evidence**

### **REMOVAL AND RETURN OF EVIDENCE TO PROPERTY CLERK DIVISION (P.G. Procedure 218-07)**

When evidence in custody of the Property Clerk is required in court or other authorized agency, the UMOS will request evidence from member assigned to Property Clerk facility and:

- Give PCI number ;
- Present shield and identification card;
- Receipt for evidence as required.

A uniformed member of the service not listed on invoice as arresting/assigned officer must present written authorization from Commanding Officer to remove evidence.

When court is adjourned for the day:

- Obtain receipt for evidence, if held by court, District Attorney or other authorized agency.
- Obtain copy of court order from court clerk and receipt from claimant if court directs release of property.
- Deliver packages of controlled substances/marijuana, which have been opened in court to Police Laboratory for repackaging and sealing.
- Telephone appropriate Property Clerk facility in advance and prior to closing for instructions regarding return of property and/or receipt if delayed in court and unable to return property as required.
- Inform member at Property Clerk facility of estimated time of dismissal from court or arrival at Property Clerk facility.

If property or receipt for property is not returned to Property Clerk Division, a Finest message will be transmitted to all commands including the invoice number, name, shield number, and command of member of the service who failed to return property.

### **RULES OF EVIDENCE**

Your responsibility as a police officer is to legally gather and preserve as much evidence as you can. You should not make decisions as to the usefulness or admissibility of particular items. What will be presented as evidence in a criminal case is up to the prosecutor. The prosecutor is trained to recognize what the judge is likely to admit in order to prove the guilt or innocence of a



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## Collecting and Processing Evidence

defendant and he/she bears the responsibility for the proper presentation of the people's case. The remainder of this chapter will consist of a look at the rules of evidence and how they apply to your duties and responsibilities.

### Evidence Defined

Evidence is anything that is used to prove or disprove a disputed issue in a court of law. It may consist of testimony, documents or objects. The rules of evidence in New York State are not contained in any one statute such as the Penal Law or Criminal Procedure Law, but are a set of rules which have developed over the years through decisions in individual cases. They do not tell us what *is* admissible as evidence in a trial. They tell us what is **NOT** admissible. As previously stated, you need not concern yourself with whether a particular item of information will be admissible or not; that is, the function of the prosecutor.

It is possible that evidence that would ordinarily be admissible may be suppressed. This happens when it is obtained through a violation of someone's constitutional rights. The police officer must be aware of the rights of individuals so as not to damage a strong case through carelessness.

Examples of these are:

- Unreasonable search and seizure;
- An illegally obtained confession;
- Improper eyewitness identification, (i.e., show-up held in a stationhouse).

### TESTIMONIAL EVIDENCE

#### Testimony by children (Section 60.20 CPL)

As a general rule, a witness who is a child less than nine, may not testify under oath in court, unless the judge (referred to as "the court") determines that the child understands what taking an oath means. A child less than nine may, however, testify without taking an oath. If a child does testify without taking an oath, a defendant may not be convicted solely on the child's testimony.

When you have a case where a child is less than nine you should attempt to obtain additional evidence. Additional evidence is also important in cases where a complainant or witness may have mental disease or defect, since the judge may not allow such a person to testify in court.



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### Accomplice Testimony (C.P.L. Section 60.22):

A defendant may not be convicted of any offense solely upon the uncorroborated testimony of an accomplice, unsupported by other evidence tending to connect the defendant with the commission of the offense.

An "accomplice" means a witness in a criminal action who may reasonably be considered to have participated in:

- The offense charged; **or**
- An offense based upon the same or some of the same facts or conduct that constitutes the offense charged.

The fact that a witness in a criminal action is also an accomplice, and that he or she has a defense such as infancy, or some type of immunity, does not affect his status as a witness.

**Example:** Bill and Henry commit a robbery. If Bill is arrested and names Henry as his partner in the crime, Henry cannot be convicted solely on Bill's testimony. However, in combination with any other evidence that ties Henry to the crime, Bill's testimony may be sufficient corroboration to convict him.

### The Hearsay Rule

Hearsay is evidence not from personal knowledge of the witness, but where the witness merely repeats what the witness heard others say. It is testimony about something said outside the court by other than the witness, which the witness testifies as being true. **Hearsay evidence is usually not admissible.**

The reason for hearsay not being admissible is that the person who actually said the words is not under oath and cannot be cross-examined. The witness who is under oath and who can be cross-examined is merely repeating the words of another.

An example of hearsay is where a storeowner tells an officer that X held him up. If the officer testified about this statement, it would be hearsay because it would be offered for the truth of its contents, i.e., that he was actually held up, without giving the defendant the opportunity to cross-examine the original maker of the statement.



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### Exceptions to the Hearsay Rule

There are many exceptions to the hearsay rule. However, there are three that you will most likely encounter. They are as follows:

- **Confession or Statement** conveyed by a defendant.
- **Admission:** A statement made by a defendant that is against his penal interests, but does not amount to an acknowledgment of guilt.
- **Dying Declaration:** A statement made by the victim of an assault which is made when death is imminent and the declarer has abandoned hope of recovery. Dying declarations may only be used when the victim actually dies.

### Exclusion of Evidence

Evidence that has been illegally obtained by the police is not permitted to be used at the criminal trial. Guns, narcotics, contraband, confessions or eyewitness identifications may be suppressed (excluded) if they were obtained in violation of the United States Constitution or in violation of the New York State Constitution. If the prosecutor (District Attorney) offers into evidence one of these items (guns, narcotics, or a confession), the defense attorney will usually object. The objection may occur prior to the trial or during the trial itself. The defense attorney will make what is known as a motion to suppress. If the court grants the motion, it will exclude the evidence from use at the trial. The following are examples of circumstances that most often result in motions to suppress:

- The property was obtained by means of an unlawful search or seizure.
- The statements, admissions or confessions were not made voluntarily to the police officer.
- There was improper eyewitness identification, which resulted in the defendant being arrested and charged with an offense.
- There is an unlawfully obtained recording of testimony describing statements made by the accused. This could involve eavesdropping or wiretapping.
- Certain evidence exists which would be admissible but for the fact that the police became aware of it through an unlawful means. This is referred to as the "fruit of the poisonous tree" doctrine.



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The judge may grant or deny a motion to suppress evidence or may order a separate hearing just to determine if the evidence should be suppressed. If a hearing is conducted, you, as the arresting officer, may be called to testify.

### The Rosario Rule

Recent court decisions have developed the Rosario Rule (L.B.B. Vol. 17 #10, *People v. Ranghell*, and L.B.B. Vol. 21 #5, *People v. Wallace*), which requires all non-confidential statements that relate to the subject matter of a witness' testimony be released by the prosecutor to the defense attorney.

Rosario material is defined as any prior statements to the police made by a witness who will appear and testify at the trial. Such "witness statements" are rarely recorded in a neat fashion on a single police report. In addition, police officers that investigate crimes and made arrests do not decide which witnesses involved in the case will actually testify at trial. The judge, prosecutor and/or defense attorney usually makes that decision.

The best approach police officers can take is to treat **all** statements they receive from witnesses as potential Rosario material. This includes statements by fellow police officers that witnessed the crime, seized evidence, or made an arrest. For example, courts have identified the following items typically prepared by police officers as Rosario material: activity logs, personal handwritten notes, preliminary worksheets, arrest reports, interview reports, Unusual Occurrence reports, Complaint Reports (UF61s), Complaint Follow-up reports (DD5s), electronic recordings such as audio tapes, video tapes and 911 tapes and even teletype messages.

The penalty for violating the Rosario Rule is catastrophic to a criminal prosecution. **Any** failure to produce Rosario material, regardless of the good faith effort by police in attempting to locate it, may result in the reversal of a conviction.

The best way to ensure that you meet your obligations under the Rosario Rule is to follow these guidelines:

1. If you are the arresting officer:
  - Preserve **all** of your notes, records and police reports in an arrest folder. This includes all handwritten notes. Be sure to include photocopies of any entries you made in your Activity Log, whether written on the front or back of the page.





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- Each time you are assigned to court in connection with the arrest - including your first trip to the Complaint Room immediately following the arrest - bring the complete folder with you and show its **entire** contents to the Assistant District Attorney (A.D.A.) assigned to the case. Allow the A.D.A. to photocopy whatever he or she wishes from the folder.
  - If you prepare scratch copies of official police reports that are later typed, save a photocopy of the scratch copy in your folder. As soon as possible, obtain a copy of the typed report and place it in your folder as well.
  - Do not permit anyone except the A.D.A. to remove an original document, such as your handwritten notes, from your folder. The A.D.A. may be given an original document from your folder, but you should make a photocopy first. All other persons who are entitled, such as supervisors or detectives assigned to the case, should be given photocopies only of any documents in your folder.
2. If you are not the arresting officer, but you prepared an official police report (such as a complaint report or a complaint follow-up), or made written notes of statements you received from witnesses or victims of a crime:
- Photocopy your report(s) or handwritten notes and give them to the arresting officer for inclusion in his/her arrest folder.
  - Save a copy of the report(s) you prepared and your original handwritten notes so that you can produce them for the A.D.A., if necessary.
  - Bring all documents you have concerning the incident with you to **every** court appearance or meeting with the A.D.A. concerned.

These guidelines apply to all members of the service other than the arresting officer. This includes patrol officers who take statements from witnesses, detectives who do subsequent interviews, and supervisors who interview witnesses for preparation of Unusual Occurrence Reports. **Any** information you receive from witnesses and record in an official Department form, such as a Complaint Report or a Complaint Follow-up, or in handwritten notes, **must** be preserved and turned over to the A.D.A. concerned.



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### Brady Material

Another important area of law that a police officer should be familiar with is exculpatory evidence, commonly referred to as Brady material. Exculpatory evidence is evidence that tends to clear someone's guilt. The prosecution is mandated by law to disclose any evidence that is favorable to the defense upon request by the defense. Unsolicited exculpatory evidence must also be disclosed when it creates a reasonable doubt that would not otherwise exist. A police officer must bring any such evidence to the attention of the District Attorney. Failure to do so may jeopardize the prosecution and bring about judicial sanctions. Remember, a police officer should gather and preserve as much evidence as possible at a scene of a crime. The District Attorneys will determine what evidence, if any, is exculpatory.

### Pretrial Hearings and Motions to Suppress

The motion to suppress may be handled without a hearing if the District Attorney and the defense attorney agree to the facts in the case. This is not often done, however. If a hearing is conducted, you, as the arresting officer, will be called as a witness. The reason that the motion to suppress is so important is because, if the defense counsel is successful, the evidence sought to be admitted by the people will not be admissible as evidence in the case. This often means that the case is won or lost at the suppression hearing.

**Example:** A police officer arrests and charges a defendant for criminal possession of a weapon. If the defense counsel is successful in a suppression motion, the court will rule that the gun cannot be introduced in court as evidence. Without the gun being introduced as evidence, it is almost impossible to prove the crime of criminal possession of a weapon. In most cases, if the defense counsel wins at the suppression hearing, the District Attorney will drop the charge against the defendant. On the other hand, if the people win, the defendant will often enter a plea of guilty. This is because he knows that once the court rules that the weapon is admissible, the people can show a *prima facie* case without much difficulty.

### Types of Pretrial Hearings

**The Mapp Hearing:** A hearing conducted prior to trial, a Mapp Hearing, determines whether **physical evidence** to be presented at trial was legally or illegally seized.



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***The Huntley Hearing:*** Also conducted prior to trial, a Huntley Hearing is one in which the defendant asks the court to determine whether a ***confession, admission, or statement*** that was made was done so voluntarily. In order to be admissible, the people must establish that the defendant knew his constitutional right to remain silent and to have an attorney present and that he knowingly, intelligently and voluntarily waived his constitutional rights prior to making a statement, admission or confession.

***The Wade-Gilbert-Stovell Hearing:*** This hearing determines the fairness of the ***eyewitness identification*** of a defendant. This will usually follow a lineup or show-up at which the defendant was identified by a witness or the victim.

### CONCLUSION

The goal of every criminal investigation is a conviction in court. By knowing and understanding how to properly gather, safeguard and voucher evidence, you will insure that a potential criminal case will not be compromised. Being called upon to conduct preliminary criminal investigations, it is up to the individual police officer to identify and gather evidence properly and maintain it so that the chain of evidence will not be compromised. Remember, you are accountable for property that comes into your possession. Neglecting to follow proper procedure can result in evidence being thrown out in court and a criminal case being jeopardized or lost.



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## Collecting and Processing Evidence

### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this chapter – **Collecting and Processing Evidence**. These procedures must be read in conjunction with this chapter. Questions for the 2<sup>nd</sup> Trimester Exam may come from these procedures:

Crime Scenes (212-04)

Counterfeit Money (212-47)

Chronic Abuser Alarm Procedures (214-08)

Invoicing Property – General Procedures (218-01)

Temporary Removal of Invoiced Property from the Command (218-06)

Removal and Return of Evidence to Property Clerk Division (218-07)

Evidence other than Controlled Substances/Marijuana and Firearms  
Ballistics Evidence requiring Police Laboratory Analysis (218-09)

Using Security Lead Seals or Plastic Security Envelopes (218-10)

Processing Controlled Substances/Marijuana Contraband  
Stored at the Station House (218-24)

Processing Firearms and Ballistics Evidence (218-23)

Processing Controlled Substances/Marijuana Contraband not  
Stored at the Station House (218-25)

Processing Found Property (218-26)

Processing Computer Evidence (218-31)

Processing Sexual Offense Evidence Collection Kits (218-33)

Processing Currency Required as Evidence (218-35)

Processing Non-Evidence Currency (218-36)

Processing of Currency Negotiable Instruments for Forfeiture (218-38)



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## Collecting and Processing Evidence

### HOMEWORK

- 1) Describe how to conduct a preliminary investigation for a:
  - a. Burglary.
  - b. Robbery.
  - c. Sex crime.
- 2) List *what not to do* at a crime scene.
- 3) Explain the times the Crime Scene Unit is called.
- 4) When does a police officer prepare separate Property Clerk Invoices?
- 5) Rewrite the money chart.
- 6) Give examples of times the courts will exclude evidence.
- 7) Define:
  - a. Brady material.
  - b. Rosario rule.
  - c. Hearsay rule.
- 8) Describe the three (3) types of pre-trial hearings.



# POLICE STUDENT'S GUIDE

## Court Appearances

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW THE MATERIAL IN THIS CHAPTER?

This chapter is designed to help you become an effective witness in judicial proceedings. Effective police witnesses are those who are able to articulate clearly, fully, and truthfully both the facts and circumstances of the matters that have brought them to court and their roles in these matters. Effective witnesses come to court prepared; they make certain that they have properly documented events and that they have properly processed any evidence for which they are responsible. Effective witnesses are aware of the strategies that may be used by opposing counsel to discredit them or trap them into phrasing their answers in ways that may mislead jurors.

Effective and honest police testimony is particularly important in our system of justice. In some countries, criminal justice systems are *inquisitorial*, which means that they are designed only to determine whether individuals committed the crimes of which they have been accused, and that they pay little or no attention to the manner in which the police collect evidence. In such places, there is no Bill of Rights: no right to be free from unreasonable search and seizure: no right to counsel at interrogation: and no right to decline to answer interrogators' questions. In such places, jurors are free to infer that accused persons who do not take the witness stand in their own defense do so because they are guilty. In most such places, all that matters is whether the police can produce evidence of guilt. Indeed, in some such places, the burden of proof may not even be on the prosecutor – instead, accused persons may have the near impossible burden of proving that they did not commit the crimes with which they have been charged.

This is not the way our system works. Our system is *adversarial*, and places the burden of proof squarely on the prosecutor. Unlike inquisitorial systems, *our system draws a great distinction between factual guilt and legal guilt*. In our system, the only two outcomes of criminal trials generally are those in which prosecutors succeed in proving guilt beyond a reasonable doubt and those in which prosecutors fail to prove guilt beyond a reasonable doubt. Nobody is ever found *innocent* in our system because defendants do not have to prove their innocence: instead, they are either found guilty or found not guilty. To prove guilt in our system, police and prosecutors must overcome a series of obstacles designed by our founding fathers to protect the freedoms they fought the Revolutionary War to gain. In our system, prosecutors who fail to show that the evidence they introduce was obtained in compliance with the Bill of Rights cannot use the evidence, even though it may clearly show that defendants committed the crimes with which they have been charged. When this happens, people who are factually guilty cannot be proven legally guilty beyond a



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reasonable doubt, and are, therefore, released to prey on our citizens again. Thus, in our system, it is critically important that officers testify credibly, honestly, knowledgeably, and convincingly in criminal cases. Police testimony is evidence, and when evidence is presented improperly, it results in lost cases and injustice.

Although most police testimony occurs in criminal, juvenile, or traffic proceedings as a result of an officer's law enforcement actions, officers also testify in civil proceedings in which they, the Department, or others are the accused parties. In these cases as well, it is critical that officers know how to be effective, honest, and credible witnesses.

### THE ROLE OF THE POLICE OFFICER IN THE CRIMINAL JUSTICE SYSTEM

Effective police witnesses begin preparing their testimony from the instant they suspect that criminal activity may be occurring. They know that, from the moment they first take action, they may have to testify about everything they have seen and done. They know also that answers like "I don't recall" can be used to raise questions about their honesty, so they make it a point to imprint images of their actions deep into their memories and to document them carefully, as well. They take great pride in doing this in a way that reflects favorably on them and the Department, and that includes thorough mental and written recording of the facts.

Good preparation for court testimony encompasses the entire investigative process: the facts of the offense; location of the witnesses; discovering, preserving, and marking evidence; recording events that led to the apprehension of the defendant, and other incidents pertaining to the arrest.

One of the most important aspects of an investigation is the gathering of materials that may become evidence at a later trial. This includes the names and addresses of **all** potential witnesses, even if they appear to duplicate witnesses you already have. Taking note of details that you may be asked to recall later is a skill a good investigator must develop. The experienced officer learns to concentrate on seemingly minor items that may take on great importance from the witness stand.

You need to start doing this at the moment you become involved in any case, no matter how strong the case may seem. Keep in mind that nobody wants to go to jail and that, especially in serious cases, offenders are likely to try very hard to stay out of jail. This means that, ***the stronger the evidence in a case, the more likely it is that defense attorneys will try to attack your***



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***credibility by suggesting to jurors that you have left out information that might weaken the prosecution's case.***

Here's an example: Let's say that you and your partner come upon a fatal shooting that has taken place at 2200 hrs. on a public street, in front of 50 or more witnesses at a street fair. There you learn that several of these bystanders – mostly friends of the decedent – immediately jumped the shooter, disarmed him, and held him until you arrived. Let's say also that one of the bystanders, a friend of the dead man, gives you what he identifies as the shooter's gun. Then, you and your partner start interviewing these witnesses. After speaking to ten or so (all of whom knew the victim), you find that they all say essentially the same thing: that the victim was unarmed, and that the suspect shot him dead, in cold blood, during what apparently had been a heated argument. They also indicate that another man was with the shooter, but that he had fled the scene (the next day, you learn that the other man was the shooter's brother).

The worst thing you can do at this point is to conclude that you have gathered enough eyewitness evidence, and release the remaining 40 bystanders without at least learning who they were, what they saw, and how to get in touch with them. Good attorneys know that if they want to avoid surprises and to win their cases, they should never ask questions of witnesses unless they know in advance what the answers will be. If you were to send the remaining 40 witnesses on their way in this case, opposing counsel would almost certainly design a set of questions for you, knowing that the answers you would be compelled to give would make it appear as though you were both incompetent and dishonest. This would be likely to turn this apparently clear-cut case into one that involved reasonable doubt about the defendant's guilt. Consider the answers you would have to give to the following questions in our hypothetical case; consider also how your answers would affect the jury's view of the evidence and of you:

- Q. Now, Officer, you testified that when you arrived, you found the defendant being held by five or six people, and that there were about 50 people in the immediate area, is that correct?
- Q. And some of these people told you that my client had shot the dead man, is that correct?
- Q. But you didn't see the shooting yourself, is that correct?
- Q. So the only things you know about the shooting are what these people told you?





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- Q. How many of these people did you talk to?
- Q. And these ten people all told you the same thing?
- Q. What about the other 40 people? Did you talk to them?
- Q. So you want the jurors to believe that you let these 40 people go without talking to them or identifying them, and that the ten you did talk to all said the same thing?
- Q. Now these ten all were friends of the dead man, is that correct?
- Q. So you can tell us that, but you can't tell us anything about the other 40?
- Q. You can't tell us whether these 40 people were also friends of the dead man, can you?
- Q. Is that the way you were trained, Officer? To interview only friends of victims and to let everybody else go without finding out who they were and what they had seen?
- Q. I have the NYPD's **Police Student's Guide** here, Officer. I'd like to show it to you and to ask you whether you can find in it anything that says that you should interview only friends of dead people and let everybody else go. Can you do that for me?
- Q. Can you give me the names of any Police Academy instructors who taught you that it was proper to let 40 witnesses leave a homicide scene without finding out who they were and what they had to say?
- Q. And you obviously can't tell us whether these 40 people you conveniently let go would have told you the same story as the ten friends of the dead man whom you kept around, isn't that right?
- Q. You're aware that my client's brother has testified that the dead man and several of the people you interviewed attacked him and my client with knives, and that my client had shot the dead man in self-defense?
- Q. Did you find any knives on the scene?
- Q. No, you didn't find any knives. Did you even look for any knives?



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- Q. You never searched any of these ten eyewitness friends of the dead man to see if they had knives?
- Q. It was ten o'clock at night when this shooting took place?
- Q. Was it dark?
- Q. Do you know whether it was too dark for anybody to have seen whether the dead man had a knife in his hand when he was shot?
- Q. Do you know whether the street lights were on?
- Q. Can you describe them? Were they all working? Do you know where they were?
- Q. And you never questioned the other 40 people you let go to see whether they would tell you that these friends of the dead man had attacked my client and his brother with knives?
- Q. And you don't know who or where they are so that we could ask them now?
- Q. Did you ever see my client with the gun in this case?
- Q. You found the gun in somebody else's hands, is that correct?
- Q. Do you know whether my client's fingerprints were found on the gun?

**Note:** Because the gun had been forcibly taken from the shooter and then held by somebody else, it is extremely unlikely that the suspect's prints would be found on this gun.

- Q. So the only fingerprints you did find on the gun were those of the other man, is that right?
- Q. So you did not see the shooting, and you never saw the gun in my client's hands, and you found no fingerprints to indicate that the gun had ever been in my client's hands, is that right?
- Q. But then you locked up my client because the guy you did find holding the gun – and his friends – said that my client did the shooting?



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- Q. How do you know they are telling the truth? I can think of some reasons that they might lie about this. Can you?

As you can see, a line of questioning like this takes advantage of any investigative failure, and tries to use it to raise reasonable doubt about defendants' guilt. And, to avoid a conviction, all that defense attorneys must do is to create such doubt in the mind of just one juror. The moral is simple: ***when you go to court to testify, make sure that you are thoroughly knowledgeable about your case; that you have anticipated likely questions, and that you are prepared to testify honestly, confidently, and fully about any aspect of the case that might be raised in court.***

The process of discrediting witnesses in the eyes of the jury is known as ***impeachment***. Be aware that, the stronger the case in which you are testifying, the more likely opposing counsel is to try to impeach you by making it appear to the jury that you are both incompetent and dishonest. Do not take this personally: the defense attorney is playing his or her part in the ***adversarial*** American justice system. Your part in this process is to keep opposing counsel from impeaching you by coming to court at least as ready as he or she is.

To do your job properly, you need to assure that you have all the details of the case down pat and thoroughly recorded. The next section of this chapter describes some of these details and what you need to document about them:

### The ***Precise*** Time of Important Events

1. When the crime was committed;
2. Officer first received the call;
3. Officer responded to the scene;
4. Officer first saw defendant;
5. Defendant taken into custody;
6. Any post-arrest identification by a witness;
7. Any post-arrest statements.



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### **The *Time Elapsed* Between Important Events**

1. In a chase situation, the time between the first sighting of the defendant and the time of his or her apprehension;
2. The time between statements made by defendants.

### **Layouts of Indoor Locations**

1. Number of rooms;
2. Arrangement of furniture;
3. Condition of rooms (e.g., messy, neat, etc.);
4. Evidence of occupation (clothes in closets, food in refrigerator, pictures or diplomas on the wall, etc.);
5. Number of beds.

### **Configuration of Streets at Outdoor Locations**

1. Intersections;
2. Direction of street (north /south /east /west);
3. Type of street (e.g., two-way, dead-end, etc.).

### **Exact Street Addresses**

1. Apartment number, floor;
2. Cross streets;
3. Location on block (middle, corner).

### **Lighting at Crime Scenes**

1. Location of street lamps;
2. Amount of natural light.



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### The Weather

1. Sunny/rainy;
2. Clear/overcast;
3. Warm/cold;
4. Rain/sleet.

### Physical Characteristics and Clothing of Suspects

1. Age;
2. Approximate height;
3. Approximate weight;
4. Description of face;
5. Description of hair;
6. Description of multiple articles of clothing;
7. Unusual features (tattoos, scars, etc.).

### Statements Made by Defendants

1. Need not be a signed confession;
2. **Anything** the defendant says may be important. Get the full details of the statement, including:
  - a. Time;
  - b. Location;
  - c. Other witnesses (including officers);
  - d. Exact wording;
  - e. Circumstances of warnings given.



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### Names of Other Officers Assigned to Case

Include their location, and what actions each officer performed (e.g., recovered property, interrogated the suspect). The officer assigned to secure a crime scene **must make an activity log entry of** the rank, name, and command of every person that enters the crime scene area.

### Exact Location of Seized Contraband

1. If recovered from the defendant's person, record the precise location (e.g., right front pants pocket).
2. If near defendant, distance between defendant and contraband (e.g., "located within six inches of defendant's foot"). The word *approximately* should be used.
3. If indoors, whether in plain view or hidden, and exactly where it was (e.g., on top of coffee table in living room, in top drawer of dresser), and whether other objects tending to connect contraband with owner were near (e.g., drawer contained women's clothing and passport for Irma Smith).

Remember that, in most cases, a search warrant is needed to search an occupied apartment or other residence.

### Chain of Custody

The presentation of physical evidence for use at trial is another crucial part of the investigation. **Chain of custody** is critical here: *chain of custody* means that from the time evidence has been seized to the time it is presented in court, there has been an unbroken record of the location of the evidence, thorough documentation of who has been responsible for it, and solid assurance that it has not been tampered with or otherwise tainted in any way. Because admissibility at trial depends upon an unbroken chain of custody from arresting officer to courtroom, the processing of evidence (vouchering) must be done meticulously. As few people as possible should handle physical property, especially contraband. The officer who seizes it, either from the defendant or the location, should therefore, voucher it at once. Under no circumstances should exhibits from different defendants be combined on one voucher. **Chain of custody is one of the most fertile areas of trial for the defense attorney to cast doubt on the prosecution's case; only meticulous attention to detail will insure the admissibility of the physical evidence that will help convict the defendant.**



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***When in doubt as to the relevance of physical evidence, VOUCHER IT!*** Property can always be returned, but an item not vouchered at the proper time can leave a hole in the prosecution's case.

### Recording the Facts

Note taking should begin at once. Your Activity Log should begin to contain entries recording your observations as soon as practicable. Many police officers believe that their Activity Logs contain confidential or highly secret information. They feel that since they made the record it is their personal record and no one else has the right to see it. In fact, nothing could be further from the truth. You are a public servant and as such the records you make are public records. You should keep this in mind when you make your initial memo entries. While writing them, be aware that there is a good possibility that these records will be produced in a court of law and may even be read to the judge or jury. On occasion, officers have even been surprised to find that their requests for departmental recognition have been obtained by defense attorneys, and when they embellish the facts, it has been used to impeach officers' accounts of arrests.

Good Activity Log entries should read like testimony. There should be a minimum number of conclusions and a maximum number of details. Remember that it is the details, even though you may consider them insignificant, which will convince the court or jury that you are telling the truth and that the defendants are guilty of the crime for which you have arrested them. At the very minimum, your Activity Log entry should contain the defendant's full name, alias, address, age, occupation, physical description of the clothes the defendant was wearing at the time of the arrest and the acts committed. The full names of any complainant(s) or witness (es) should be included, and, to the extent possible, you should record their exact words.

It is also helpful to describe the crime scene. Often the experienced police officer will sketch a diagram of the crime scene, indicating the location of certain items, e.g., body, gun, etc., and the approximate distances from doors, windows, etc.

Officers should also note weather conditions, lighting conditions, the exact time they responded to the crime scene and a detailed description, including serial or identification numbers, of any property stolen.

If the police officer has made comprehensive notes and reviewed them before taking the witness stand, he or she should welcome the defense counsel, the District Attorney, or judge stating, "Officer, please read your Activity Log entry



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for the date in question." You should be aware that all other police reports you fill out in the course of your duties have the potential to become important exhibits at trial. They should, therefore, be prepared accurately, thoroughly, and as quickly as possible, while your memory is fresh.

**Never** include anything that you are not sure of. At the same time, items you are certain are true should not be excluded for any reason. Failure to record an important fact can be used by the defense lawyer at trial to cast doubt upon your credibility.

In addition to routine paperwork (Complaint Reports, Arrest Reports, Unusual Occurrence Reports), you may have occasion to conduct procedures that involve the defendant's constitutional rights. These include taking statements, conducting a show-up, and arranging for a line-up. In all such instances, notes should be made concerning the manner in which the procedure was conducted. **ALL** statements, however seemingly harmless, made by a defendant should be recalled, recorded, and repeated to the District Attorney. Miranda Advisements must, of course, be given and a record kept of that fact.

### MAKING THE CASE: THE ROLE OF THE DISTRICT ATTORNEY

Although the District Attorney ("D.A.") has a great deal of discretion in deciding how a case should proceed, he or she is ultimately working with the product brought to his or her office by the police. Therefore, it is your responsibility to bring the D.A. a case that is as thoroughly prepared as possible. You must keep in mind that, unlike defense attorneys and lawyers in general, the D.A. is not obligated to zealously advocate the position of his client (the "People of the State of New York"). Therefore, the D.A. will **not** prosecute someone where the evidence does not support a conviction.

The first prosecutor you meet will probably be the Assistant District Attorney at **E.C.A.B. (Early Case Assessment Bureau)**. You will recite facts to this Assistant District Attorney ("A.D.A"), and he or she will decide on the basis of those facts what charges to file against the defendant. Since the facts as conveyed by you to the D.A. can be used to discredit you at trial, you should always read the E.C.A.B. write-up to make sure it accurately reflects the facts as you know them. **Always** include all statements made by the defendant, no matter how insignificant you may believe them to be.

The police officer is allowed to talk to the A.D.A to prepare his or her testimony. As the hypothetical case at the beginning of this chapter suggested, the defense attorney may attempt to discredit the police officer by implying





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perjury, misconduct, or incompetence. Case preparation should be thorough and thought out. The adversary system is the foundation of the Anglo-American judicial process. The parties must remain within bounds of the law. Each side will exert effort to present its case in the strongest light and, in theory, this partisan confrontation will yield the truth and justice will be served. The defense and A.D.A. must present their case and argue the applicable law. The judge serves to rule on issues presented by each side. The judge assumes a neutral and relatively detached role as decision-maker. Case strategy depends on the A.D.A. assigned. Some A.D.A.s will keep testimony simple and straightforward because *the facts speak for themselves*, and the evidence is strong. Other A.D.A.s will rely almost entirely on witness testimony. However, this requires extensive pre-trial preparation. Failure to do so creates a situation whereby a defense lawyer can discredit the A.D.A.'s case. Proper case preparation can help ensure that the case will not be overturned on appeal. Case strategy also hinges on the veracity of evidence/witnesses. It's impossible to predict whom a jury will believe and to what extent they'll consider **expert testimony**, which often involves scientific analysis of physical evidence. A.D.A.'s usually won't hinge the entire case on expert testimony.

In borderline cases, the A.D.A. has the power to charge either a felony or a misdemeanor. He or she may offer a plea bargain, because the case appears weak or because the defendant has agreed to cooperate on other matters. Sometimes it may seem to you that the "deals" made by prosecutors and defense lawyers are not only contrary to justice, but undermine the good police work you tried to do to the best of your ability. Your police reports may seem to vanish into a black hole, having no impact whatsoever on the criminal justice system. This, however, is simply not the case.

The A.D.A.'s decisions regarding the case are made with careful consultation of all available police reports, including the E.C.A.B. write-up. Before offering to engage in plea negotiations, the A.D.A. will review the file, taking into account such factors (recorded on police reports) as the extent of injuries sustained by the victim, the presence of a weapon, the existence of incriminating statements by the defendant. The plea offered will usually reflect the police view of the seriousness of the case - as reflected in your reports.

The defense lawyer, also, relies upon police reports to do his or her job of advising the defendant. He or she must counsel the accused concerning the chances of prevailing at trial versus the certainty of the plea bargain, and his or her advice will be influenced by the contents of the police reports he or she obtained through the discovery process. Thus, even if you never have the opportunity to take the stand, your police work, as contained in the reports you have prepared, is a crucial factor in each and every criminal case. The more



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accurate and complete those reports are, the stronger your presence in the courtroom will be – whether or not you actually take the witness stand.

### PARTICIPATION IN COURT PROCEEDINGS

#### Preparation for Hearings and Trials

***There is no such thing as an overprepared case.*** Every lawyer, whether on the side of the prosecution or the defense, knows this simple truth. With good preparation by the A.D.A., a police officer's testimony becomes sharpened and focused, emerging as the cornerstone of the People's case. With full preparation, the police officer understands his or her role in the case, and may even be able to anticipate hostile defense questions. A properly prepared police witness comes across to the jury as a competent, objective professional whose testimony can be relied upon.

There is no substitute for knowing the case and being well prepared. By succinctly and accurately communicating facts to the courts, the officer's testimony should demonstrate that he or she is knowledgeable.

***Truthful testimony is a must, even if it is favorable to the defendant.*** Traditionally, police have had an edge on lay witnesses when testifying in court. The uniform or shield symbolized credibility and, both the training you are now receiving and the experience of working in the street, under pressure, will help to make you an articulate and powerful witness. Juries tend to believe the police officer. Today a police officer must strive to offer clear, concise and logical testimony.

By contrast, a poorly prepared witness may fumble or back track, may rifle through papers in a frantic attempt to locate a vital fact. Worse, his or her feelings of inadequacy may erupt in a hostile outburst at the defense lawyer whose questions seem irrelevant. The jury loses respect for the witness and may choose to believe the defense version of events.

Adequate preparation for trial is the right of every police witness. The A.D.A. who promises to talk to you in the hall on the way to court is not doing his or her job properly and may cause you to do less than your best on the witness stand. You have the right and duty to insist on a thorough preparation before placing your credibility and the Department's prestige on the line.



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Good preparation serves several functions: It helps you, the witness, to understand courtroom procedures; to acquaint you with the prosecutor's theory of the case; to allow you to convey vital information to the Assistant District Attorney; and to aid in refreshing your recollection.

### Procedures for Court Appearances (Patrol Guide 211- 01)

When a uniformed member of the service is required to appear in court, before a Grand Jury or other government agency, such officer must conform to the procedures found in the Patrol Guide. These procedures require the officer to:

- A. Appear in uniform if assigned to duty in uniform **except** if:
  - 1. Off duty;
  - 2. On sick report or restricted duty;
  - 3. Required to arraign deferred or holdover prisoner;
  - 4. Authorized by commanding officer.

**Note:** When reporting in uniform, the uniform shirt and tie **MUST** be worn if the outermost garment is to be removed.

- B. Report to the Police Sign-In Room and submit I.D. card and COURT ATTENDANCE RECORD (PD468-141) to supervisor / designee.
- C. Inform supervisor / designee if scheduled to appear in more than one part of court, before another government agency, or if on a court alert.
  - Notify supervisor/designee if appearing on off-duty time.
- D. Wear appropriate business attire, if appearing in civilian clothes. Wear shield on outermost garment at all times when in courtroom or within court building.
- E. Take meal period when court is in recess and enter meal location in ACTIVITY LOG (PD112- 45).
- F. Report to the Police Room if you are required to leave the court building for reasons other than meal, and upon return.
- G. Have ACTIVITY LOG and evidence available at each appearance.



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- H. Request adjournment to a day when performing duty on a 2<sup>nd</sup> platoon or, if a detective, when performing day duty. Inform the judge if the adjourned date is on a scheduled day off.
- I. Report to the Police Room upon completion of court appearance and obtain a completed COURT APPEARANCE RECORD.
- J. Return evidence, if any, to Property Clerk. Notify the Desk Officer by phone upon dismissal from Police Sign-in Room and comply with instructions.

### Preparing to Testify

On or before meeting with the Assistant District Attorney, the officer should take the following steps in order to provide accurate and professional testimony:

- A. Review your notes, reports, and previous testimony. (The defense attorney will have all of these under the discovery rule.)
- B. Review the case with other officers that were present.
- C. Review the case with the prosecutor.
- D. Review your testimony with the prosecutor. If you are on the stand and are asked by the Defense Attorney if you discussed the case with the prosecutor, tell him or her that you did, in fact, discuss the case. This question is a trick: many people, unfamiliar with the courts, may believe that it is somehow improper to talk with the attorney who represents the side for which they are testifying. It is not: remember that no good lawyer would put anybody on the stand unless he or she had a very good idea of what the witness is likely to say.
- E. Make sure that you and the prosecutor have all of the exhibits and evidence that will be utilized at the trial. Make sure you can identify them and that they are marked with your mark in addition to having evidence tags.

Examples of evidence:

- Calibration records;
- Weapons;
- Your certifications;
- Pictures;
- Reports.



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- F. Assist the prosecutor in making sure that all witnesses show up.
- G. Show the witnesses their statements and let them review them.
- H. Put the witnesses at ease - explain the court system to them.

### **Trial or Hearing Date**

- A. Show up early - bring all your material.
- B. If assigned to appear on a scheduled day off, inform the judge of such condition and request an adjournment to another day in accordance with your Work Schedule.
- C. Make an ACTIVITY LOG (PD122 -145) entry if re-scheduling is impossible. Such entry **must** include:
  - Name of the Judge and Assistant District Attorney;
  - Date of appearance;
  - Adjournment date;
  - Court and part.
- D. Inform the Borough Court Section supervisor assigned to the Police Room of such scheduling on day off.

**Note:** A uniformed member of the service who is assigned to appear in court on a scheduled day off will be assigned to a tour starting at 0900 hours, unless the court scheduling necessitates a different start time. U.M.O.S. returning from court may be excused upon request, if the exigencies of the service will permit.
- E. Dress appropriately - uniform or business suit;
  - Neat/pressed;
  - Clean;
  - Leather polished;
  - Minimal jewelry;
  - Hairstyle.
- F. Meet with prosecutor.
- G. Review exhibits and notes/reports.



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### UNDERSTANDING LEGAL PROCEDURE

The courtroom is a foreign country to many people. Customs are different, and a strange language is spoken. The Assistant District Attorney should be your tour guide, explaining such basics as how the courtroom is laid out, the proper way to address the judge, and the differences between direct and cross-examination. He or she should practice handing you documents and/or physical evidence so that in-court admission of these items goes smoothly. The hearsay rule, which prevents you from testifying to the contents of conversations with third parties, should be thoroughly discussed so that you will not be rattled by defense objections at trial. After a suppression hearing, certain facts may no longer be admissible; the A.D.A. should help you structure your testimony so as to leave out any reference to the suppressed items.

The better your understanding of the courtroom, the more comfortable you will be on the witness stand. Feel free to ask the A.D.A. any and all questions that come to mind. A few Assistant District Attorneys have the mistaken idea that all police witnesses are automatically experienced in court and need no explanation of procedure. Especially in your first few court appearances, you may have to insist that the A.D.A., as *tour guide*, gives you a thorough grounding in courtroom basics. When you press this hard enough, the A.D.A. will see that it is in his or her interest to help you through this process: you are on the same team.

### Understanding the Theory of the Case

The ability of a witness to testify effectively is enhanced when the witness understands the purpose for which he or she is called and where his or her testimony fits into the case as a whole. Your testimony is like a piece in a jigsaw puzzle: taken by itself, it may seem to lack a coherent meaning, but put in context with other pieces, it forms a clear picture. It is up to the Assistant District Attorney to show you exactly where your piece of the puzzle fits.

In addition to having his or her own theory of the case, an experienced Assistant District Attorney will often be able to anticipate the approach the defense will take. He or she will be able to help you prepare for the exact type of cross-examination you will face in the courtroom. Your testimony may take on a different character depending on the nature of the defense claim.

For example, suppose that you are a witness in two robbery cases. In the first case, the accused raised a defense of mistaken identity, asserting that he was not the person who committed the crime. Your testimony will probably focus



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on matters of physical description, comparing the description given to you by the complaining witness with the actual appearance of the defendant.

In the second case, the defendant, who is acquainted with the complaining witness, asserts that the complainant fabricated the entire robbery story in order to get revenge for some other act of the defendant. Since the parties are known to each other, identification would not be the issue, and your testimony would differ considerably from that in the first case.

Cross-examination cannot only be anticipated, but simulated; with the A.D.A. playing the role he or she expects the defense lawyer to play in the courtroom. The A.D.A. may even be able to put you on notice regarding the individual defense attorney's usual style and tactics.

### **Conveying Information to the Prosecution**

The educational function of pretrial preparation is not just a one-way street. You are as much an expert in your profession of law enforcement as the A.D.A. is in the legal arena. You can, therefore, add to the strength of the People's case by the information you provide to the prosecutor during preparation.

One obvious area in which the police officer can instruct the prosecutor is in police procedure. While some Assistant District Attorneys are well versed in the workings of the Police Department, others are not and would benefit from your experience. You can educate the prosecutor on such topics as routine police actions, the requirements of the Patrol Guide, and the many types of reports that may be filed on a given case. For example, the A.D.A. may be well aware that a Complaint Report, a Complaint Follow-up, and an Arrest Report have been filled out, but does he or she know that an application for a commendation was prepared? The commendation form may contain a more detailed account of the incident and, therefore, might be used by the defense to impeach the routine reports filed in the case.

An experienced police officer who knows "the street" can often help a prosecutor understand the motives and methods of those who commit crimes. Some con games, for example, require a thorough analysis by an expert in order to be fully understood by a layperson. The police officer that understands the con game educates the A.D.A., who then educates the jury.



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Where the officer has had an ongoing relationship with the defendant, he or she can illuminate the defendant's family relationships and prior conduct for the benefit of the A.D.A. (The prosecutor will have to decide which portions of the defendant's criminal past are admissible as evidence.)

The police officer conveys vital information to the Assistant District Attorney in another, very basic way: by bringing to the prosecutor's office **ALL** reports, memoranda, and documents connected with the case. The A.D.A. will use the reports to help you refresh your recollection of events, and will also determine which documents he or she intends to introduce at trial.

The initial meeting between the police officer and the A.D.A. assigned to the case is critical. It is at this meeting that the facts of the arrest/incident are conveyed to the A.D.A. assigned to the case. The officer must attempt to relate all the facts. If he or she is unsure about whether a particular detail is important, the A.D.A. should be allowed to decide. ALL paperwork related to the case must be given to the assigned A.D.A. This includes complaints reports, O.L.B.S. worksheets, complaint report worksheets, stop, question and frisk reports, accident reports (in cases involving D.W.I.), aided cards, narcotics "buy reports", and memo book entries. The officer should make the A.D.A. aware of applicable Patrol Guide procedures, and any particular knowledge or expertise that the officer has. Legal Bureau Bulletin Volume 2, number 9 tells of an arrest made by a Housing Authority police detective. This detective received information regarding drug dealing by a particular defendant from an unidentified informant. Over a period of two weeks, the detective then made independent observations of the defendant and his actions. It was the detective's observations, and not the information supplied by the unknown informant, that led to the establishment of probable cause. If the detective had not painted such a good word picture, he would not have been allowed to testify as an expert, nor would probable cause been recognized by the N.Y.S. Court of Appeals as having existed at the time of arrest. Levels of expertise vary from police officer to police officer.

A new officer who recently graduated from the Police Academy would find it harder to be recognized as an expert than would an experienced narcotics detective. If, during the course of the trial, a police officer recalls previously forgotten information, this information should be immediately related to the assigned A.D.A. If a police officer either failed or simply forgot to disclose a certain fact or detail, he or she should admit this at trial. Failure to do so will only serve to taint everything else the officer says. If a police officer should attempt to *fix* a previously undisclosed fact or detail, the defense attorney could use this to win an acquittal for a client. Additionally, the police officer would be guilty of perjury. ***The greater good can never be achieved by perjury, but only by diligent police work, augmented by a careful and reliable judicial inquiry.***





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One important element in reviewing paperwork is the pinpointing of discrepancies. Sometimes an arrest report will differ from a complaint report in some particulars. It is up to you to point out any such discrepancies to the Assistant District Attorney so that they can be explained at trial. A discrepancy may be a simple mistake, or it may have a reasonable explanation. The important thing is that the A.D.A. be forewarned, so that the discrepancy does not come as a surprise but can be dealt with at trial. For this reason, it is vital that **ALL** paperwork be reviewed at the same time in order to make comparisons.

The arresting officer will be designated to retrieve all physical evidence from the Property Clerk and bring it to court. Vouchers should accompany all items. The A.D.A. will review the paperwork with you, and prepare you to testify, with emphasis on establishing the "chain of custody". The officer should be able to account for the property at every stage of these proceedings.

### Refreshing Your Recollection

Although the Assistant District Attorney will help you reconstruct the events about which you will be testifying, in the final analysis it is **YOUR** memory that is being refreshed. Any memory aids that will help you to recapture a vivid and complete recollection should be used. For instance, if it is possible to visit the scene of the crime or arrest, this may help you recall such details as the physical layout and lighting conditions. Be sure to compare what you see with notes made at the original time; changes may have occurred.

Reviewing your own and other officer's paperwork is another way to trigger your recollection. You may wish to discuss the case generally with your partner, or other fellow officers who were present on the scene. **BE CAREFUL: The idea is to refresh YOUR OWN memory, not to conform your testimony to what someone else saw or heard.** Too much discussion among police officers may result in testimony that seems *tailored* to a jury. If you do consult with others, it is permissible to admit to the court that you conferred with fellow officers.

### Explaining Discrepancies

It goes without saying that a police officer should thoroughly review all forms and notes before testifying. These notes include (but are not limited to) complaint reports, complaint worksheets, O.L.B.S. worksheets, memo book entries, etc. The police officer/witness should also review his or her testimony with the A.D.A. Police officer/witnesses should refresh their own memories only. Police officer/witnesses should testify truthfully and not be afraid to use the term *approximately* when they're unsure about exact figures or measurements. If a



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police officer forgot about a particular detail he or she must admit, "***I don't recall,***" at the same time, he or she should anticipate and be prepared to testify about anything he or she may be asked to recall, so that this phrase is used only rarely. No case is worth perjuring oneself over.

The jury understands that memory can fail and a police officer who testifies "***I'm not really sure***" or "***I don't recall***" approximately 10%-15% of the time will, in all probability, appear truthful to the jury. Therefore, they'll be more inclined to believe him. Discrepancies occur in almost every case that has ever been tried. More complicated cases can give rise to numerous, somewhat technical, discrepancies. Discrepancies are normal and even expected. The jury would be surprised if absolutely everything proceeded along in a textbook fashion. Only a police officer's honest and truthful response could impress the jury enough that they could overlook minor (and ultimately unimportant) discrepancies regarding various elements of testimony. The defense attorney will attempt to exploit minor discrepancies, i.e. a difference between two arrest times - one on the O.L.B.S., and one in the officer's memo book. Once again, the best course of action a police officer could take is to simply answer clearly and truthfully as much as his or her memory allows. ***Going "head to head" with a defense attorney is NOT the answer: when you do this, juries begin to believe that you are more interested in beating the defense attorney than in whether justice is accomplished. Don't fight with the defense attorney and, certainly, keep in mind that NO CASE IS WORTH PERJURY.***

The main point of working to enhance your memory of events is to transform the dry words of your police reports into a vivid picture that the jurors can ***SEE***. A police officer who testifies like a walking complaint report is far less effective than one who can recount the sights, sounds, and smells he or she actually experienced. Trials take place in sheltered courtrooms, under artificial lights. Letting the jurors ***HEAR*** the breaking glass, ***SEE*** the blood flowing from the victim's head, and ***SMELL*** the P.C.P. in the defendant's car brings them out of the calm of the courtroom and into the reality of your experience. ***The more concrete details you can include in your testimony, the more believable your account will be to a jury.***

Some of the same memory aids you use to help a witness recollect events can be used in refreshing your own memory. Ask yourself questions: What type of neighborhood was I patrolling, i.e., What type of homes, business comprise the neighborhood? What were the demographics? What did I eat for lunch that day? What was the weather? Was I the driver or the recorder on the tour? What was I doing immediately before and after the incident I'm testifying to? Some defense lawyers make a point of testing an officer's memory by asking about unrelated incidents. When the officer can't remember, the lawyer argues



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before the jury that the officer recalls the incident on trial only because he or she has rehearsed.

### THE COURSE OF TRIAL: AN OVERVIEW

A suppression hearing, whether in criminal or Supreme Court precedes many trials. After the hearing, if a trial is still required, a jury will be impaneled. Both the A.D.A. and defense counsel are permitted to question prospective jurors during the **voir dire** (selection of jurors) in order to insure impartiality.

Once the jury is selected, the trial begins. The Assistant District Attorney must make an opening statement, telling the jury what he or she intends to prove. Because the defense is not required to present a case, the defense lawyer's opening statement is optional.

Testimony begins with the A.D.A. calling witnesses. His or her questioning of prosecution witnesses is called **direct examination**. When the District Attorney is finished, the defense lawyer may question the witness. This is called **cross-examination**. The Assistant District Attorney may have some questions on **redirect**, the defense lawyer is then permitted to **recross**.

When the prosecution's entire case is complete, the A.D.A. **rests his or her case**. At this point, defense counsel moves to dismiss the charges. It is up to the judge to grant the motion if **ALL** the elements of the crime have not been established. If they have, the motion will be denied. The defense attorney has the choice of making a second motion to dismiss, this time on the grounds that the evidence was insufficient to prove the defendant's guilt beyond a reasonable doubt, or proceed to present his defense. Defense witnesses are questioned in the same manner as prosecution witnesses.

Once in a great while, the prosecution will call additional witnesses to the stand after the defense has rested its case. This is known as **rebuttal**, and is permitted only where the defense has raised issues of fact not already covered in the prosecution's case (e.g., evidence tending to disprove a defendant's alibi).

When all testimony has been received, both attorneys deliver summations to the jury. The judge delivers a charge on the law, and the jurors retire to consider their verdict.



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### **GENERAL PRINCIPLES OF COURTROOM TESTIMONY**

#### **Appearance**

A professional appearance is essential to being an effective police witness. Jurors expect a police officer to be more objective, more competent, and more impressive than a civilian witness. Proper attire and grooming are important elements in creating a good first impression.

Department policy requires that an officer assigned to patrol must wear his or her uniform to court unless he or she is off-duty, on sick report, or is authorized by the commanding officer to be out of uniform. When a member of the service appears in court in uniform, the uniform should be clean and pressed. Any and all citations should be worn above your shield. You earned them - let the jurors see that you are an experienced officer who has been commended by the Department. Civilian jurors are impressed by citations; the A.D.A. may even ask you to explain them to the jury in order to enhance your position as a seasoned officer.

If you are appearing in court in civilian clothes, your attire should present a professional, essentially conservative image. Think of yourself as dressing for a job interview at a bank. Business suits are appropriate for witnesses for either sex. However, a sports jacket and slacks, providing they are conservative in cut and color, are also permissible for men. A tie is mandatory.

Women have more clothing options than men, but a businesslike appearance is still the key. A dress should not be revealing. A skirt and blouse of conservative cut and color may be worn, preferably with a jacket. Pants are appropriate in a tailored suit only. Stockings and business shoes should be worn.

The shield should be displayed on the outermost garment. If weapons are carried, they should be out of sight. Good grooming - neatly trimmed hair and beard, polished shoes, and well-kept clothing - is important to the professional image you are striving to project.

The damage to credibility due to appearance should not be underestimated. A sloppy appearance will lead the jury to perceive the witness' police work as equally sloppy. Loud colors, flashy jewelry, or extreme styles may lead to speculation that the officer's performance on the job is guided by a desire for flamboyance. A too casual look creates the subtle inference that the witness is casual in the performance of his or her duties.



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### Demeanor

The way an officer behaves in court is at least as important as the way he or she dresses in creating an impression on the jury. One vital rule about proper courtroom demeanor is that it begins the minute you enter the courthouse. Many a criminal case has been lost in the hallways and elevators, where prospective jurors overheard remarks that influenced their thinking about guilt or innocence. An officer who is overheard making disparaging remarks about the accused will lose any claim he or she might have had to credibility.

Before entering the courtroom, it may be helpful to take deep breaths and consciously relax yourself. When your name is called, step up to the witness stand with confidence, neither hurrying nor displaying reluctance. If you have been thoroughly prepared to testify, you have nothing to fear. Remember: ***It is the defendant who is on trial - NOT you and your police work.***

In every case where a police officer appears as a witness for the prosecution, studies indicate that the jury gives any witness (but a police officer in particular) a good deal of thought after they testify. This can lead to either a high or low conviction rate depending on what the jury believes of the witness. Mark Fuhrman, the Los Angeles detective who was caught in lies about whether he had ever used the "n-word", illustrates what happens if a jury believes that a witness is untrustworthy. His racism may or may not have had anything to do with whether he was telling the truth about what he had seen and done in the O.J. Simpson murder case – but once a witness falls from grace, there's usually no return. ***There are no such things as stretching the truth, fibs, or white lies on the witness stand: anything that is not the whole truth and nothing but the truth is perjury.***

When taking the oath, do so in a firm, clear voice. The A.D.A. will then ask for your name, rank, shield number and command. Try to answer in a natural tone, but loudly enough so that you can be heard throughout the courtroom.

Your overall attitude should be a combination of confidence about the accuracy of your own testimony, respect for the court, and neutrality toward both attorneys. Showing too much friendliness toward the A.D.A. or displaying hostility toward the defense lawyer will cast doubt upon your objectivity.

As much as possible, you should try to look at the jury when testifying. Keep your voice up. Answer all questions – from both prosecution and defense – with the same calm sincerity, appearing concerned and interested at all times. Do not try to *slant* answers so as to help the A.D.A. or frustrate the defense lawyer.



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Listen carefully to all questions and take time to consider your answer. You may ask that a question be repeated or clarified if you did not understand it. Try to answer only the question asked, without volunteering information not requested. On the other hand, DO answer questions as fully as necessary without hedging or evading. If a question *CANNOT* be answered "yes" or "no", you may ask the judge for permission to expand your reply. Even if permission is denied, the A.D.A. will be on notice that you have more to say on the subject. In such circumstances, when the A.D.A. gets an opportunity to re-examine you, he or she will almost certainly ask you the following question:

*"Officer, on cross-examination, Mr. Smith asked you about... It didn't seem to me that you had an opportunity to complete your answer to that question. Is there anything else you would like to add to your answer now?"*

There can be a great temptation to enhance the People's case: To *make it better*. This temptation should be resisted. **The bottom line is that the case is the case.** You cannot correct mistakes that might have been made or add to the facts that will convict the defendant. You are in court to tell the truth – and let the chips fall where they may. **No case – repeat, NOT ANY case - is worth perjury.**

### Direct Examination

Direct examination lives up to its name. Straightforward, open-ended questions are asked ("And then what happened?"). The witness answers, telling his or her story in a direct, chronological fashion.

The key to persuasive direct testimony is good preparation. When the A.D.A. asks, "What, if anything, did you do then", you must have some idea what particular aspect of your activities he or she wants you to mention. The way to achieve this certainty is through thorough pretrial discussion with the prosecution.

**The A.D.A. is not permitted to ask *leading* questions of his or her own witness.** He or she cannot ask questions that point to a single answer ("The defendant told you he was guilty, didn't he?"), but must instead make open-ended queries ("Did the defendant say anything to you?"). This is another reason why preparation is needed: the A.D.A. will not be able to guide your answers by asking suggestive questions.



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Most physical evidence is introduced on direct. When you are presented with physical evidence ("Officer, I will show you a weapon. Do you recognize it?"), take care to examine it before you give your answer. You may tell the A.D.A. "I'd like to examine it," before committing yourself.

When looking at the evidence, note any identifying marks you made when vouchering the evidence. This will enable you to establish the first link in the chain of custody that will allow the item to be introduced into evidence. You may need to refresh your recollection from the voucher or the ballistics report; do not hesitate to ask the court's permission to look at relevant documents.

Since direct testimony is like telling a story exactly as it happened, it would seem that few problems could arise. There are, however, some pitfalls inherent in direct examinations. These can be overcome once they are recognized and anticipated.

An example of direct examination by the A.D.A. is him or her asking a complainant/witness "And is the person who raped you in this courtroom?" The complainant/witness then says "yes" and is asked to point out the person. The complainant/witness then dramatically points to the defendant sitting at the defense counsel's table. Jurors tend to attach substantial weight to this. On cross-examination, defense counsel will attempt to either:

1. Point out the inherent unreliability of eyewitness testimony due to the vagaries of human perceptions; or
2. Point out that the complainant/witnesses identified the defendant at a police lineup approximately one week after the rape occurred.

This lineup was subject to police persuasion to make a positive I.D. The theory is that once a lineup I.D. is made, a witness would be unlikely to alter a publicly made judgement. Therefore, the defendant's fate may have been decided at the pre-trial stage.

### **Potential Problems During Direct Examination**

The first pitfall is the tendency to talk like a police report instead of a person. Some officers do this in the mistaken belief that they sound more professional; others paraphrase the arrest report because they have been inadequately prepared. Whatever the reason, the officer who consistently says things like, "I observed the perpetrator from my R.M.P." instead of telling the jury, "I was in the car when I saw the guy," runs the risk of losing the jury by sounding unnatural and rehearsed.



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Other potential problems on direct examination include opinion evidence, speculation, and "background" material. In general, a witness testifies to facts, not opinions. Thus, you must tell the court: "The defendant turned and ran away after I announced myself and told him to stop." You are **not** permitted to give your opinion that "he intended to flee." He may well have intended to flee, but how would you know whether this was so? You have no way to get into his head and to determine his intent. Instead, it will be up to the jury to determine whether he *intended* to flee based on the facts you present to them. In this example, the only fact you can present is that *he fled*.

Expert witnesses are an exception to this rule. Fingerprint technicians, ballistics experts, and any police officer who can demonstrate specialized technical training may be qualified as an expert. For example, police officers who have received courses in con games may be permitted to give an expert opinion as to whether words said by the defendant constituted the opening moves in a well-known fraudulent accosting scheme.

Speculation is also precluded. You may have reason to believe that the defendant's behavior indicated an intent to commit a crime; but you may not say so. One exception is that in testifying at a suppression hearing about probable cause to search or arrest, you may tell the judge that you acted upon a reasonable belief that the defendant was committing or about to commit a crime.

**Background material** is another area that is fraught with difficulties. You may know for a fact that a certain location is a "drug prone area", and that the defendant's presence in such an area indicated criminal intent. It is important that you be able to tell the jury **WHY** you believe the area is drug prone. For example, arrest statistics or observations of drug sales would be better than mere assertions. In some cases, the A.D.A. will be permitted to establish background (e.g., "Do you know whether the officers in your precinct have previously made drug arrests at this location?" "Have you previously made such arrests at this location?" "How many?"). In other cases, the judge will rule that background information is too prejudicial to be heard by the jury. The best way to handle this type of testimony is to clear it with the A.D.A. before trial.

Everything that is said on direct examination is subject to further questioning by defense counsel on cross-examination. Volunteering information not asked for by the A.D.A. can give the defense attorney an extra line of questioning he or she might not have known about. Giving overly precise information when you are not really as certain as you sound ("The defendant was standing exactly 17-1/2 inches away from me at the time.") can give the defense lawyer an edge on cross-examination ("Officer, you didn't measure that distance, did you? Could it have been 15 inches? 20 inches? 17-3/4 inches? You're not





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really sure **HOW** far away the defendant was, are you?"). Remember, it is perfectly alright to use words like "about" and "approximately" when describing times and distances, unless you are certain as to the precise numbers.

In cases where physical force was used to effect an arrest, there may be a natural tendency to play down the amount of force employed. This will definitely boomerang on cross-examination when the defense attorney questions you about injuries sustained by the defendant. If force was required, don't be afraid to state exactly what you did and what the defendant did to necessitate your actions. Trying to "cover up" will only make things worse when the truth comes out on cross-examination.

### Hearsay

Briefly stated, the hearsay rule precludes testifying to anything that was said out of court. Here's an example: You and your partner are sitting in your patrol car when a woman comes up and tells you her bag has been snatched. If you were telling this story to someone outside of a courtroom, you would undoubtedly say, "The lady told me someone took her pocketbook." In court, this is called hearsay.

The theory is that **each witness testifies only to what he or she saw and heard first-hand**. You did not **SEE** the purse snatching; therefore you cannot testify that it happened. The woman herself will take the stand and tell that part of the story.

Your testimony, without hearsay, would consist of: "I was in the car with my partner. A woman came up to me; we had a conversation. As a result of that conversation, I took her in the car and we drove around. Eventually we saw the defendant and stopped him. I then had a conversation with the woman, and placed the defendant under arrest."

There are exceptions to the hearsay rule. Perhaps the most important is that you may testify to any admissions or confessions made by the defendant (providing, of course, that they have not been suppressed prior to trial). Other exceptions to the hearsay rule, such as spontaneous utterances or dying declarations, should probably be discussed with the A.D.A.

During your testimony, the defense attorney may object to certain questions asked by the A.D.A. When this happens, **STOP**. Only after the judge rules on the objection should you resume your answer, following whatever ruling the judge makes. Under no circumstances should you react to the court's ruling, favorably or unfavorably.



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### Cross-Examination

The popular image of cross-examination shows Perry Mason breaking down a witness on the stand. In reality, although some defense lawyers hit hard with their questioning, cross-examination is designed to lay the foundation for the arguments the lawyer intends to advance in summation. Each cross-question is a building block for the structure to be built in summation.

For example: You arrested the defendant for robbery, recovering and vouchering a sum of money. Although a gun was used in the crime, you found no weapon on the defendant, who was arrested some fifteen minutes after the robbery. The complainant identified the defendant in an on-scene show-up.

Defense counsel's questions will be designed to demonstrate to the jury those facts in the defendant's favor: That you did *not* see the robbery; that the gun was *not* found on the defendant; that the money may have come from somewhere other than the victim's cash register; and that the defendant was the only person shown to the complainant at the time of identification.

Most defense lawyers ask the police officer if he or she has discussed the case with anyone before the trial. As indicated earlier, the police officer can do so without a problem and the defense counsel knows this. Defense counsel may attempt to break the rhythm of testimony and bring out inconsistencies by jumping around from questions regarding arrest procedure, the first time the police officer saw the defendant, placing defendant in R.M.P., etc. Police officers should stay calm and think. A defense attorney may seem either friendly or hostile. One who seems angry does so to make the police officer look bad in front of the jury. He wants a hostile response. Police officers must remain cool, detached and professional. Courtroom demeanor will tell the jury a great deal. **DO NOT ALLOW YOURSELF TO BE PROVOKED TO ANGER.** When you do this, you give the defense attorney the opportunity to suggest that your bad temper was the real cause of the arrest of his or her client.

One simple rule to keep in mind during cross-examination: ***The facts are the facts.*** If there was no gun recovered, you must say so frankly and forthrightly. If a search of the area was conducted, and still no gun was found, you must admit that fact. If no search was made, there is no choice but to say so and let the jury draw the inference that the police work was less than perfect.

Unlike direct, cross-examination is rarely chronological. The cross-examiner's purpose is to chip away at the incriminating facts presented on direct; to highlight those elements favorable to the defense; and to underscore any omissions, inconsistencies, and mistakes that tend to cast doubt on the People's



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case. The last thing in the world the defense lawyer wants you to do is repeat the smoothly flowing, extremely damaging narrative you delivered on direct.

### Types of Cross Questions

Certain questions recur in almost every cross-examination. Very few defense lawyers will fail to ask whether you discussed the case with anyone prior to testifying. Often, counsel will imply, by facial expression or tone of voice, that the witness who admits discussing the case has done something wrong. This is **NOT** the case; talking to the Assistant District Attorney or your fellow officers before trial is good sense, not wrongdoing. When you are asked this question, simply state that you spoke to the A.D.A. and that he or she advised you to tell the truth.

Another common area of questioning is the kind of inquiry designed to convey to the jury the impression that you, as a police officer, are *interested* in the outcome of the case. The questions may center on a supposed bias you hold toward the defendant or upon the notion that you will earn promotions or commendations through making arrests, especially those that result in convictions. Your best response is to answer such questions truthfully and dispassionately, without displaying outrage or becoming defensive. The A.D.A. will have the opportunity on redirect and in summation to show the jury that your arrest of the defendant was good-faith police work.

Defense lawyers often make a point of asking police officers about police work not done in the course of an investigation. For example, a failure to take fingerprints at a crime scene or to "dust" a gun for prints can be used to infer that, had prints been taken, they would not have been those of the defendant. Since the prosecutor has the burden of proving the case beyond a reasonable doubt, omissions can be damaging to the People's case.

However, once again, the facts are the facts. If it is possible to explain the failure to take fingerprints, either because the surface was not printable or Department policy did not call for a crime scene investigation, you should be able to testify to that effect. This is where thorough preparation with the A.D.A. pays off. Together, you will have anticipated this line of questioning and discussed the best way to answer.

Questions about time and distance can cause difficulty on cross-examination. For example: On direct, you testified that you observed the defendant for a period of "two minutes". The cross-examiner breaks down this time, asking when you first noticed the defendant, how long it took him to walk from one place to another, whether your attention was distracted from him at any



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time. When the questioning is completed, the jury may be asked to infer that you saw the defendant's facial features for only ten seconds out of that original two minutes.

The defense lawyer's ability to poke holes in your testimony, to cast doubt upon your credibility, will almost certainly create some animosity. You may feel the questions are unfair, that your words are being twisted, and that you have no chance to set the record straight for the jury.

The best thing you can do is also the hardest: **relax**. The Assistant District Attorney is not finished. As soon as cross-examination is completed, the A.D.A. has another opportunity in the form of redirect. If he or she feels you have been hurt by the cross-examination, he or she can, and will, ask questions designed to rehabilitate you as a witness. In the event that no questions are asked on redirect, it is a sign that the A.D.A. did not believe the cross to be harmful.

**"Answer yes or no"** is a phrase that begins a great many questions asked on cross-examination. It can be frustrating at times to compress a complex answer into the simple "yes or no" the cross-examiner prefers. Yet, when you **can** reply with a yes or no, you should do so, knowing that the A.D.A. **will** have the opportunity on redirect to expand on your answer. In those cases where you honestly believe that a yes or no response would be so incomplete as to mislead the jury, you may courteously ask the court for permission to add an explanation to your reply.

### Cross-Examination Tactics

As already noted, most cross-examiners avoid chronological order. Questions may jump around from arrest procedure to the first time you saw the defendant, and then back to the precinct house statement you recorded. The object is to catch you by surprise, to create inconsistencies, and to break the rhythm of your testimony. This tactic is often compounded by a rapid-fire approach that has one question coming on top of the other – each question dealing with a different aspect of the case.

The best way to counter this strategy is to **listen** carefully to every question, making certain you understand it fully before answering. **Think** before you speak, responding in a calm deliberate voice that refuses to be hurried by the defense lawyer's haste. Letting yourself get caught up in the lawyer's machine gun rhythm can open the door to mistakes and inconsistencies, as answers are given with insufficient reflection.



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There are some questions you do not have to answer in the form in which they are asked. You may request the judge to separate a compound question; ("Did you arrest the defendant, handcuff him, and place him in the patrol car?" should be asked in three separate inquiries). You may ask to have a question you did not hear repeated, and to have a question you did not understand explained.

Occasionally, a less-than-scrupulous defense lawyer will incorporate a false premise into a question in order to obtain a misleading answer. Example: You have testified all along that the defendant was in a blue car. On cross, you are asked, "When the green car turned the corner, didn't you follow it?" You must, first, listen carefully to the question so that the discrepancy is noted. Then you may reply, "The car I saw was blue, not green." It is important to correct any misstatement before answering, so that you do not appear to agree with the mistake.

Defense attorneys bring different styles into the courtroom. Some appear folksy, disarming you with their unexpected friendliness, while others are downright hostile. Each style is a tactic; each requires wariness in your response.

For example, the lawyer who seems friendly, who asks questions designed to build you up as a professional, is doing this for a purpose. He or she hopes to lull you into a sense of false security, to obtain favorable answers to questions. Building you up will be the preparation for knocking you down eventually ("Officer, you finished at the top of your class in the Police Academy. Now you have 23 commendations and years of experience - and yet you failed to completely fill in all the blanks on the Complaint Report?"). Your best response is to be wary: to keep your distance. Admit any mistakes you may have made in a forthright manner.

The opposite of this style is the aggressive cross-examiner whose questions are so hostile that **you** begin to feel like the person who is on trial. The goal of this lawyer is to put you on the defensive, to trigger your anger and create a poor impression of you in front of the jury.

It will at times seem very tempting to answer this type of lawyer in kind. A sarcastic reply may easily come to mind – but it should not be stated. The jury expects a certain amount of verbal jousting from the lawyers in the case; that is their job. From a police witness, however, the jury expects cool, detached professionalism. Losing your temper with the lawyer could lead the jury to suspect that you arrested the defendant while in an emotional state. Becoming sarcastic could indicate arrogance; while a defensive stance leads jurors to



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conclude that you did something wrong and are attempting to cover up. None of this may be true - but the jurors will speculate about your motives, and your courtroom demeanor will tell them a great deal.

Your best method for dealing with a cross-examiner who is out to destroy your credibility with a verbal attack is to give him or her exactly the opposite of what he or she wants. The more you are able to remain calm, polite, and in control, the more you will be showing the jury that you are a thorough professional who is simply telling the truth about actions you took in the line of duty.

The manner in which a question is phrased is critical. A defense attorney may attempt to introduce new evidence via a question (e.g., "Officer when did you stop lying about what really happened?"). Answers must be carefully considered because they have ramifications on jury deliberation. Only by carefully explaining what occurred can police officers expect to maintain credibility.

Many police officers have a question in the back of their minds when they endure a blistering cross-examination from defense counsel: "Why doesn't the A.D.A. object?" There are two reasons why the A.D.A. may not intervene. One is that proper objections must be made on legal grounds. Tough, hostile questioning that does not rise to the level of "badgering the witness" is not objectionable. The second reason is that the A.D.A. would much rather have the jurors see **YOU** handling the questions by yourself than create the impression that he or she is protecting you by jumping to your defense when the questions get tough. Painful as it is in the short run to be the object of a stinging cross-examination, in the long run your professional demeanor will do more than any number of A.D.A. objections to convince the jury that you are testifying honestly and objectively.

### Defense Attorney Tactics

It must be remembered that the litigants themselves move and shape the contour of any courtroom proceeding. Defense attorneys sometimes follow a particular style that works for them and are sometimes guided by the A.D.A. (e.g., they'll respond to his or her presentation). If the trial is a bench trial (before a judge, not a jury), or a jury trial, the defense attorney will attempt to argue his or her case in such a way as to favor his or her client. In a jury trial the defense attorney will attempt to pick jurors at the selection – **voir dire** – stage, for the purpose of assessing their fitness to pass judgement in a particular case. Obviously the defense attorney will try to select jurors who aren't biased against his or her client and who will hopefully render a decision favorable to the



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defendant. The voir dire process is essentially a self-disclosure interview. Defense attorneys recognize that potential jurors are never wholly devoid of bias. The U.S. Supreme Court has decided that a juror's qualifications as to impartiality must fall within minimum standards. Defense attorneys may use voir dire to influence jurors before the start of the trial. Defense attorneys may try to plant the seeds of a certain argument or line of proof in the minds of potential jurors. Defense attorneys may also attempt to create a favorable personal impression or establish in advance a good rapport with the jury.

Defense attorneys may exclude potential jurors via peremptory challenges, i.e., the exclusion of individuals from the jury for whatever reason. Often, defense attorneys will attempt to either discredit a police officer witness or to plant in the minds of jurors the idea that the police officer is either lying or unsure of his or her testimony. Tactics vary from attorney to attorney. One defense attorney may be direct and argumentative while another will be more subtle: i.e., attempting to establish good communication with a police officer witness. Their goal is the same, to discredit the officer in an attempt to show their client in a more favorable light.

### Redirect and Recross

**No further questions.** With that statement, the defense attorney concludes his or her cross-examination. You experience a surge of relief, thinking that the worst is over.

Your job as a witness, however, is not finished. The Assistant District Attorney may have more questions to put to you on redirect examination. Redirect is your opportunity to give the full explanation you were not permitted to present on cross. Now you *CAN* tell the jury why no fingerprints were taken at the scene, or explain the troubling discrepancy between the arrest report and the voucher. You can tell the jury what happened in plain English. You can explain details that you feel need further clarification.

Redirect is not designed to repeat the entire direct, but is limited to matters raised on cross. The A.D.A.'s focus will be to clarify points that are unclear and to explain items that might otherwise score points for the defense on summation. The A.D.A. will not belabor items he or she considers adequately established and may fail to ask questions you are expecting. If this happens, it will be a signal that the A.D.A. feels that your answers on cross-examination were strong enough to need no further explanation to the jury.



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During redirect, the A.D.A. has another chance to ask the police officer questions regarding testimony. The police officer has a chance to give a full explanation he or she wasn't allowed to give on cross-examination. Redirect isn't designed to repeat direct - it's limited to matters raised on cross-examination; a chance to plug up any holes. Recross may follow redirect. A defense lawyer must limit questions to matters raised on re-direct. Obviously, lawyers will try to portray their client as a good guy. Nationwide, only 10% of cases go to trial. Of these cases, eyewitness I.D. comes into play less than 50% of the time. Eyewitness I.D. is not an issue in a majority of cases because the accused is arrested in the act of commission, or there is a confession, or I.D. is admitted but guilt is contested. Most crimes are property crimes (burglaries, auto thefts, etc.) in which proof of I.D. are seldom contested. Personal crimes (assault, rape, etc.) usually involve parties who are acquainted with each other. Robberies involve the use of eyewitness I.D. to a great extent. The opportunity for observation is often fleeting and under stressful circumstances. The defense attorney attempts to call into question the capacity of the eyewitness for reliable observation. Eyewitness evidence is used in about 5% of criminal trials. Most cases involve eyewitness I.D., in addition to circumstantial evidence of some kind.

Recross may follow redirect. Like the A.D.A., the defense lawyer is limited to the matters raised on redirect. He or she will focus on the few points that enhance the defense case. When all the testimony is concluded, the judge will usually thank you for appearing and ask you to step down from the witness stand.

The disciplined professionalism you bring to the courtroom should stay with you at all times. You are a working police officer even when you are not actually answering questions. Thus, it is important to conceal from the jury whatever sense of relief you may feel at the close of your testimony. Even if the cross-examination was a grueling ordeal, the jury should see you step from the stand in an unhurried manner. Nor should smiles, winks or victory signals pass between you, the A.D.A., or other officers.

### **CONCLUSION: APPEARING IN COURT**

The attitude a police witness brings into the courtroom may be as important as his or her actual testimony. No matter how hard you work at *letting it go*, at telling yourself the facts of the case are the facts, human nature dictates that you will feel differently about an acquittal than a conviction. It is almost impossible not to regard a conviction as a vindication of your police work, and equally difficult not to view an acquittal as some sort of blot on your police record.





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These feelings are only natural. The experience of testifying in court is one that generates a great deal of adrenaline. The defense attorney questioned your police work and, maybe, your integrity. The jury may have chosen to reject your testimony in favor of a defense theory you may regard as false.

It is important to put these feelings in perspective. Your police work was not on trial. Your testimony may have had little to do with the eventual outcome of the case. Speaking to the A.D.A. after trial can help you understand the verdict, and would also help you improve as a witness for the next trial.

Some police officers have the impression that an unfavorable courtroom verdict is a black mark against them within the Department. This is not the case. Presenting the facts as clearly as possible is all the Department expects of its officers.

Most athletes find that their performances are enhanced when they are able to detach themselves from an overly strong need to win. Personal antagonism toward an opponent seldom improves the athlete's game; trying too hard leads to mistakes. In the same way, your performance as a witness becomes better - and easier - the more you can let it go.



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### COURTROOM TESTIMONY CHECKLIST

#### At Time of Arrest

1. Officers should start preparing for trial the moment they make arrests.
2. All arrests should be made assuming that the case will ultimately go to trial.
3. What was your assignment that day? Operator, recorder, footpost, etc.
4. Why did you respond to the job? (e.g., pickup, the communications unit, from the station house)
5. What kind of description did you receive?
6. What time did you receive the assignment?
7. What time did you arrive at the scene?
8. What time did you depart?
9. Are you the apprehending officer or the arresting officer?
10. Did you indicate location of crime and location of arrest?
11. Was force used to make the arrest or Stop and Question?
12. What was the direction of the chase?
13. Did you lose sight of suspect or contraband? How long?
14. A diagram of arrest scene should be drawn on back page of memo book.
15. A list of officers who were present at arrest scene should be kept.
16. Make sure Miranda warnings are given.
17. All statements made by the suspect should be recorded in your memo book, in quotes.
18. What officer searched the suspect and who found what and where?



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19. Make sure the least amount of people are involved in the chain of evidence.
20. Regarding all evidence found: Where it was found and by whom.
21. Make sure you ID evidence properly.
22. How was the prisoner transported and to where? Were any statements made by the prisoner while enroute?
23. Record all voucher numbers, arrest numbers, etc.
24. Review all paperwork and check for accuracy.

### **Prior to the Court Appearance**

1. Review your memo book and all other written reports pertinent to the case.
2. Review the case with other officers who were involved.
3. Discuss the case with the A.D.A. assigned to it. Readily admit this during trial; if the A.D.A. has not, notify all witnesses of the court date.
4. Review those laws and court decisions affecting the case.

### **The Court Appearance**

1. Arrive early.
2. If in civilian clothes, dress in conservative business attire. If you are in uniform, make certain it is clean and pressed.
3. Bring your memo book and all necessary reports (e.g., laboratory, ballistics, intox test reports, Miranda Warning memo book inserts).
4. Have all physical evidence (obtained from the Property Clerk).
5. Insure the presence of required witnesses.



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### The Testimony

1. Take the oath solemnly and seriously.
2. Speak clearly and loudly enough to be heard by the judge and jury. Turn your body slightly to the jury when speaking.
3. Don't be arrogant when testifying – be professional.
4. Avoid the use of police *jargon* (e.g. using the term "61" when referring to a complaint report, or the term "*in the bag*" when referring to in being in uniform). Use of police jargon tends to annoy and confuse the jury. It also tends to make the jury resent and even distrust the police officer/witness.
5. Keep your answers brief and to the point. If you can answer by a simple *yes* or *no*, do so.
6. If required to give a narrative, recite it in a logical and chronological manner.
7. If you don't understand the question, say so and ask that it be rephrased.
8. Use the term *approximately* when testifying about time, distance, or dimensions unless you are absolutely certain.
9. If you don't remember certain facts, ask the court's permission to refresh your recollection by using your memo book.
10. If you don't know the answer, say so: don't concoct one.
11. Don't blurt out answers - think, then answer (this also allows the A.D.A. time to object to that question).
12. Don't be argumentative with the defense counsel and, certainly, not with the judge. Don't try to match wits.
13. Examine the physical evidence to make certain of identification before testifying.
14. Refer to "the defendant" as "Mr." or "Ms." Jones; and not as "the perpetrator."
15. Avoid technical language. If used, try to clarify it.



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16. Watch your body language. Keep your hand away from your mouth. Make up your mind that the defense will do whatever is necessary to win.
17. Defendants will lie under oath - what do they have to lose?
18. Don't get personal during testimony.
19. Try to avoid any annoying habits in speech or action that you may have.
20. Make sure that you can identify the defendant.
21. Make eye contact with the jurors while testifying.
22. Unless you are an expert, don't present yourself as such.
23. Body Language - identifies you in the courtroom:
  - Your entrance;
  - Your exit;
  - The stand;
  - Your demeanor and facial expressions;
  - Try to keep your feet and hands still.
24. Pay attention - don't daydream.
  - Wait for the completed question before answering. Don't anticipate the question.
25. Unless asked, don't give opinions.
26. If possible, avoid such phrases as "I think", "I suppose", "I guess", or "I believe."
27. Admit, if asked, that you discussed the case with the A.D.A., assisting officers, and victims. This is the normal procedure in order to refresh your recollection.



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28. Always testify accurately, even if it appears after the fact that your actions may have been unconstitutional. Searches conducted on the street may prove to be illegal when examined at a later date. Never attempt to **fix** the illegality of a search by perjuring yourself regarding the specific facts of the encounter. Police officer witnesses must simply testify as to what happened.
29. It is incumbent upon the court to determine what factors negate the legality of a particular search or street encounter.
30. **TELL THE TRUTH - NO CASE IS WORTH PERJURY.**

### INTRODUCTION TO TRAFFIC COURT TESTIMONY

Traffic Violations Bureau testimony is the most common form of courtroom testimony given by patrol officers. The importance of this testimony should not be minimized since it is equally as important as criminal court testimony. The manner in which you testify reflects upon your own personal credibility as well as the way the entire Department is perceived in the eyes of the community.

A police officer's duties do not end with the issuance of a summons. Summoning officers are also responsible for documenting all relevant facts regarding the violation(s) and for ultimately presenting this information at a hearing. Lack of documentation such as an incomplete summons or an insufficient Activity Log entry will severely hinder the case. Currently, numerous traffic violation cases are being dismissed due to improper testimony by police officers. In most instances, these dismissals could be avoided if the officers would simply devote more time to preparation. You, the summoning officer, must be adequately prepared in order to present a professional image and to enhance the effectiveness of your testimony.

Remember that, as with any testimony, the most important thing is to tell the truth. Police officers find themselves giving sworn testimony at traffic court more than any other forum. The laws of perjury, of course, also apply to traffic court. Your performance depends upon you. As is the case with criminal court testimony, preparation, and professionalism are the keys to success.

### The Importance of Detailed Notes

Uniformed members of the service must be able to testify to all facts stated on the summons (for example, the time of day, the location, etc.). This is especially true if the summons is issued for a signal light violation. An officer



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must be able to testify as to where traffic control devices were. It is **strongly** suggested that the officer draw a diagram of the intersection illustrating the position of the traffic control devices controlling the intersection and be able to show:

1. The direction traveled by the violator's vehicle;
2. Which directions were controlled by traffic control devices;
3. Where the officer was positioned when the violation was observed;
4. The exact location of any crosswalk or stop line at any given intersection.

**Note:** This diagram can be drawn on the rear (unlined) side of your Activity Log page.

### **Officers' Testimony Should Address the Following Important Points:**

1. The date, time and location of the offense;
2. The officer's location at the time of the offense;
3. The officer's assignment;
4. Weather conditions;
5. Road conditions and visibility;
6. A description of the area (traffic control device/commercial/residential/highway);
7. The location and direction of the R.M.P. (Exact location of officer when on foot patrol);
8. The direction the motorist was traveling;
9. The name of the street/highway (Indicate whether one way/two way);
10. Exactly where the vehicle was stopped and the manner in which the driver was pulled over;
11. Constant observation of vehicle from initial time of violation to time vehicle stopped;



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12. The relative distance of the violator's vehicle from the police officer at the time violation was observed;
13. A description of the vehicle (color, make, year, model and plate number);
14. Secondary characteristics of the vehicle (for example, raised rear end, side exhaust, thick racing tires, etc.);
15. Identification of the defendant as the driver of the vehicle and any other conduct;
16. Any conversation with the operator;
17. Elements of the offense (for example, the defendant's vehicle entered the crosswalk while the light was steady red and then proceeded through the intersection or the vehicle crossed the white stop line in the roadway);
18. A specific reference to the fact that a summons was issued.

### Three Components of Traffic Court Testimony

When providing traffic court testimony, officers are required to relate the series of events surrounding the violation ***exactly as they occurred***. Therefore, such testimony should resemble a story, with a *beginning, middle, and an end*.

1. ***The Beginning: Introducing Yourself and the Location of the Violation***
  - a. Name, rank, shield number, and command;
  - b. Time of violation;
  - c. Date of violation;
  - d. Location of violator's vehicle, including a description of the location (for example, a one-way street controlled by an overhanging traffic signal);
  - e. Officer's position relative to violator's vehicle at time of violation (e.g., on north-east corner facing the stop sign).





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### 2. ***The Middle: Describing the Facts and Circumstances of the Violation***

- a. Provide defendant and vehicle information;
- b. Observation of direction/distance of vehicle (for example, *northbound on Third Avenue, approximately five car lengths from crosswalk*);
- c. A statement that the officer observed that the traffic signal was functioning (The officer knows this because he or she saw it change from green to yellow to red, then back to green.);
- d. Statements regarding:
  - The number of passengers and where seated;
  - Weather conditions;
  - Other relevant road markings;
  - Any traffic agents directing traffic.

### 3. ***The End: Describing Your Interaction with the Violator***

- a. Any statements made by the violator;
- b. Continuity of eye contact, length of observation;
- c. Summons served.

The issuance of a summons is not the final step, but it is an important one. The officer issuing the summons must document all of the facts regarding the violation(s). Remember to fill in all of the captions as required on the summons; an incomplete summons will cause a dismissal of the case in court. You are not required to retain a mental picture of the violator or to pick him or her out of a crowd, but you must be able to testify that, at the time of the summons, you were satisfied he or she was the person described on the license presented to you. During testimony, always remain calm, be polite and, most of all, do not become argumentative. As long as you have prepared your case properly you will be confident in yourself.



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**THE FOLLOWING CHECKLISTS MAY BE HELPFUL WHEN USED IN PREPARING TESTIMONY AT THE TRAFFIC VIOLATIONS BUREAU:**

### **RED LIGHT TESTIMONY**

1. Date of violation.
2. State the intersection of occurrence and a brief description (include marked crosswalk, if applicable).
3. Observed traffic signal and it was functioning properly.
4. State your location and whether you had a clear, unobstructed view of the intersection (observed same light as motorist, if applicable). Stating that the light was green on your side of the traffic device would be insufficient evidence to prove that the light was red on the defendant's side when he or she crossed the intersection. Testimony that you observed both sets of lights and that they were operating correctly and synchronized with each other, changing simultaneously, should also be included.
5. Approximate time of violation.
6. State you observed the light change to red.
7. Observed motorist an approximate distance (in car lengths) from stopping point while light was red.
8. Observed motorist pass required stopping point (marked crosswalk, etc.) while light was red and motorist made no attempt to slow down.
9. Motorist was stopped and identified from New York State photo drivers license (in most cases), did not lose sight of vehicle at anytime. Include any statement made by the driver.
10. Returned to check traffic signal to see if it was still operational.



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### **TRAFFIC DEVICE TESTIMONY**

1. Date of violation.
2. State the intersection of occurrence and a brief description (include description of sign, light, etc.)
3. Observed whether the traffic device was clearly visible (not obstructed, free of graffiti, etc.).
4. State location where you made the observation.
5. Approximate time of violation.
6. State you observed motorist make a turn in violation of a sign (No Left Turn, etc.).
7. Motorist was stopped and identified from New York State photo drivers license (in most cases), and did not lose sight of vehicle at any time. Include any statements made by driver.
8. Returned to check traffic device and condition of device did not change.



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### **STOP SIGN TESTIMONY**

1. Date of violation.
2. State the intersection of occurrence and a brief description (include description of stop sign, crosswalk, stop line, etc.).
3. Observed stop sign was posted and whether clearly visible (not obstructed, free of graffiti, etc.).
4. State location where you made the observation.
5. Approximate time of violation.
6. Observed motorist an approximate distance from required stopping point (use car lengths).
7. Motorist passed required stopping point without coming to a complete stop.
8. Motorist was stopped and identified from New York State photo drivers license (in most cases), and did not lose sight of vehicle at any time. Include any statement made by driver.
9. Returned to check traffic device and condition of device did not change.



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### **UNLICENSED OPERATOR TESTIMONY**

1. State why the operator was stopped (type of offense, if any).
2. When was operator stopped (date, time of day)?
3. The failure or refusal to display a license on demand of a police officer.
4. Vehicle description.
5. Physical description of the operator. (Also number and position of occupants).
6. How a positive identification was obtained.
7. What summonses were issued and the results of the stop?
8. Statements made by vehicle operator (Distinguish between "I don't have a driver's license," and "I have a driver's license but I was in a hurry and forgot it at home").



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### **INSPECTION CERTIFICATE TESTIMONY**

1. Why the operator was stopped (Type of offense, if any).
2. Location of the stop (date and time of day).
3. Vehicle description.
4. Number of the inspection sticker.
5. Expiration date of the inspection sticker.
6. Was an inspection sticker observed on the vehicle?
7. Information on inspection sticker did not match the vehicle registration?



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### IMPROPER LIGHTS TESTIMONY

1. Date and time of day.
2. Weather conditions (heavy fog, rain or snow).
3. Location of vehicle (street, highway).
4. What type of lights (headlights, brake lights, tail lights)?
5. Statement describing that the vehicle lights were examined during the stop and found to be defective or not turned on.

**Note:** Headlights must be on when wipers are in use.



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### **ONE-WAY STREET TESTIMONY**

1. Location of sign.
2. Officer's position at time of incident.
3. Sign free from obstruction and graffiti.
4. Direction of the sign.
5. When and where the vehicle was stopped.
6. How many lanes?
7. Direction of vehicle in relation to traffic sign?





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### DISOBEY SIGN, IMPROPER TURN, FAIL TO SIGNAL TESTIMONY

1. Location of sign(s) or infraction.
2. Location of officer.
3. Description and number of signs (*U-Turn* or *No Left Turn*, etc.).
4. Direction of vehicle.
5. Operator making right or left turn.
6. Traffic was light, moderate or heavy.
7. Any on-coming vehicles or pedestrians in the roadway?
8. No sign indicating: *After Stop, Right Turn Permitted On Red*.

**Note:** In all cases, an officer should state how many people were in the vehicle, where the vehicle was stopped, and any statement(s) made by the operator.



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### OFFENSES RELATING TO JUDICIAL PROCEEDINGS

This classification of offenses involves misconduct related to official proceedings in court and other judicial forums. It includes *perjury*, *tampering with physical evidence*, *tampering with a witness*, and *bribing a witness*.

#### Perjury

While aggressively pursuing violators of the law, members of the service will make arrests, be required to sign affidavits, appear before Grand Juries and testify under oath in court. As members of the service, we have pledged to maintain a higher standard of integrity than is generally expected of others. Nowhere is this obligation more important than on the witness stand in a court of law. When a police officer commits perjury, the making of a **FALSE STATEMENT WHILE UNDER OATH**, he or she not only jeopardizes the outcome of that particular case, but also many other proceedings where a police officer's credibility is in question. Perjury only serves to break down the police/community trust that community policing tries to cultivate. Most importantly, officers should be aware that if they make false statements in these situations, they may be arrested and prosecuted.

#### Definitions of Terms Related to Perjury (P.L. 210.00)

**Testimony** means an oral statement made under oath in a proceeding before any court, body, agency, public servant or other person authorized by law to conduct such proceeding and to administer the oath or cause it to be administered.

**Oath** includes an affirmation and every other means authorized by law of attesting to the truth of what is stated.

**Swear Falsely** is an offense that occurs when a person intentionally makes a false statement that he or she does not believe to be true, either while giving testimony; **OR** under oath in a signed written instrument.

**Note:** A false swearing in a signed written instrument shall not be deemed complete until the instrument is delivered by its signer, or by someone acting in his or her behalf, to another person with intent that it be used as true.



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### Perjury – Misdemeanor (P.L. 210.05)

The least serious form of Perjury occurs when a person swears falsely. It does not require that the false statement be material to the issues of the case. In other words, the false statement will have no effect on the outcome of the trial. This false statement may be made while giving testimony or under oath in a signed written instrument.

**EXAMPLE:** A witness testifies that he saw a street crime occur while he was taking a solitary walk on the street when, in fact, out on a date with a woman who was not his wife. This is a false statement, but it has no bearing whatsoever on the facts in issue at the trial.

### Perjury – Felony (P.L. 210.10, 210 .15)

This crime can be committed in one of two ways. It occurs when a person swears falsely and when his or her false statement is:

**First**, made in a signed written instrument for which an oath is required by law;

**And**

made with intent to mislead a public servant in the performance of his or her official functions;

**and** is material to the action, proceeding or matter involved.

**Or**

**Second**, giving false testimony, when the testimony is material to the action, proceeding or matter in which it is made.

**Example:** A police officer signs a Criminal Court Complaint which states that he saw the defendant with a gun in his hand when, in fact, he saw the gun on the ground. He then swears before a judge that the false statement is true.

Most arrests result in the preparation of an affidavit or criminal complaint. The information in the complaint is dictated by an Assistant District Attorney and typed by a clerk. Usually there is a certain amount of pressure on everybody to do this quickly. You should never sign anything, particularly an accusatory instrument, without reading its contents. It may contain a mistake of fact. If it does, you may have a problem when testifying later. You may adopt the facts as



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stated in the complaint in your testimony and if you do, you are committing Perjury. ***The A.D.A. knows the law better than you do, but nobody knows the facts of your arrests better than you do – make sure they are stated accurately.***

The temptation to perjure yourself may sometimes be strong. If an officer observes a defendant engage in some activity that arouses his or her suspicion and the officer searches the defendant illegally and finds narcotics in the defendant's pockets, the officer is presented with a problem. The search was clearly illegal, but the officer may feel that justice would best be served by testifying that the defendant dropped the narcotics in the street as the officer approached. If the officer did so, he or she would be committing Perjury.

Another situation that occurs quite often is when the police officer is in pursuit of a suspect. The officer is certain that the defendant is guilty and testifies that he or she never lost sight of the defendant from the scene of the crime up to the eventual arrest. If this is not true, he or she is committing Perjury.

### ***To Avoid These Situations Simply Follow These Rules:***

1. Take careful notes as soon as possible after making an arrest.
2. Only tell the truth as you KNOW it.
3. Carefully read all statements before signing.
4. Never try to improve the case by adding facts that are not true.
5. If you are uncertain of any details, make it known to the Assistant District Attorney and testify only to those things of which you are sure. If uncertain, state it to the court.

**Note:** When signing any type of accusatory instrument, you are affirming as to the truthfulness and accuracy of the facts contained therein. Before signing it you must be certain that the facts are true and accurate to the best of your knowledge. A personal service summons, such as a "C" Summons for Disorderly Conduct or an Environmental Control Board Notice of Violation should ***never*** be signed in advance. These summonses should be signed only at the time of issuance. When completed, accusatory instruments that are prepared by another person on your behalf (that is, on information which may be typed for you by court personnel) should be carefully proofread before signing to ensure accuracy.



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### Definitions of Terms Related to Tampering With Physical Evidence

**Physical Evidence** means any article, object, document, record or other thing of physical substance that is produced or used as evidence in any official proceeding.

**Official Proceeding** means any action or proceeding conducted by or before a legally constituted judicial, legislative, administrative or other governmental agency or official in which evidence may properly be received.

### Tampering With Physical Evidence (P.L. 215.40)

Considering the importance of physical evidence in the prosecution of a criminal case, and your responsibility for the gathering, marking and the identification of evidence, you should be aware of the ramifications of tampering with physical evidence. Tampering with physical evidence is a felony and can be committed in three ways.

A person is guilty of Tampering with Physical Evidence - Felony, when: with intent that it be used or introduced in an official proceeding, he or she:

Knowingly makes, devises or prepares false physical evidence;

**Or**

Produces or offers such evidence at such a proceeding knowing it to be false;

**Or**

Believing that certain physical evidence is about to be produced or used in an official proceeding or a prospective official proceeding, and intending to prevent such production or use, he or she suppresses it by any act of concealment, alteration or destruction, or by employing force, intimidation or deception against any person.



# **POLICE STUDENT'S GUIDE**

## **Court Appearances**

### **CONCLUSIONS: OFFENSES RELATING TO JUDICIAL PROCEEDINGS**

Perjury constitutes only one aspect of police misconduct. Perjury is often entangled with other types of misconduct. Other corrupt acts of commission include, but are not limited to, the use or sale of narcotics, driving while being intoxicated, writing "phantom" summonses, using excessive force, and stealing money or property. Acts of omission include failure to either effect required arrests or to perform mandated duties.



# POLICE STUDENT'S GUIDE

## Policing With Integrity

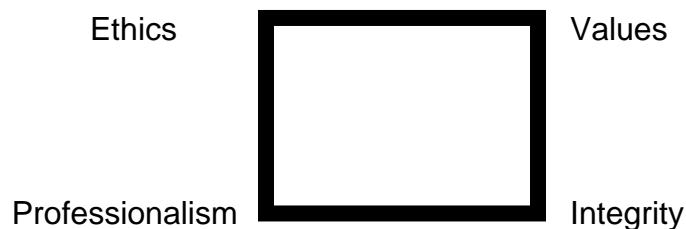
### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT INTEGRITY?

The day you entered this Department, you raised your right hand and pledged to uphold the Constitutions of the United States and the State of New York. This was one of the major changes of your life; in an instant you were placed into a position of authority. This position requires much of you, and has many facets. On any given tour, you may find yourself aiding those needing medical help, rescuing people from harm, or arresting those who commit crimes. But your responsibilities also include living up to the great trust bestowed upon police officers by the people, by doing everything you can to see that the integrity and reputation of the Department remain untarnished. The corrupt actions, or even the thoughtlessness or insensitivity, of a single police officer tarnish the image of every honest police officer and the Department. The great strides this Department has made in preserving the trust of the people quickly erodes when society questions the integrity of its police.

***Maintaining the integrity of the Department and preventing corruption are the responsibilities of every single member of the service, and do not lie solely with the Internal Affairs Bureau, supervisors, or commanding officers. Every member of the New York City Police Department is charged with upholding the trust afforded by the people.***

As we begin to look at corruption and serious misconduct and the responsibility of all members to report these acts, remain mindful that only a very small percentage of police officers are corrupt. The overwhelming majority of the Department is committed to civic service and performs its daily duties with professionalism and a respect for the members of our Department who have fallen in preserving our values. But since a small number of corrupt officers, even just one, can impinge upon our abilities to perform our duties, we must remain vigilant to identify these individuals and to purge them from our ranks.

### THE FOUR CORE REQUIREMENTS OF PUBLIC TRUST IN THE POLICE





# POLICE STUDENT'S GUIDE

## Policing With Integrity

### DEFINITIONS

#### **What are ETHICS?**

**Definition:** *A code or system of conduct that encompasses universal moral obligations and duties that explain how to act; a set of moral values or principles governing a certain group or profession.*

#### **What are VALUES?**

**Definition:** *Values are forms of beliefs that govern our behavior. These beliefs guide our actions, attitudes and decision-making.*

Ethics and values vary from person to person and group to group. Each person brings his or her own set of personal values into policing with them. These values, which are instilled in us from an early age, affect behavior as police officers and our interactions with the public. The New York City Police Department has set forth the moral values and principles of conduct which are expected of **ALL** members of the Department through promulgation of the Police Code of Ethics.

#### **Police Code of Ethics**

- **A Police Officer is both a citizen and a law enforcement officer who, on behalf of his or her fellow citizens, prevents crime, preserves the public peace, protects persons and property, and apprehends offenders.**
- **It is the tradition of the Police Profession to be helpful to all beyond the call of duty.**
- **A Police Officer is a servant of the law. Honesty in thought and deed should characterize a Police Officer's official and private life.**
- **A Police Officer must be impartial and fair to all people, whatever their social position, race, age, ethnicity, gender or sexual orientation.**
- **A Police Officer must be incorruptible to be worthy of his chosen profession. Honest Police Officers must not tolerate an Officer who would engage in corruption or serious misconduct. All Police Officers have an absolute duty to report any corruption or serious misconduct of which they become aware.**





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## Policing With Integrity

- **A Police Officer should have compassionate respect for the dignity of the individual and behave to all with courtesy, self control, human understanding and tolerance.**
- **A Police Officer must never use more force than necessary to accomplish a legitimate purpose nor may he or she ever subject anybody to any form of cruel, inhuman or degrading treatment.**
- **A Police Officer should strive continually to increase his or her professional skills. In so doing, the Officer should seek to gain ever-greater insight into society and human nature.**
- **A Police Officer must execute the laws and regulations of his or her jurisdiction and obey orders pursuant to such laws and regulations.**
- **Matters of official Police Department business coming to the attention of a Police Officer should be kept confidential, unless the performance of his or her official duties requires otherwise.**
- **A Police Officer's conduct as a citizen should be exemplary.**

The Department's Code of Ethics emphasizes the importance of personal lives of police officers. Police officers must be incorruptible and must not tolerate acts of corruption or misconduct among other police officers. All police officers have an absolute duty to report any acts of corruption or serious misconduct of which they become aware.

### ***What is INTEGRITY?***

**Definition:** *Completeness, Wholeness, Unimpaired Condition, Soundness, Honesty, Sincerity.*

Integrity is most commonly associated with honesty. Almost everyone agrees that honesty is a worthy principle. Every major religion preaches it. Schools teach it. Courts enforce it. Business, government and individuals claim to practice it. Unfortunately, honesty is frequently ignored and self-serving interests takes its place. Because police officers have such awesome responsibility and authority, police work offers more opportunities to be dishonest than do all but a very few other occupations. The public knows how powerful police officers are, and is well aware of how great the opportunities for abuse are in policing. For this reason, the public is always alert to any sign of police corruption or the absence of police integrity. Consequently, we must not only make certain that our behavior *is* ethical and proper, but that it can never be perceived as unethical or improper. Absolute honesty in both our official and off-duty capacities is essential if we are to maintain the public trust.



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## Policing With Integrity

### **What is PROFESSIONALISM?**

Professionalism is easy to recognize but very difficult to define. Among the factors considered to be signs that an occupation has reached the professional level are the following:

- **Higher Education:** The requirement that entrants to a line of work have completed advanced studies.
- **Specialized Training:** Job specific training that provides the profession's members with specialized information, knowledge, and skills that are not possessed by others.
- **A Published Code of Ethics:** A statement of the profession's definitions of acceptable and unacceptable conduct.
- **Autonomy and Discretion:** The grant to members of the profession of a great deal of power to make decisions on their own, within the limits defined in specialized training and in the profession's code of ethics.
- **Self-Regulation:** A method through which the members of the profession review each other's conduct and hold members accountable for adhering to the code of ethics and to the behaviors defined in specialized training.

In policing, professionalism usually is associated with carefully screened, trained, and certified individuals who are highly motivated and who exhibit a sense of ownership in the agency and a sense of partnership with the community. Nobody can truly be considered a professional without an approach to one's work that involves the uncompromising pursuit of excellence and the constant commitment to service. True professionals are sincerely committed to improving their agency and the work it performs. They set the highest standards of integrity and performance for themselves and others, and refuse to tolerate among them those who violate their profession's Code of Ethics.

The NYPD has defined our organizational values through publication of a "Department Values Statement."

### **NEW YORK CITY POLICE DEPARTMENT VALUES**

1. **Protect the lives and property of our fellow citizens and impartially enforce the law.**



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2. **Fight crime both by preventing it and aggressively pursuing violators of the law.**
3. **Maintain a higher standard of integrity than is generally expected of others because so much is expected of us.**
4. **Value human life, respect the dignity of each individual and render our services with courtesy and civility.**

Each of us possesses our own set of personal values, beliefs and prejudices, which may at times conflict with our organizational values. It must be emphasized that regardless of our personal viewpoints, all Police Officers are expected and **required** to conduct themselves in a manner that is consistent with the Department's Values.

### DEPARTMENT MISSION

***The MISSION of the New York City Police Department is to enhance the quality of life in our city by working in partnership with the community and in accordance with constitutional rights to enforce the laws, preserve the peace, reduce fear, and provide for a safe environment.***

### PUBLIC PERCEPTION OF POLICE BEHAVIOR

As mentioned earlier, our Department values mandate that police officers "maintain a higher standard of integrity than is generally expected of others because so much is expected of us."

1. **Does society hold police officers to a higher standard of integrity?**

ANSWER: Yes

2. **Does society have the right to hold police officers to a higher standard of integrity?**

ANSWER: Yes

### Why Does Society Have The Right?

Nobody in society employs more responsibility and discretion than a police officer. Nobody else in our system has as much authority as a police officer to deprive people of their privacy, property, or freedom, or to make an instant decision that, absent



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## **Policing With Integrity**

any review or appeal, can deprive a person of his or her life. This great authority has created both a historical expectation and a body of legal precedent that hold those in public office to very high standards.

You should know about these expectations before you go any further in your police career. Neither you nor anybody else is obliged to become a public servant or to take the oath of office as a police officer. Once this position is accepted, however, you agree and are obliged to abide by the standards that go with it.

### **OFF-DUTY CONDUCT**

As has been already established, police officers are held to a higher standard of integrity than the ordinary citizen. This higher standard extends to off-duty conduct. Ordinary citizens are generally considered free to behave as they see fit (within the limits of the law) while off duty. Courts have ruled that employers have little or no authority to regulate the off-duty conduct of their employees. This is NOT true of police officers.

Because of the tremendous power and responsibility vested in police officers, courts have held that police officers are held to a different standard of off-duty conduct than the average person. This is particularly true in the area of narcotics use, which is strictly prohibited and will result in suspension and termination for any violation. Additionally, because police officers are required to be fit for duty at ALL times (except when on Sick Leave), they cannot consume alcohol to such an extent that it makes them unable to perform their duties.

Because of the unique nature of this profession, police officers are also restricted in their off-duty conduct as to locations that they frequent (e.g., social clubs), people with whom they associate (e.g., known criminals), and off-duty employment (e.g., licensed premises).

As with official conduct, a police officer's off-duty behavior is closely scrutinized by the public. Therefore, all police officers must be diligent in avoiding activities that hint of impropriety.

### **THE ROLE OF THE MEDIA IN MONITORING POLICE CONDUCT**

The media plays an important role in monitoring police conduct. There are both positive and negative aspects to this role.



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## **Policing With Integrity**

### **Positive Aspects**

The media have a very important function as independent public advocates. The media acts as a public watchdog, monitoring police behavior and alerting the public to any possible misconduct that may be occurring. This is a positive factor because it helps to ensure that the police remain accountable to the communities they are sworn to protect and serve. In this function the media act as a powerful instrument for positive change.

The media also serve to keep the public informed of positive news stories involving the police. Since policing calls for us to work in partnership with the community to solve problems of mutual concern, it is crucial that we keep the community informed of what we are doing and how it affects them. In order to accomplish this, it is important that we maintain a cooperative relationship with the media.

### **Negative Aspects**

While the media undoubtedly functions as a force for positive change, there are also several negative aspects to the media's monitoring of police conduct. The media obviously are in business to make money and often take poetic license when presenting police related stories. Sensationalized stories sell better than do the mundane stories that are more typical of the average police officer's day. Some newspapers broadcast negative police stories on the front pages, while relegating positive stories to the back pages where they are seldom seen.

Additionally, the media rarely discloses the source of stories and are not always diligent and responsible in checking the accuracy of the stories. Because the public often believes these stories to be totally accurate, the reputation of the Department may be damaged by some of these inaccurate reports, even if they are later clarified.

## **HISTORY OF POLICE CORRUPTION IN NEW YORK CITY**

Since the Department was created in 1845, corruption and misconduct have been an existing and fluctuating concern. A number of major corruption scandals have occurred over the past one hundred years resulting in major external investigations. On average, these major corruption investigations have surfaced once every twenty years. It is important to review these because they show how the few have tarnished the image of the Department and created a need for an internal investigative body. We as law enforcement professionals must maintain the public's confidence. Therefore, an internal investigative body within the Police Department is necessary. However, this responsibility does not belong solely to the investigators of police misconduct: It is the responsibility of all members. The New York City Police Department values state



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***“Maintain a higher standard of integrity than is generally expected of others because so much is expected of us,”*** and we will do whatever is necessary to accomplish this goal.

The purpose of this lesson is to also make you aware of the basic integrity monitoring programs that are available at the precinct level. It is also emphasized that to maintain a high level of integrity and credibility, corruption and misconduct must be exposed from within. The notion that a person who uncovers corruption is a “rat” or that one must not break the “blue wall of silence” was created by the wrongdoers to protect themselves. It must be understood that although many agencies exist, both within and outside the Department, which are responsible to investigate misconduct and corruption, the ultimate responsibility in eliminating it belongs to every honest, hard working member of the Police Department.

### MAJOR CORRUPTION INVESTIGATIONS IN THE N.Y.P.D.

#### Lexow Committee

In the early 1890s, “respectable” New York was appalled by the prostitution, gambling and other forms of vice proliferating in the City. When Reverend Charles Parkhurst, pastor of the Madison Square Presbyterian Church and president of the Society for Prevention of Crime, accused city officials, including the police, of corruption and complicity, the story was investigated by two celebrated muckrakers, Lincoln Steffens of the *New York Evening Post* and Jacob Riis of the *New York Evening Sun*.

Responding to the scandal in 1894, the New York State Senate appointed an investigating committee headed by Senator Clarence Lexow, a Columbia-trained lawyer and Ph.D. After taking thousands of pages of testimony from more than 500 witnesses, the Lexow Committee concluded that the Department, which was responsible for security at the polling places, had been used to tamper with elections. The Committee also found that officers accepted bribes to overlook gambling, prostitution and con games, engaged in acts of brutality, and extorted money from innocent citizens under the threat of violence or false charges. Many officers obtained initial appointment or lucrative promotions or assignments through political connections or cash payments. The investigation may have been politically motivated, at least in part; it was no surprise that the Republican majority Senate was eager to embarrass Tammany Hall. But even Tammany Democrat Jacob Cantor and Independent Democrat Daniel Bradley, who quarreled with the conclusion that the police were used to fix elections, agreed that the Department was otherwise corrupt and should be reorganized.

Although legal action was taken against many officers, none of the convictions or dismissals stood up on appeal. In 1895, William Strong, a political novice, was elected mayor. Theodore Roosevelt, the outgoing mayor, declined Mayor Strong's offer for



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appointment as Street Cleaning Commissioner, but obtained the presidency of the Board of Police Commissioners. Roosevelt and his fellow commissioners replaced many senior police officials and improved standards of selection and discipline. In an attempt to minimize temptations to bribery, he adopted a policy of strict enforcement of vice laws. In 1897, Roosevelt left New York and the Police Department for Washington and accepted a post as Assistant Secretary of the Navy. The next mayor, Robert Van Wyck, was an opponent of the reforms enacted by Roosevelt, and the City quickly regressed to its former condition.

### **Becker-Rosenthal Affair (also known as Curran Committee Investigation)**

On July 16, 1912, gambler Herman Rosenthal was shot to death in broad daylight in front of the Hotel Metropole on 43<sup>rd</sup> Street in Times Square. Several on-duty police officers witnessed the killing but allegedly took no action. The press had reported that Rosenthal was providing information to the New York County District Attorney about payments to police for protection, and that he was scheduled to make a grand jury appearance later that day. Investigators concluded that Rosenthal was killed on the orders of Lieutenant Charles Becker, a commander of the so-called "strong arm squad," a vice unit under the personal authority of the Police Commissioner. Rosenthal had been paying Becker for protection, but Becker raided his casino anyway. In retaliation, Rosenthal offered information to the District Attorney. Although some doubt that Becker was guilty for the murder for which he was ultimately executed, there seems little question that he accepted bribes and otherwise collaborated with vice.

The Rosenthal murder resulted in the appointment of a Special Committee of Alderman to investigate the police department, chaired by Alderman Henry Curran. The Committee concluded that there was an extensive system of payoffs to police by gamblers and operators of brothels, that officers took bribes to throw cases, and that the Department made little or no effort to discipline its ranks. Complaints of corruption, for example, were sometimes given to the accused officers themselves to investigate.

Becker and four others were executed for the Rosenthal murder, and several police officers were convicted of crimes involving official misconduct. Police Commissioner Rhinelander Waldo, singled out for special criticism by the Curran Commission, survived, but lost his job when John Purroy Mitchell was elected Mayor in 1914. Mitchell appointed Arthur Woods, a protégé of Theodore Roosevelt, as police commissioner. Woods increased training, and employed squads of police to investigate corruption.

### **The Seabury Investigation**



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In August, 1930, the Justices of the First Department of the Appellate Division of the Supreme Court appointed former Court of Appeals Judge Samuel Seabury to investigate corruption in the New York City Magistrates' Courts in response to a request for action by then-Governor Franklin D. Roosevelt. Judge Seabury's investigation quickly uncovered corruption in the police department.

The investigation pictured an interlocking of lawyers, bondsmen, political brokers, the police, and the underworld of the courts. For example, in a scam that was a combination of bribery and extortion, officers and prosecutors accepted money to throw cases; release from jail also required payment to a participating bail bondsmen. Failure to pay guaranteed conviction by compliant judges on perjured testimony. A number of police officers were found to have large, unexplainable hoards of cash. Vivian Gordon, a prostitute who offered to testify about her knowledge of police scams, was murdered during the investigation. In the same month that Seabury was appointed to chair the Committee, a Supreme Court justice stepped into a taxi in front of a restaurant on West 45<sup>th</sup> Street, and was never seen again.

As a result of the investigation, all members of the Vice Squad were returned to uniformed duty, and a number of officers were dismissed. Some police officers were convicted of crimes, such as Vice Officer Sidney Tait, who was found guilty of perjuring himself in a fraudulent prosecution of an accused prostitute.

Police officers were not the only ones punished. Several attorneys were disbarred for participating in corruption. Two magistrates were removed from office for both accepting loans from gamblers and falsifying transcripts. By the end of the investigation, three others had resigned and one decided to leave the state hurriedly.

### **Gross Investigation (also known as the Helfand Investigation)**

The Helfand investigation began in 1949, after the *Brooklyn Eagle* reported that students were being preyed upon by professional bookmakers. Kings County District Attorney Miles McDonald charged his assistant Julius Helfand with responsibility for investigating the accusations. Helfand was supplied with a staff of attorneys and investigators and armed with a special grand jury, which convened in 1949 and was continued for the next five years. Unlike any of the other commissions, Helfand and his team had the right and responsibility to prosecute the criminals they uncovered.

The investigation led to Harry Gross, a Brooklyn bookmaker, who reportedly paid one million dollars a year in "ice" – money for police protection. Gross pleaded guilty to gambling offenses, and cooperated in hope of leniency. Based on the information Gross provided, 21 officers were charged with conspiracy for accepting money for not enforcing the law. Nearly 60 other officers were named as unindicted co-conspirators. The accused officers ranged from patrolman to Assistant Chief Inspector, then the second highest uniformed rank in the NYPD.





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Shortly before the trial began, however, Gross went missing for a day even though he had been under police guard. After surfacing, he was sworn in as a trial witness and answered a few preliminary questions, but then refused to continue. Gross was unmoved by a contempt citation. All of the accused officers were released for lack of evidence, and the double jeopardy clause precluded their re prosecution.

Helfand also found that police vice units often arrested "stand ins," guilty of no crime so far as the police knew, paid by bookmakers to "take the rap." Stand in arrests benefited everyone involved; the officers appeared to be doing their jobs, the bookmaker's business was uninterrupted, and the stand-in was quickly released or acquitted based on police testimony of acts insufficient to constitute a crime. Officers not in a position to obtain money from gamblers found opportunities elsewhere.

All 335 plainclothes officers were demoted to uniformed duty. Ultimately, several hundred officers resigned from the department; dozens were dismissed after departmental charges, and twenty were convicted of crimes. Police Officer Aaron Feld, for example, was convicted of perjury for failing to describe his participation in a stand-in arrest. A number of others, including high-ranking officers, suspected of receiving money from criminals, were convicted for refusing to testify about their assets or lying about them. Mayor William O'Dwyer, himself a former police officer, resigned from office, as did Commissioner William O'Brien and Chief Inspector August Flath. At Helfand's suggestion, the City Council amended city law to prevent officers from retiring the moment they were summoned to the grand jury, as the law then permitted.

### **Knapp Commission**

The Knapp Commission was established in May 1970 by an executive order of Mayor John V. Lindsay. The Mayor acted upon the recommendation of an interdepartmental committee he had appointed in response to an article appearing in *The New York Times* on April 25, 1970 which charged widespread police corruption and official laxity in dealing with such corruption.

The Commission was given the task of determining the extent and nature of police corruption in New York City and examining existing procedures for dealing with corruption and recommending changes and improvements in those procedures. The Knapp Commission was different from the others in that it was not created by a mayor who was already under investigation. It was also televised so the public could see it; this affected the public's view of the entire Department.

The Commission found corruption to be widespread. It took various forms depending upon the activity involved, appearing at its most sophisticated among



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plainclothesmen assigned to enforcing gambling laws.<sup>1</sup> Some plainclothesmen received as much as \$3500 from the gambling establishments in their area, which would be divided amongst the members in the unit. Corruption also existed in narcotics enforcement as well as detectives assigned to general investigative duties. The scores in these cases were not as huge as in the gambling operations, but these shakedowns were deemed “targets of opportunity,” and not as extensive.

These were some Commissions findings:

- Organized Crime was the single biggest source of police corruption.
- The second source was legitimate businesses seeking to ease their way through the maze of the city ordinances and regulations.
- The most widespread form of misconduct was the acceptance of gratuities in the form of free meals, free goods, and cash payments, which in a number of cases was the beginning of more grievous forms of corruption.
- The formation of an internal investigative body (Internal Affairs Division) was needed.
- The concepts of “Accountability and Responsibility” should be emphasized from within the Department.
- The newly created Internal Affairs Division shall be the central repository for processing corruption allegations.

### The Mollen Commission

The crooks, however, that you have uncovered, the criminals seem to be a different breed of criminals [than 23 years ago], . . . the guys you are digging up, these guys are walking around with lead-lined gloves and riding shotgun for organized crime people, it seems to me they have changed the nature of being a “meat eater” in the Department. Instead of taking money to look the other way while someone else commits a street crime, they’re out there competing with the criminals to commit street crimes themselves, and it seems to me that is a very big difference.”<sup>2</sup>

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<sup>1</sup> Commission to Investigate Allegations of Police Corruption and the City’s Anti-Corruption Procedures, Commission Report (With Summary and Principal Recommendations, Issued August 3, 1972). Whitman Knapp, Chairman. Excerpt from Summary – The Extent of Police Corruption, Page 1.

<sup>2</sup>Michael Armstrong, Chief Counsel, Knapp Commission, Testifying before the Mollen Commission, October 7, 1993



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Twenty years after the Knapp Commission, police corruption was again an issue requiring intervening oversight. In 1994, The Mollen Commission, chaired by Milton Mollen, revisited the issue of police corruption and found that the face of corruption had changed. While the results of the Knapp Commission revealed large numbers of police officers involved in relatively low level forms of corruption and misconduct, and some officers involved in large scale corruption, the new practice was "crew corruption," wherein groups of officers protect and assist each other's criminal activities. The Knapp Commission labeled the corrupt officers as "grass eaters" and "meat eaters."<sup>3</sup> As Armstrong's comments suggested, however, the meat eaters of the Mollen era were much more aggressive than were those of the Knapp era.

The Mollen Commission was charged by Mayor David Dinkins to:

1. Inquire into and evaluate the existing practices, procedures and methods for investigating specific allegations of corruption and the existing practices, procedures and methods designed to prevent corruption and maintain integrity.
2. Recommend improvements in these practices, procedures and methods and make any additional recommendations that will ensure the integrity of the Police Department and to prevent corruption.
3. Take evidence and hold whatever hearings public and private, that the commission may deem appropriate to ascertain necessary facts.

The Mollen Commission identified the predominant patterns of corruption in New York City as police officers committing outright theft from street dealers, from radio runs, from warrantless searches, from legitimate raids, from car stops, from drug couriers, and from off-duty robberies. They also discovered cops protecting and assisting narcotics traffickers as well as cops dealing and using illicit drugs themselves. A pattern of perjured police testimony and false crime reports was also identified. The Commission's report credited the Department with eradicating the once systemic "grass eaters," but warned that the "meat eaters" of that time were the rule amongst corrupt cops, not the exception.

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<sup>3</sup> "Grass Eaters" are referred to as corrupt officers who receive payoffs, accept gratuities, solicit five and ten dollar payments from contractors, tow-truck operators, gamblers, but do not aggressively pursue corruption payments. "Meat Eaters" are referred as officers who spend a good deal of their working tours aggressively seeking out situations they can exploit for financial gain, including gambling, narcotics, and other serious offenses which can yield payments of thousands of dollars.



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Perhaps the face that is most associated with the televised proceedings of the Mollen Commission was that of disgraced Police Officer Michael Dowd. Testifying before the Commission, Dowd explained his rogue activities during his assignment at the 75<sup>th</sup> precinct. Dowd stated he lost interest in trying to arrest drug dealers and help rid the City of narcotics traffickers. Instead, he enlisted the services of other officers who began robbing drug dealers of their money, drugs or guns, or going into business with them to distribute narcotics and weapons.

Dowd identified his formative years at the Department as laying the groundwork for his corrupt activities. He testified that his training officers instructed him how to get six-packs of beer, food, clothing, and other gifts from local merchants. In his early precinct assignments, older officers advised him that being a “good cop” meant, “never ratting.” Otherwise, he was warned, fellow officers might be slow to come to his aid if he were in danger. According to Dowd, being a “good cop” meant beating up suspects and others as part of the bonding process. To commit a crime or impropriety in front of another cop meant that cop could be trusted. Throughout these hearings, other officers testified about their corrupt careers, and it was all televised for the citizens of New York City, as well as members of the NYPD, and the world.

The Commission, through its independent investigations, discovered that in every high-crime precinct with an active narcotics trade, some level of corruption existed. It further revealed that numerous other officers were complicit through their silence and protection of these corrupt cops.<sup>4</sup> Specifically, an investigation into police officers receiving payoffs from drug dealers in bodegas and other storefront locations in the neighborhood, ultimately resulted in the arrest of fourteen police officers assigned to Manhattan-North's Thirtieth Precinct and ten of their drug dealer associates – one of the largest, and most serious, police corruption cases in a generation. Throughout the Commission's investigations, the most troubling aspect of these corrupt activities was not the actual corrupt acts, but rather the honest cops, who by their silence, allow corruption to continue.<sup>5</sup>

Sgt. Joseph Trimboli was a highly decorated, twenty-year veteran of the NYPD. From 1986 until 1991, Sgt. Trimboli was an investigator assigned to the Brooklyn North Field Internal Affairs Unit (B.N.F.I.A.U.). During this time, Sgt. Trimboli was the principal investigator probing allegations of police corruption in the 75th Precinct in Brooklyn. The numerous allegations indicated the Police Officers assigned to the 75th Precinct were selling drugs, shaking down drug dealers, stealing from prisoners and D.O.A.'s, and committing armed robberies. The principal subject of these allegations was former Police Officer Michael Dowd.

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<sup>4</sup> Mollen Commission Report, Page 11.

<sup>5</sup> Mollen Commission Report Page 5



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Despite minimal resources and assistance, Sgt. Trimboli relentlessly investigated Michael Dowd and his associates. Due to a shortage of unmarked Department vehicles, Sgt. Trimboli often conducted surveillance in his private auto, sometimes on his own time, and at personal risk. Since 1991, Sgt. Trimboli had been Commanding Officer of the 61st Precinct Detective Squad.

On October 29, 1993, in recognition of his perseverance and outstanding work on the Dowd investigation, he was promoted to the rank of Sergeant, Supervisor Detective Squad. In his address to those getting promoted, Police Commissioner Raymond Kelly hailed Sgt. Trimboli for his dedication and commitment, and thanked him for his contribution to the Department.

Sgt. Trimboli's promotion was viewed as a message to all that the Department values integrity above all else and will reward those police officers that fight corruption. Sgt. Trimboli subsequently retired and went on to use his skills as a Senior Investigator with the Queens District Attorney's Office.

As stated 22 years earlier by Retired Detective Frank Serpico during the Knapp Commission, the Department must "create an atmosphere in which the dishonest officer fears the honest one, and not the other way around."<sup>6</sup> This atmosphere was finally created subsequent to the Mollen Commission. Along with the other systemic corruption-control improvements made by the Department, the greatest accomplishment is the empowerment of every member of the Department to control these corrupt acts, and the assurance that a swift, fair and professional investigation will be conducted. The NYPD stands committed to both discontinuing this vicious 20-year cycle of corruption that has plagued this Department, as well as never allowing the likes of Michael Dowd to ever wear and disgrace the uniform worn by countless heroes.

### **THE ORIGIN OF CORRUPTION INVESTIGATIONS**

Prior to 1967, there were nine different units in the Department accountable to nine separate administrators that shared the responsibility for corruption investigations. Basically, each major bureau within the Department was responsible for investigating complaints made against its own members. The best-known unit was the Police Commissioner's Confidential Investigating Unit.

Its primary function was to handle the cases involving organized crime, gambling and vice. It was one of three P.C.I.U. squads within the Personnel Standards Squad that was charged with prompt and complete investigation of complaints of police misconduct. In addition, this unit checked on police work and conditions throughout the city to insure proper performance of duty.

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<sup>6</sup> Detective Frank Serpico testifying before the Knapp Commission, December 1971



# **POLICE STUDENT'S GUIDE**

## **Policing With Integrity**

The Police Commissioner's Confidential Investigating Unit was combined with the First Deputy Commissioner's Investigating Unit on September 25, 1969 as per Temporary Operating Procedure 397-1. They were placed under the umbrella of the First Deputy Commissioner along with the Patrol Bureau Inspections Unit and Chief of Patrol's Investigating Unit.

In 1969, the Inspectional Services Bureau was created. It consisted of the Intelligence Division, Public Morals Squad, Inspections Unit and the Internal Affairs Division.

This was the first step in clarifying and numerating the handling of complaints of corruption and misconduct. Up to this time, it should be remembered, there was no central repository for such complaints and there were many agencies and units that did receive complaints. With this new organization, Internal Affairs became the central repository for such allegations. Additionally, the Bureau had the responsibility for public morals, narcotics and other matters for investigation. In the past, investigations into these areas were solely reactive.

From 1970-1973 the Department's fight against corruption turned into all out warfare, under Commissioner Patrick V. Murphy. During 1971, and subsequent to the Knapp Commission, for the first time, extensive and effective police cooperation was given and sought from other agencies in the fight to eliminate corruption in the Department.

A serious problem that plagued the Department through the years was the unspoken premise that anti-corruption investigations were the responsibility of a small segment of Headquarters' Squads. This position was reversed in 1972 with the creation of the revised Internal Affairs Division and Field Internal Affairs Units.

Initially, the Borough Commanders were asked by Commissioner Murphy to evaluate their commands with regard to their corruption problem and to list their corrective proposals. What was created was the concept of "Accountability and Responsibility" of each member of the service to report corruption as per Patrol Guide 207-21 (Allegations of Corruption and Serious Misconduct Against Members of the Service) and 207-22 (Allegations of Corruption Against City Employees [Other than Members of the New York City Police Department]).

### **Reorganization Begins**

On June 15, 1992, a New York Post article leveled serious charges of impropriety in the Police Department's handling of earlier investigations into the corrupt practices of police officer Michael Dowd. In response, former Police Commissioner Lee P. Brown directed the First Deputy Commissioner Raymond Kelly to undertake a



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thorough investigation to determine if the Department's Internal Investigation apparatus was flawed and if there had been any cover-up of police corruption.

Interim Order Number 1 of 1993 entitled *Establishment of Internal Affairs Bureau*, abolished the Inspectional Services Bureau, and reorganized the Department's internal investigating mechanism and its subordinate command, the Internal Affairs Division, to form the new Internal Affairs Bureau.

### MISSION AND FUNCTION OF THE INTERNAL AFFAIRS BUREAU

The Police Commissioner charges the Internal Affairs Bureau (IAB) with the institutional accountability, implementation and maintenance of the Department's anti-corruption programs. I.A.B., acting as a guardian of the Department's reputation, is a police bureau of unparalleled integrity that is thoroughly and effectively intolerant of corruption throughout the Department. It is the investigator of allegations of corruption and complaints of serious misconduct. It is the recipient of ALL allegations made against members of the service, both uniformed and civilian. Investigations run the gamut, from allegations of bank robberies to the loss of Department issued equipment.

The Internal Affairs Bureau was formed from the Internal Affairs Division or I.A.D., founded in 1972 during the Knapp Commission. The current Internal Affairs Bureau was founded in 1993. The Bureau recruits the best investigators, supervisors and managers from a large pool of members of the service who have applied for investigative assignments, and are then interviewed by a panel consisting of executive level supervisors from the Internal Affairs, Detective, OCCB, Personnel, and Patrol Services Bureaus. The Internal Affairs Bureau deals with cases involving termination, arrests and indictments of members of the service. I.A.B.'s Command Center receives approximately 19,000 allegations per year.

I.A.B. has undergone a major transformation in conducting internal investigations and monitoring police integrity. I.A.B. no longer works in isolation and cloak and dagger secrecy. NYPD commanders are routinely advised about ongoing investigations, and are expected to provide assistance. Regularly scheduled I.A.B. strategy sessions are conducted, and precinct commanders are apprised of investigations in their commands.

The "old" I.A.B. was a highly reactive organization, a notion that is quickly becoming obsolete in modern day policing. Today's I.A.B. is pro-active. I.A.B. uses pattern analysis, sophisticated surveillance, integrity tests, enhanced drug testing, confidential informants, and undercover officers in its war on corruption.

In recent years, there has been a dramatic modernization of I.A.B.'s equipment. I.A.B. has purchased surveillance, tracking, and microwave equipment that is state of the art. The Programmable Retrievable Investigative Data Entry (P.R.I.D.E.) computer



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application enables investigators to collate investigative data from different cases, flagging any similarities among names, addresses, phone numbers, license plates, and seemingly innocuous data. Cases are assessed, classified and assigned with ample knowledge of related cases also under investigation. P.R.I.D.E. will eventually incorporate information from a variety of cases and sources in electronic case folders, completely revolutionizing internal investigations.

### COMPOSITION OF THE INTERNAL AFFAIRS BUREAU

I.A.B. investigators are divided into individual groups working in geographic areas throughout the city, all of which report directly to the Chief of Internal Affairs Bureau. I.A.B. also has groups that specialize in specific areas:

- Group 41 handles allegations made against members of the service assigned to O.C.C.B.
- Group 51 handles police impersonation cases.
- Group 52 handles Integrity Testing.
- Group 54 handles excessive force investigations.
- Group 55 is the surveillance unit.

All the allegations of lesser misconduct or violations are referred to the Borough Investigations Units.

### OTHER DEPARTMENT INTERNAL INVESTIGATIVE ENTITIES

#### Borough/Bureau Investigations Unit

(**Note:** Investigation Units are *not* part of I.A.B. - they answer to the Borough or Bureau Commander)

Duties of the Borough/Bureau Investigations Unit include:

- Investigation of allegations of misconduct referred by the Internal Affairs Bureau
- Conferrals with I.C.O.'s and coordination of investigations, including those that are self-generated.





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- Conferrals with Inspections Units relative to current areas of concern to keep commands informed of new priorities and areas requiring additional attention.
- Conducting field observations to insure compliance with Department directives.
- Conducting administrative tasks including:
  - Reviewing self-inspection programs.
  - Facility inspections.
  - Reviewing time and payroll records.
  - Verifying sick reporting procedures.
  - Conducting field-training sessions concerning corruption hazards and evaluating the precinct-level training material for content and quality and determining the level of compliance with all mandated material.
  - Conducting analysis of command statistics regarding civilian complaints, Investigative Bureau complaints, Command Disciplines, department vehicle accidents, sick leave abuse, etc.
  - Ascertaining patterns and identifying specific commands and/or members if the service for abuses.
  - Conducting additional investigations and inspections as directed by Patrol Borough/Bureau Commander.

### **The Function of the Integrity Control Officer (I.C.O.)**

The Integrity Control Officer, usually a lieutenant, is responsible for overseeing a command's corruption prevention mechanism. The duties of the I.C.O. include developing an integrity control program tailored to precinct conditions, visiting corruption prone locations at frequent and irregular intervals, and gathering information concerning criminals residing and frequenting the area to determine if unnecessary contact exists with members of the service. The I.C.O. also conducts investigations into misconduct as directed by the Precinct/Unit C.O. or the Internal Affairs Bureau. The I.C.O. is also responsible for the training of members of the service assigned to their command regarding corruption hazards and integrity issues and acting as an advisor to members of the service regarding acceptable behavior on and off duty, and maintaining records concerning the Integrity Control Program.

### **The Components of the Integrity Monitoring File**

The Integrity Monitoring File is maintained by the command's Integrity Control Officer and is used to identify locations where a potential exists for members of the service to engage in corrupt practices or misconduct. The file is divided into three (3) categories:



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- Designated Off Limit Locations;
- Unlawful Locations;
- Cooping Prone Locations.

**Designated Off-Limit Locations** - are those that operate legitimately but are placed off limits by a Commanding Officer because of some police misconduct related activity, and the need to avoid the appearance of impropriety by members of that command.

- Restaurants that offer half-priced meals to members of the service
- Stores that insist on giving members of the service free merchandise
- Premises frequented by known criminals, etc.

**Unlawful Locations** - are those, either in a member's command or elsewhere, which are involved in illegal activities that preclude the presence of members of the service except in the line of duty.

- Gambling/numbers locations;
- Narcotics prone locations;
- Prostitution prone locations, etc.

**Cooping Prone Location** - are those locations or premises where members of the service may engage in unauthorized interrupted patrol.

- A desolate factory area during the first platoon where members of the service may attempt to sleep in an R.M.P.

### INTEGRITY CONFERRALS

To create an atmosphere of discipline, stress the importance of integrity, professional demeanor, and to identify problems, the Commanding Officer will, on a semi-annual basis, conduct a one-on-one conferral with each member of the command.

### Function of a Precinct's Holiday Program

The Holiday Program is a Precinct/Command based operation that is coordinated by the Commanding Officer and the Integrity Control Officer. This program consists of monitoring members of the service regarding shopping, whether on or off duty, at business locations in the confines of that precinct / command, during the months of December and January. This monitoring includes inspecting RMPs for packages, giving special attention to precinct parking areas which focus on the movement of packages



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from RMPs to private vehicles, and conversing with business owners regarding the illegal offering of gratuities to members of the service.

### Supervisor's Role in Combating Corruption

It is the role of all line supervisors (Sergeants and Lieutenants) to monitor the on-duty conduct of all members of the service assigned to the command. These supervisors should also be available for guidance and counseling regarding integrity issues. In addition, the patrol supervisor is required to respond to all radio runs alleging misconduct by an off-duty member of the service. The Borough Duty Captain will also be requested to respond to these incidents. Supervisors, as well as all members of this Department, are required to report all breaches of Department guidelines or corruption hazards to the Commanding Officer or the Internal Affairs Bureau.

### THE DUTIES OF THE DEPARTMENT ADVOCATE'S OFFICE RELATING TO INTERNAL INVESTIGATIONS

The Department Advocate's Office of the New York City Police Department is responsible for the prosecution of cases when Department trials are warranted. These trials occur when Charges and Specifications have been preferred against a member of the service, either uniform or civilian. As a result of an internal investigation, "Charges and Specs" may be preferred against members of the service. The Advocate functions as the "in-house" District Attorney when allegations are tried at a Department - rather than criminal - proceeding.

The agencies listed below frequently conduct investigations jointly with our Department and may conduct their own exclusive investigation if they see fit to do so. The decision to prosecute criminally rests exclusively with the District Attorney, U.S. Attorney, etc.

***District Attorney's Office*** - The District Attorney is a State agency responsible to prosecute criminal charges in New York State Courts. District Attorney Offices also initiate criminal investigations including those regarding members of the service. This office receives referrals regarding corruption from the Internal Affairs Bureau and jointly aids in criminal investigations regarding civilian and uniform members of the service.

***United States Attorney*** - The U.S. Attorney will investigate and prosecute criminal charges in Federal Courts. They have the authority to investigate and prosecute police corruption and will be utilized by this Department in future internal investigations.



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**Federal Law Enforcement Agencies** - Federal agencies such as the Federal Bureau of Investigation (FBI) and the Drug Enforcement Agency (DEA) may initiate investigations regarding criminal activity of members of this Department if they fall under their investigative scope. Charges resulting from these investigations will, in most incidents, be prosecuted in Federal Court.

Members of the service being interviewed by any of the entities identified above, or in any Department interview conducted pursuant to Patrol Guide procedure 206-13, "Interrogation of Members of the Service," and who make false statements will be dismissed from the New York City Police Department, absent exceptional circumstances. Examples of false statements include, but are not limited to, lying under oath during a civil, administrative or criminal proceeding as well as during an official Department interview. Exceptional circumstances will be determined by the Police Commissioner on a case by case basis.

### ENFORCING THE LAW – PRESERVING THE CIVIC TRUST

The New York State Penal Law provides for the criminal sanctions against public servants that violate their duty.

#### **Bribery and Related Offenses**

**Bribery (felony):** A person is guilty of bribery when he or she confers, or offers or agrees to confer, any benefit upon a public servant upon an agreement or understanding that such public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant will be influenced.

**Bribe Receiving (felony):** A public servant is guilty of bribe receiving when he or she solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that his or her vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced.

**Rewarding Official Misconduct (felony):** A person is guilty of rewarding official misconduct when he or she knowingly confers or offers or agrees to confer, a benefit upon a public servant for having violated his or her duty as a public servant.

**Receiving Reward for Official Misconduct (felony):** A public servant is guilty of receiving reward for official misconduct when he or she solicits, accepts or agrees to accept any benefit from another person for having violated his or her duty as a public servant.



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**Official Misconduct (misdemeanor):** A public servant is guilty of official misconduct when with intent to obtain a benefit or deprive another person of a benefit:

- 1) He or she commits an act relating to his exercise of his official functions, knowing that such act is unauthorized; **or**
- 2) He or she knowingly refrains from performing a duty that is imposed upon him or her by law or is clearly inherent in the nature of his office.

**Giving Unlawful Gratuities (misdemeanor):** A person is guilty of giving unlawful gratuities when he or she knowingly confers, or offers or agrees to confer, any benefit upon a public servant for having engaged in official conduct that he or she was required or authorized to perform and for which he or she was not entitled to any special or additional compensation.

**Receiving Unlawful Gratuities (misdemeanor):** A public servant is guilty of receiving unlawful gratuities when he or she solicits, accepts or agrees to accept any benefit for having engaged in official conduct which he or she was required or authorized to perform and for which he or she was not entitled to any special or additional compensation.

**Note:** Patrol Guide 203-16 ("Guidelines For Acceptance of Gifts and Other Compensation by Members of the Service") states it is the policy of the Department that members of the service may not accept any reward, gratuity, gift or other compensation for any service performed as result of or in conjunction with their duties as public servants.

This policy applies regardless of whether the service was performed while members of the Department are **on or off duty**. Members of the Service also shall not solicit any gift, gratuity, loan, present, fee or reward for personal gain.

### REPORTING CORRUPTION AND/OR SERIOUS MISCONDUCT

**Corruption/Serious Misconduct-** Defined as criminal activity or serious misconduct of any kind including use of excessive force or perjury that is committed by a member of the service whether on or off duty.

**Misconduct** - Minor violations of the Patrol Guide procedures that could result in penalties such as Warning and Admonishment, Command Discipline, Charges and Specifications, Modified Assignment, or Suspension.



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### How Allegations Come To I.A.B.

Allegations or complaints come to I.A.B. in three (3) ways:

1. **In-Person** - People will come directly to I.A.B. at Hudson Street.
2. **Mail** - People may write to I.A.B. direct or they may complain to an outside agency which then forwards that complaint to I.A.B.
3. **Phone** - People will call the I.A.B. Command Center. The Command Center telephone is in service 24 hours a day.

### Allegations Come From:

- The public via mail, phone or in person;
- Members of the Service;
- C.C.R.B. (Those not falling within "FADO" categories);
- Investigations conducted by Internal Affairs Bureau uncovering additional information;
- Written communications addressed to the Police Commissioner or Chief of Internal Affairs;
- Outside agencies.

The intake process starts at the Internal Affairs Bureau Command Center which is the central repository for all misconduct allegations. The Command Center, operating 24 hours a day, seven days a week, receives and records all complaints of corruption and serious misconduct, performs preliminary investigations, and rapidly dispatches internal investigators when warranted. Command Center investigators have access to a wide variety of resources including Department computerized data bases and the Internet to help them gather information.

The Command Center has an internal investigative computer system that provides case management tools, statistical report capabilities, and enhanced tracking capabilities. Designed for ease of use, the new system is capable of linking information from different sources to aid in investigations and alert investigators to trends or patterns of allegations.

The Command Center also has an unrecorded anonymous reporting system (1-800-PRIDE-PD). No caller ID or call back capabilities were established for this number. Members of the service can call in allegations anonymously, for which they will receive a confidential information number. Reporting corruption or serious misconduct to this number meets the obligation of all members of the service to report allegations of



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corruption and serious misconduct. In 2002, over 30,000 logs were recorded by the IAB Command Center.

### METHODS USED TO MONITOR AND INVESTIGATE ALLEGATIONS

After the complaint is logged by the Command Center, the next investigative process is analysis. This function is performed by the Corruption Prevention and Analysis Division. The Division was created to undertake studies and make recommendations to increase incentives for honest police officers to report corruption, and to strengthen measures that deter corruption. The Corruption Prevention and Analysis Division is charged with identifying corruption patterns and trends, recommending improvements in case processing and investigative techniques, and coordinating investigations. In essence, the objective is to find the problems before they become headlines.

What has been accomplished? The Internal Affairs Bureau conducted its investigations with intelligence, direction and focus. Through proactive initiatives combined with investigative strategies, corruption allegations have been reduced over 49% over the last eight years from a high of 2,258 corruption allegations in 1994, to a low of 1,151 allegations in 2002. This reduction is more significant when you realize it was accomplished during a time period where overall Department strength increased by 34.3%.

Information regarding corruption and serious misconduct is categorized and utilized to create command pin maps showing corruption allegations. These maps assist Internal Affairs Bureau commanders in identifying possible corruption patterns in their areas of responsibility. The data sheets supplied with the maps give specific information on the allegations, the overall corruption cases by month and year to date with percentage changes, number of civilian complaints, criminal impersonation arrests, bribery arrests and other information.

Following intake and analysis, the investigative process proceeds into intelligence gathering. Prior to the formation of the Internal Affairs Bureau, internal investigations were reactive. Proactive mechanisms to actively seek out and address corruption were virtually non-existent. To address these shortcomings the Internal Affairs Bureau initiated several intelligence gathering initiatives.

The Intelligence Section of the Internal Affairs Bureau is one of the primary means for obtaining intelligence on corruption and misconduct, and assisting field investigators with their cases. The three components of the Section are:

- ***Voluntary Assistance Unit***, which gathers information from both uniformed and civilian members of the service;



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- **Field Operative Program**, which relies on the cooperation from tenured members of the service; and
- **Liaison Unit**, which fosters a strong relationship between the Internal Affairs Bureau and federal, state and local enforcement.

The third initiative for gathering intelligence and the most significant change in the culture of the Department is the *Philosophy of Inclusion*. The Executive Staff and in most cases, precinct and unit commanders are informed and consulted about ongoing Internal Affairs Bureau investigations in their precincts and are expected to assist in conducting integrity tests and surveillance of subject police officers. Internal Affairs Bureau group commands have established regular liaisons with precinct or unit Integrity Control Officers, providing another source of information and assistance. Commanders and Integrity Control Officers are entrusted to maintain full confidentiality with respect to all information they receive from the Internal Affairs Bureau. The risk of compromising an investigation is far outweighed by the potential benefits of opening up the Department's integrity assurance system.

The last part of the process is the thorough investigation conducted by an Internal Affairs Bureau investigator. These investigators, most of whom are sergeants and lieutenants, are uniformed members of the service who have sought an investigative position within the Department. In 1993, the Internal Affairs Bureau was afforded the opportunity to interview these supervisors for a two-year assignment to the Bureau. At the conclusion of their two-year commitment, these investigators are laterally transferred into a bureau of their choice. Many hundreds of investigators have passed through Internal Affairs since 1993, and a wide anti-corruption network has been created and exists throughout the Department.

### **Function of the Corruption Prevention and Analysis Unit of I.A.B.**

The purpose of the Corruption Prevention and Analysis Unit of I.A.B. is to identify policies, procedure, conditions and aspects of the police department's organizational culture that:

- Facilitate Corruption;
- Inhibit the discovery of corrupt activity;
- Create opportunities for corruption;





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They undertake studies, which cause recommendations to:

- Increase incentives for honest members of the service to report corruption;
- Strengthen measures that deter corruption;
- Limit opportunities for corrupt behavior.

The unit identifies patterns and trends of corruption. It recommends improvements in case processing and investigative techniques. It also maintains a liaison with Internal Affairs Bureaus nationwide to keep current on the latest improvements in methods of preventing, identifying, investigating, and prosecuting police corruption. Reports are prepared annually which assess the nature and extent of corruption in the NYPD and make recommendations concerning problem areas.

### REPORTING CORRUPTION

When a member of the service observes, is made aware of, or upon receiving an allegation of corruption or serious misconduct against a member of the service, the member of the service will:

1. Inform **Commanding Officer** - C.O. will notify I.A.B.

**OR**

2. Telephone **Internal Affairs Bureau, Command Center 212-741-8401** (24 hours) or **1-800-PRIDE PD** (24 hours) or **212-CORRUPT** (24 hours).
  - a. Give preliminary facts.
  - b. Identify self or obtain Confidential Identification Number from Command Center Investigator.
  - c. Furnish details of corruption or misconduct.

**OR**

3. Prepare a detailed written report within 24 hours on either Typed Letterhead or anonymously and forward in sealed envelope.

**Note:** Obtaining a Confidential Identification Number from the Command Center investigator **will satisfy the member's reporting responsibility**, if the information is accurate and complete. Subsequent or ongoing



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reporting is encouraged to insure the information is timely and complete and may be made by referencing the Confidential Identification Number.

A member of the service having or receiving information relative to corruption or serious misconduct, or an allegation of corruption or serious misconduct has the responsibility to report such information to the commanding officer or directly to the Internal Affairs Bureau, Command Center. If reported to the commanding officer, the commanding officer will notify the Internal Affairs Bureau, Command Center. If member's commanding officer is the subject of the allegation, the member concerned will only notify the Internal Affairs Bureau, Command Center, direct.

Failure to report corruption, serious misconduct, or allegations of such acts is, in itself, an offense of serious misconduct and will be charged as such when uncovered during an investigation. Conduct designed to cover up acts of corruption, prevent or discourage its report, or intimidate those who would report it, will be charged as an obstruction of justice or other criminal act with the consent of the prosecutor who has criminal jurisdiction.

A member of the service receiving an allegation of corruption against him/herself will request a supervising officer to respond to the scene. The supervising officer will interview the complainant and confer with the Internal Affairs Bureau, Command Center, BEFORE interviewing the member concerning the allegation.

If the allegation is received at the precinct switchboard, it will immediately be referred to the Desk Officer who will process the allegation. If the allegation is received in writing, attach the original document with a UF-49 addressed to the Commanding Officer, Internal Affairs Bureau.

### Reporting Corruption to the Police Commissioner

**1-800-PRIDE PD** is the Police Commissioner's Corruption Hotline. This phone number may be used to report corruption either anonymously or identified. Corruption also may be reported in writing. The correspondence may either be sent directly to the Police Commissioner or to a special post office box set-up exclusively for this purpose. Written information sent to the Police Commissioner will be addressed as follows:

Raymond W. Kelly, Police Commissioner  
New York City Police Department  
One Police Plaza - Confidential  
New York, NY 10038



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As you can plainly see, there are numerous ways in which corruption and/or serious misconduct can be reported to the Internal Affairs Bureau. Furthermore, the reporting of these allegations may be made anonymously.

### Effects of Peer Pressure on Reporting Corruption

The issue of conforming or “fitting-in” to a group’s philosophy has a bearing at times on whether certain members of the service will come forth and expose a corrupt co-worker. As humans, we are all self-conscious about belonging to the close-knit community that exists among members of this Department. As professionals, we should not adopt this mentality, because when you allow corrupt members of the service to continue their rogue activities, this diminishes the integrity and credibility of every hardworking person in this Department. This misplaced sense of loyalty can affect the personal safety of ALL police officers. While engaged in corrupt activities, these officers will rarely be available for back up and they are not reliable.

### The “Whistle Blower” Statute

This statute, present on the Federal, State and Local levels, basically states that no detrimental action may be brought against any employee who exposes corruption, misconduct, gross mismanagement, or abuse of authority in a Municipal, State or Federal Agency.

### “The Blue Wall of Silence”

“The Blue Wall of Silence” is a term used by the media for the reluctance of police officers to expose misconduct or corruption within our ranks. This sort of reluctance is found in most human groups, and is strengthened by the negative terms used to describe people who expose wrongdoing: kids who **tell on** their siblings or friends are **tattle-tales**; students who inform on their cheating classmates are **snitches**; gangsters who provide testimony against others are **rats**. These are terms created by wrongdoers for the purpose of protecting themselves: by using negative terms to describe those who do the right thing, the bad guys seek to make it difficult for the good guys to expose their wrongdoing. Do not fall for this. **The Blue Wall of Silence is intolerable**, and the great majority of honest officers should not be tricked by the few corrupt officers into believing that silence is loyalty.

### Reporting Alcohol Abuse

The New York City Police Department’s philosophy regarding members with alcohol-related problems is one that offers rehabilitative service for those who are in need of help. The rehabilitation service is offered by this Department for the purpose of



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returning the members in need as a functioning, productive member of this Department. Co-workers' referrals take place, to a large extent, because persons referred to this program, in most cases, will not be in jeopardy of losing their job.

### **Department's Policy Re: Unfit for Duty Due to Intoxication**

All members of the service must be fit for duty at all times, except when on sick report, and will not consume intoxicants to the extent that such member becomes unfit for duty. Members are reminded of their absolute responsibility to ***remain fit for duty while in possession of their firearms.***

Any misconduct involving a member's misuse of a firearm while unfit for duty due to excessive consumption of and intoxication from alcohol will result in that member's termination from the Department. Again, exceptional cases will be determined by the Police Commissioner on a case by case basis.

Furthermore, any misconduct involving members who are found to be unfit for duty due to excessive consumption of and intoxication from alcohol, while armed with a firearm, will result in the inclusion of the charge "Unfit For Duty While Armed," in Departmental disciplinary proceedings. In addition to those imposed as a result of all other charges stemming from the misconduct, strict punitive sanctions will be imposed on any member upon whom the charge has been substantiated.

Additionally, a uniformed member of the service who refuses to submit to chemical testing in connection with an alleged violation of section 1192 of the New York State Vehicle and Traffic Law (Driving While Intoxicated) will be charged with "Engaging in Conduct Prejudicial to the Good Order, Efficiency, or Discipline of the Department."

Members of the service are reminded of the Department's commitment to the many counseling and assistance programs available for a wide variety of problems. Members who are experiencing problems related to alcohol, or know of any other member who may be experiencing problems related to alcohol, are strongly encouraged to call the HELPLINE at (718) 271-7777, in order to achieve confidential assistance.

### **Patronizing Unlawful Premises**

Members of the service who have an interest in, association with, or who patronize premises (licenses or unlicensed) that harbor illegal activity such as gambling, prostitution, narcotics, State Liquor Authority violations, will be suspended ***immediately*** by a ranking officer. Such locations include:



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1. **After Hours Clubs:** premises that are not licensed by the State Liquor Authority to sell alcohol and that usually open after 0400 hours for the purpose of illegally selling liquor.
2. **Policy Locations:** premises in which illegal numbers gambling takes place.
3. **Smoke Shops:** premises that sell paraphernalia commonly associated with marijuana use.

### DRUG ABUSE BY MEMBERS OF THE SERVICE

The drug abuse policy regarding members of the service differs greatly from the alcohol abuse policy. ***Once a member of this Department is found to be illegally using narcotics, Department policy dictates he or she must be terminated, with NO exceptions.***

Rehabilitation services are not an alternative in this case because abuse of controlled substances is illegal, and members of the service cannot be allowed to violate the laws they are sworn to protect. For this reason, as in corruption cases, members of the service do not always feel comfortable exposing a co-worker who is illegally using narcotics. It should be realized by all, that members of the service using drugs are not only hazardous to themselves but to their co-workers as well. Experience tells us that drug users will pay or give anything to acquire the drug they are addicted to. This desperation can lead members of the service to the selling of their firearms, shields and confidential information which may compromise the safety of all members who come in contact with these addicted officers.

Illegal drug use by members of the service creates an atmosphere that allows other corrupt **activities** to flourish, as evidenced by the highly publicized Michael Dowd case. To prevent these few corrupt officers from destroying the integrity and pride of this entire Department, it is imperative that drug abuse and corruption be exposed from within our structure and swiftly eliminated. Members are tested randomly and for cause. Less than one-half of one percent test positive. One hundred and thirty members of the service are tested per week. The NYPD also utilizes hair testing for drugs because this procedure is more accurate for detection of long term drug abuse.

#### **Department Drug Testing**

The Department's practice of drug testing its members was initiated for detection of drug use by candidates and probationary officers. These members are tested at three (3) stages: during the pre-hiring screening, at an unannounced visit to the Police Academy, and nearing the end of their 24 months probationary periods. Drug testing was amended to include a random selection process in 1990, with the initial projected



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goal of annually testing, on a random basis, ten percent of all uniformed members. The percentage was increased to twenty percent in 1993. The intention was to detect and deter drug use by uniformed members of the service.

Drug testing for cause is initiated for any member of the service, uniformed or civilian, suspected of illegal drug use, where reasonable suspicion has been established. Drug testing is also required under the Department's Counseling Program.

In February of 1996, the use of hair testing for illegal drugs/controlled substances was implemented for End of Probation Drug Testing. Hair testing, in addition to urine (Dole Testing), has been included in Drug Testing for Cause since May 1995. Hair testing provides a window of detection of approximately 90 days, compared with the relatively shorter period with urinalysis, and thereby provides a more effective method of detection.

### **Drug Testing is Conducted as Follows:**

**Uniformed Rank & File:** Randomly selected uniformed members of the service ranging in ranks from Police Officer to Chief. Included are probationary officers and members on restricted, limited, or modified duty status.

**End of Probation:** All uniformed members completing their probationary period of twenty-four months are required to submit to drug testing.

**O.C.C.B, Special Operations, I.A.B., and Detective Bureau:** Members entering these units are required to be tested. This is not a random process. After initial tests members from Special Ops & Detective Bureau go into Department-wide pool for random drug testing. Members from O.C.C.B. and I.A.B. are placed into a separate pool.

**Promotional:** Newly promoted supervisors, as a condition for promotion, are required to submit to drug testing.

**Counseling:** Testing for members in this category is in accordance with guidelines set down by the Counseling Services Unit, which is part of the Employee Relations Section. Members of the service are required to submit to testing prior to being restored to full-duty status.

The Department's goal is to ensure that uniformed members of the service do not abuse illegal drugs/controlled substances and maintain a high standard of performance in a drug free environment.



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**Note:** Uniformed members of the service assigned to commands within the OCCB and **probationary police officers** will be subject to separate random drug screening procedures.

### When A Uniformed Members Of The Service Is Selected For Testing:

1. He or she **MUST** report to Medical Division when notified, **except** if the member is on:
  - Sick Report;
  - Regularly scheduled RDO;
  - Military leave;
  - Annual vacation;
  - Terminal leave;
  - Bereavement leave.
2. He or she **MUST** submit to drug screening. Refusal to submit to test will result in **suspension** and will be grounds for **dismissal** from the Department.

Notifications to members selected for random testing are initiated by the Drug Screening Unit to the member's respective command, informing them of the date, time, and place to appear. A member's social security number is randomly selected by computer. The social security number is then returned to the pool of eligible officers.

***Subsequent to a notification for random drug testing, the member concerned MUST appear for testing. Reporting sick, requesting emergency day off (E-day), court appearances, arrests, etc., WILL NOT excuse the member.*** All members are to appear for testing upon turnout from roll call, or will be given a post change within their scheduled tour of duty. The repercussions of positive results include the following:

- Loss of income due to suspension from duty;
- Dismissal from the police department;
- Elimination of retirement income due to loss of pension benefits;
- Diminished feasibility of future employment due to reasons for dismissal;
- Low self-esteem, and embarrassment, experienced as a result of the stigma attached to being dismissed for drug use;
- Disruption of family and home.

Members of the service also have been terminated for attempting to substitute urine specimens from various types of containers secreted on their bodies. Any member of the service who refuses testing or attempts to substitute or adulterate a specimen will be suspended and terminated.



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Technology in forensic toxicology has increased over the last decade to include hair testing rather than body fluids for the detection of illegal drugs. The Police Department continues to expand its use of the latest available methods to enhance the procedures already in place in drug abuse detection. Scientific reliability of hair testing has been established in both the medical and legal communities. Hair analysis cannot be evaded as in urinalysis where drug users can substitute clean specimens or merely abstain from drug use for a few days and pass the Dole test. Drug residues remain permanently embedded in the hair; they cannot be washed or bleached out.

The effectiveness of both hair and urine as testing mediums can be realized in the following chart. Especially significant is the increase of positive results when testing police officer candidates and probationary police officers using hair. The Department will expand its use of hair testing incrementally to improve detection and deterrence.

Questions may arise concerning random drug testing vs. Constitutional rights. As far as the Police Department is concerned, along with other agencies that deal with the public, it has been deemed that the public safety is **paramount**. Drug use by police officers is an important issue for every police department throughout the country. The problem is receiving attention because of the potential threat to the integrity of law enforcement and the safety of the community it serves. A discussion of the following federal statutes will help clarify the use of chemical tests.

In 1989, two U.S. Supreme Court decisions upheld drug-testing programs that were set up by the railroads and the U.S. Customs Service. These programs allow employers to test employees for drugs without any belief that the employees in question have used drugs. Contrary to a long line of legal precedents, these programs were found to be constitutional on two grounds: first, society which must be addressed and second, that the mandatory testing programs were only minimal intrusions on an employee's privacy.

The two cases were *Skinner v. Railroad Labor Executive Association*, March 21, 1989, No. 87-1555, 130LRRM2857, and *National Treasury Employees Union v. Von Raab*, 109 s. Ct. 1384 (1989).

In a recent decision, *Penny v. Kennedy* (6th Circuit, October 4, 1990), the Federal Court expanded the employer's ability to conduct mandatory random drug tests of police officers and fire fighters. Although recognizing that mandatory urinalysis testing infringes on an employee's privacy rights and is a Fourth Amendment search, the Court found that a city's interest in ensuring drug-free performance by fire fighters and police officers outweighs those employees' expectations of privacy.

It is important to note that these random and mandatory drug-testing programs cannot be implemented without providing clear regulations that limit discretion of the supervisor requesting the test. The city must specifically define its drug-testing





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programs so that employees will know what procedures the city follows in administering the testing program. In adopting drug-testing programs, however, public employers must comply with their own administrative rules regarding new programs or policies. (Interim Order #88 of 1995.)

The U.S. Supreme Court decided on December 16th, 1991 to leave intact the Mandatory Drug Test Rules governing Federal Employees. Without comment and with no dissents, the Court chose to bypass a Federal Appeals Court ruling which indicates that all levels of government may demand a drug test from every job applicant (see P.G. 205-29, 205-31, 205-32).

A random drug test will not be used for **cause**. If there is reasonable suspicion to believe that a member of the service is using illegal drugs, the member of the service will be ordered to take the urinalysis. If the member of the service refuses it will result in automatic suspension. Charges and specifications will be prepared and inevitably, the member of the service will be terminated.

UNIFORMED MEMBERS OF THE SERVICE ARRESTED, SUSPENDED OR PLACED ON MODIFIED ASSIGNMENT			
	ARRESTED	SUSPENDED	MODIFIED
1998	127	214	300
1999	127	196	281
2000	124	201	272
2001	114	167	252
2002	100	132	188

Source: Internal Affairs Bureau, 10/03

### CORRUPTION / SERIOUS MISCONDUCT CATEGORIES

In order to track corruption trends, **16 CATEGORIES** are utilized. These are general, broad descriptions of the type of activities with which the alleged corruption/serious misconduct is associated or the type of situation in which it is alleged to have occurred.

1. **NARCOTICS:** This category includes complaints alleging the involvement of members in narcotics or dangerous drugs, as well as the protection of persons dealing in drugs.
2. **CRIME:** This category includes allegations of members committing crimes that are not included in the other corruption/serious misconduct categories. Many of the complaints normally classified in this category involve off duty conduct.



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Examples found in this category: Assault, Bribery, Burglary, Criminal Mischief, Grand Larceny - Extortion, Fraud, Forgery, Harassment, Judicial Interference, Menacing, Perjury, Rape, Reckless Endangerment, Robbery, Sex Abuse, to name a few.

3. **STOLEN PROPERTY:** This category is broadly comprised of missing/stolen property complaints. It includes property allegedly missing or extorted from a prisoner during an arrest, property allegedly missing or stolen from a motorist during a car stop, property missing during an aided case, or during the execution of a warrant, personal or department property missing from within any department facility, department auto and/or from any property clerk facility.
4. **ABUSE OF DEPARTMENT REGULATIONS:** Violations of department regulations, Patrol Guide procedures: drinking on duty, cooping, sick leave abuse, overtime abuse, etc.
5. **TRAFFIC:** This category includes complaints of corruption/serious misconduct relating to traffic infractions. Many of the complaints received concern illegally parked vehicles that do not receive summonses, incidents of motorists paying police officers to avoid summonses or other alleged indiscreet conduct concerning a car stop.
6. **GRATUITIES:** This category includes allegations of members receiving free food or merchandise, and it also includes allegations of release on confidential department information, misuse of department computers, misuse of department documents or their release to unauthorized persons and payments made to facilitate issuance of pistol licenses or various types of permits.
7. **STATE LIQUOR AUTHORITY:** This category includes allegations of misconduct occurring in or related to premises serving alcoholic beverages, such as bars, bottle clubs, and after-hour clubs.
8. **GAMBLING:** This category includes complaints related to gambling. Most of the allegations concern protection of a gambling operation or location.
9. **PRIVATE TOW / BODY SHOPS:** This category includes allegations relating to tow trucks, auto body shops and suspected **chop shops**. Most of the complaints concern referrals, allowing unauthorized tow trucks to operate in restricted areas, or protection.
10. **ARRESTS EFFECTED:** This category includes complaints in which an arresting officer or other officer involved in an arrest situation is alleged to have committed a crime and the person arrested was purportedly the victim.



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11. **MISCELLANEOUS:** This category includes allegations that do not fit into any of the other categories because of definition, vagueness or scarcity of information at the time of receipt.
12. **VICE:** This category involves complaints of corruption/serious misconduct associated with prostitution and pornography. The situations most often reported are: protection of pimps or prostitutes, pornography sales, the extortion of money from pimps or prostitutes, the patronizing of prostitutes.
13. **PEDDLING:** This category includes all allegations of corruption/serious misconduct related to peddling. The most common complaint in this category alleges payoffs to police by peddlers.
14. **PENAL LAW VIOLATIONS:** This category includes all allegations of harassment, disorderly conduct, and all other Penal Law violations.
15. **DOMESTIC VIOLENCE:** This category includes all allegations of violations of Orders of Protection, assault, menacing, disorderly conduct and harassment.
16. **PERJURY:** This category includes all allegations of officers committing perjury in Traffic Court, official hearings, Department trials, court proceedings, etc.

### Dispositions of Closed I.A.B. Investigations

Every case that is investigated must be closed with a disposition and they are as follows:

**Substantiated:** Investigation indicates that the accused member of the service has committed all of the alleged act(s) of misconduct.

**Partially Substantiated:** Investigation indicates that the member of the service has committed part of the alleged act(s) of misconduct.

**Exonerated:** Investigation disclosed that the subject(s) were clearly not involved in any misconduct. Incident occurred, but was lawful and proper.

**Unfounded:** Investigation indicates acts complained of did not occur, or were not committed by members of this department.

**Unsubstantiated:** Investigation disclosed insufficient evidence to clearly prove or disprove allegations made.



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**Misconduct Noted:** Investigation determined that act(s) of misconduct, other than those alleged in the complaint were committed by the member of the service. If the complaint is noted by I.A.B. during the course of their investigation and it is only a Patrol Guide violation, this information will be given to the member of the service's Commanding Officer, I.A.B. will not take any action. Of course if the misconduct noted is of a serious nature (i.e., involving criminal activity or other serious misconduct), action will be taken. Such action could result in arrest or the possibility of opening another case against the member of the service or whatever action is deemed necessary.

**Information Only:** Investigation has determined that there is not enough to prove or disprove an allegation, but there is enough to keep the case open.

### Penalties may include:

- Warning and admonishment;
- Command Discipline;
- Charges and Specifications;
- Modified Assignment;
- Suspension;
- Termination.

DISPOSITIONS OF CLOSED CASES INVESTIGATED BY I.A.B. IN 2002		
	CORRUPTION	MISCONDUCT
<b>SUBSTANTIATED</b>	111	29
<b>PARTIALLY SUBSTANTIATED</b>	45	33
<b>EXONERATED</b>	37	7
<b>UNFOUNDED</b>	100	12
<b>UNSUBSTANTIATED</b>	475	80
<b>INFORMATION ONLY</b>	9	9

Source: Internal Affairs Bureau, 10/03

### DOMESTIC VIOLENCE

When a uniformed member of the service responds to an incident of domestic violence involving a member of the service, he/she must ascertain the facts, and then request the response of the Patrol Supervisor. Patrol Guide 208-36 and 208-37 describes procedures for handling domestic violence and family disputes. In certain situations, arrests **MUST** be made.



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If a member of the service is the offender and must be arrested, the responding member of the service **will make the arrest**, and comply with Patrol Guide 206-11, "Member of the Service Arrested (Uniformed or Civilian)."

In September 1996, Title 18, United States Code, Section 922 (g) took effect, making it illegal for anyone **convicted** of domestic violence to possess any firearm or ammunition.

This includes, an offense that:

1. is a misdemeanor under federal or state law, AND
2. has as an element the use or attempted use of physical force or the threatened use of a deadly weapon, committed by:
  - a. A current or former spouse, parent or guardian of the victim.
  - b. A person with whom the victim shares a child in common.
  - c. A person who is residing with or has resided with the victim as a spouse, parent or guardian.
  - d. A person similarly situated to a spouse, parent or guardian of the victim.

As a result of a Court of Appeals case (*People v. Elliot*), if a member of the service is on suspension and is found to be in possession of a handgun during that time he or she will be charged with criminal possession of a weapon in the third degree (P.L. 265.02 sub. 04). There is **NO** exemption for law enforcement officers. Thus, law enforcement officers and other government officials convicted of a qualifying misdemeanor will not be able to lawfully possess or receive firearms or ammunition for any purpose, including performing their official duties.

<b>DOMESTIC VIOLENCE COMMITTED BY UNIFORMED MEMBERS OF THE SERVICE - 2002</b>	
<b>ARRESTED</b>	36
<b>SUSPENSIONS</b>	12
<b>MODIFIED</b>	89

Source: Internal Affairs Bureau, 10/03

**Note:** It is the duty of a member of the service to report when he or she is either served with an Order of Protection or involved in a domestic incident. If off-duty, he or she should remain at the scene.



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Whenever a member of the service is arrested, he or she must immediately identify himself or herself as a member of the New York City Police Department.

**1. *If arrested within New York City:***

The arrested member of the service must advise the Desk Officer, precinct of arrest, of details if arrest was effected by law enforcement agency other than New York City Police Department.

**2. *If arrested outside New York City:***

The arrested member must immediately notify Operations Unit with details of the arrest, and notify his/her Commanding Officer.

### SICK LEAVE

As uniformed members of the service, we enjoy the privileges of a liberal sick leave program. Regardless of the nature of an illness or injury (with exception of certain off-duty employment injuries), we are fully compensated for each day we are unable to work.

This benefit is the result of contract negotiations and, as such, could be rescinded and/or subject to severe modifications should this program be abused by:

1. working another job while out on sick leave (fraud);
2. staying out longer than necessary or faking an illness to extend time off (malingering).

Members on sick report suspected of Sick Leave Abuse will be monitored. Allegations of Sick Leave Abuse may result in intensive investigations by the Absence Control Unit of the Health Services Division, and Borough/Bureau Inspection Unit. Should evidence corroborate these allegations, the member of the service concerned may be suspended, and possibly terminated.

### FINANCIAL RESTRICTIONS

1. No Department employee may have a position in a firm that the employee knows, or should know, is engaged in business dealings with the Department.
2. No Department employee may have a position in a firm that the employee knows, (or should know) is engaged in business dealings with the City unless such position is in a firm whose shares are publicly traded.



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**Note:** For purposes of steps 1 and 2 above, a position with a firm includes, but is not limited to an officer, director, manager, employee, trustee, attorney, agent, broker, or consultant to the firm. The definition of **firm** includes an individual seeking business on his/her own behalf, and as a sole proprietor.

3. In addition to the prohibitions outlined above, a Department employee may not have an ownership interest in a firm that is engaged in business dealings with the department or have an ownership interest in a firm whose shares are not publicly traded, that is engaged in business dealings with the City.
4. If a department employee has an ownership interest prohibited in step 3 above, the employee must, within ten (10) days of learning that such ownership interest is prohibited:
  - a. Terminate such ownership in the firm, **or**
  - b. Disclose the prohibited **ownership interest** to the Conflicts of Interest Board.

**Note:** For purposes of steps 3 and 4 above, an **ownership interest** means an interest held by a department employee, the employee's spouse or unemancipated child, which is greater than five (5) percent of the firm or an investment equivalent to \$32,000.00.

If a Department employee has an interest in a firm, whose shares are publicly traded, that has business dealings with the City (which would be permitted), but is not sure whether that firm has business dealings with the Department (which would not be permitted), the employee may make written request to the Police Commissioner, through channels, for a determination on whether that firm does business with the Department.

Any department employee who believes that he or she may be affected by these provisions should immediately contact the Conflicts of Interest Board at (212) 442-1400 for further instructions. An employee may have an interest otherwise prohibited above if written approval is obtained from the Police Commissioner and the Conflicts of Interest Board approves.

### PROHIBITED CONDUCT



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1. Consuming intoxicants while in uniform whether on or off duty.
2. Bringing or permitting an intoxicant to be brought into a Department building, facility, booth, boat, or vehicle, except in performance of police duty.
3. Entering premises serving intoxicants, except for meal or performance of duty.
4. Carrying a package, umbrella, cane, etc., while in uniform, except in performance of duty.
5. Recommending use of particular business, professional or commercial service to anyone except when transacting personal affairs.
6. Steering business, professional or commercial persons to a prospective client requiring such services except when transacting personal affairs.
7. Consenting to payment by anyone to regain lost or stolen property or advising such payment, except towing fees as provided by law for recovered stolen vehicles.
8. Riding in any vehicle, other than a Department vehicle to which assigned while in uniform, except when authorized or in an emergency (sergeants and police officers only).
9. Using Department logo unless authorized by Police Commissioner.
10. Wearing **any** item of apparel which contains a Department logo or shield, or in any way identifies its wearer with the New York City Police Department.
11. Engaging in card games or other games of chance in a Department facility.
12. Engaging in illegal gambling anywhere except in the performance of duty.
13. Having any person make a request for recommendation that affects the duties of any member of the service, except as provided by Department procedures.
14. Engaging in conduct defined as discriminatory in PG 205-36,





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"Employment Discrimination," "SCOPE" statement.

15. Using Department letterhead, personnel, equipment, resources, or supplies for any non-Department purpose or non-city purpose.
16. Wearing or carrying an unauthorized beeper/pager and/or cellular telephone while on duty.

### ACCEPTANCE OF GIFTS AND OTHER COMPENSATION BY MEMBERS OF THE SERVICE

It is the policy of the Department that members of the service may not accept any reward, gratuity, gift or other compensation for any service performed as a result of or in conjunction with their duties as public servants. All exceptions must be in accordance with Chapter 68 of the New York City Charter and the Police Department Board of Ethics rulings. This policy applies regardless of whether the service was performed while such members of the Department were on or off duty. Members of the service also shall not solicit any gift, gratuity, loan, present, fee, or reward for personal gain.

Members of the service may be offered gifts, awards, and other things of value by private citizens, institutions, etc., in appreciation for their police service. It is not unethical or illegal for a member of the service to accept gifts that are commonly offered as tokens of appreciation, i.e., plaques, pen and pencil sets, etc. However, cash rewards and personal gifts, such as wristwatches, etc., are strictly forbidden.

Whenever a member of the service is offered a gift or becomes aware that a gift will be offered in appreciation for police service, such member will comply with Department regulations relating to financial restrictions and prohibited acts/prohibited interests and will notify their commanding officer, **PRIOR** to acceptance of the gift.

### CASE STUDIES OF ALLEGATIONS OF SERIOUS MISCONDUCT/CORRUPTION

This section of this chapter discusses the following cases, drawn from the Department's files:

1. Misuse of Department computer;
2. Allegation of money taken from a prisoner and not returned;
3. Dispute between two police officers;
4. Dole Test – Random;
5. Dole Test – Targeted;
6. Police Officers visiting a drug location;
7. Police Officer allegedly kidnapped a child;



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8. Off-duty Police Officer arrested for DWI;
9. Police Officer allegedly took \$10.00 from complainant's vehicle;
10. Police officer arrested for leaving the scene of a vehicular accident;
11. Police Officers engaging in auto insurance frauds;
12. Police Officer arrested for forcibly sodomizing a female;
13. Housing Bureau Police Officer arrested for ripping off drug dealers;
14. Police Officer deals pharmaceutical drugs; is arrested, and commits suicide.

### **Case #1 MISUSE OF DEPARTMENT COMPUTER**

**Allegation:** The NY State Police reported to this Department that the identity of an undercover trooper of the State Police was accessed through a DMV check on a mobile computer terminal assigned to a precinct in Brooklyn.

**Investigation:** Subsequently, the undercover trooper received several death threats. Investigation disclosed that the computer password of a member of the service was used to gain access to a Department computer. Further inquiry disclosed that the partner of the officer, whose password was used, was a relative of a second trooper who had been arrested as a result of an investigation participated in by the undercover trooper. The officers in question were interviewed and the partner of the officer whose password was used acknowledged checking the identity of the undercover trooper. She denied any knowledge of the investigation conducted by the trooper or of the identity of the trooper who had been the subject of an investigation and explained that she has conducted the computer search in an effort to locate the father of her young son. There was no connection between the threats to the undercover trooper and the computer search conducted by the member of this Department and she took full responsibility for her conduct and acknowledged that it was not proper.

**Result:** A Supervisor's Complaint report was prepared for the officer and the investigation was closed as substantiated.

### **Case #2 ALLEGATION OF MONEY TAKEN FROM A PRISONER AND NOT RETURNED**

**Allegation:** A prisoner that was arrested for Grand Larceny of an Auto alleged that money was taken and that he was beaten when arrested. The prisoner



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stated that he was arrested for GLA and was thrown to the ground, kicked and dragged. He tried to run and was caught and again beaten. He claimed that he was waiting to meet someone when he was arrested for GLA and at the station house he was again beaten and \$280 in cash was taken from him.

**Investigation:** The investigation conducted into the prisoner's allegation disclosed no evidence of any physical force used on him, in that there were no injuries of any kind. Attempts to locate the person he claimed to be waiting for disclosed a telephone number that did not exist. There was no record of the person living at the address given. Department records disclosed that the prisoner had no funds on him at the time of the arrest and no medical record of treatment of injuries. The officer in question was interviewed and stated that he had arrested the complainant on two (2) separate occasions for GLA, and denied striking the prisoner or taking any money from him.

**Result:** No evidence was discovered to support the prisoner's allegations and the case was closed as unsubstantiated.

### **Case #3 DISPUTE BETWEEN TWO (2) POLICE OFFICERS**

**Allegation:** Police Officer "female" reported that Police Officer "male" slapped her and attempted to sexually assault her.

**Investigation:** Police Officer "female" stated that she was at Police Officer "male's" residence to drop off a child they had in common and to pick up a child support payment. Police Officer "male" attempted to reconcile their relationship and he was rebuffed. He slapped her and attempted to remove her pants. Police Officer "female's" mother, who had waited outside, overheard the commotion and called the local police. The police responded and filed a report of a Domestic Disturbance. No evidence of injury was observed on Police Officer "female". Police Officer "male" stated that in fact Police Officer "female" had slapped him during an argument over child support payments. The mother stated that she had remained outside during the incident and could add nothing to the report.

**Result:** As a result of the investigation, the allegation that Police Officer "female" had been assaulted was found to be unsubstantiated. However, both officers were placed on modified assignment and referred to psychological services for counseling.



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### Case #4 DOLE TEST - Random

During the course of a random dole test, the result of the test analysis for an officer was positive for marijuana and as a result, the officer was suspended. Department charges were preferred against the officer and the case was closed as substantiated.

### Case #5 DOLE TEST - Targeted

**Allegations:** Information was received from the Nassau County Police Department indicating that while debriefing two (2) prisoners arrested for criminal sale of a controlled substance - cocaine, they sold cocaine to a New York City Police Officer who was in uniform at the time.

**Investigation:** The prisoners identified the precinct the officer worked in and said that his name was Fred. A photo array of likely suspects was prepared and each informant identified the same officer as being one they sold cocaine to. An intensive investigation into the activities of the officer in question was initiated and upon establishing reasonable suspicion that the officer was using drugs, he was ordered to submit to a Dole Test. He was placed on modified assignment while awaiting the results of the test.

**Result:** The results indicated positive for the presence of cocaine and the officer was placed on suspension. Departmental charges were preferred against the officer and the investigation was closed as substantiated.

### Case # 6 POLICE OFFICERS VISITING A DRUG LOCATION

**Allegation:** An anonymous caller reported that drugs were being sold from a hardware store located in a Bronx precinct and that police officers were involved.

**Investigation:** A series of observations of the location disclosed that the store was actually selling alcohol without a license. No evidence of drug dealing was observed and no police officers were found to be visiting or involved at the location in any way. Bronx Public Morals raided the location and arrested operators for gambling violations and for the sale of unlicensed alcohol. Both operators of the location were debriefed by investigators from I.A.B.

**Results:** No evidence of police corruption or involvement was found. The investigation was closed for *information only*.



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### **Case #7 POLICE OFFICER ALLEGEDLY KIDNAPPED A CHILD**

**Allegation:** A citizen called the I.A.B. Command Center and stated that P.O. Smith kidnapped a child.

**Investigation:** Captain Adams, Patrol Bureau, responded and reported that Police Officer Smith was suspended from duty due to over-indulgence of alcohol. Investigation disclosed that P.O. Smith physically grabbed a 9-year-old child during a dispute. Upon response by the Duty Captain, it was determined that P.O. Smith was intoxicated and was suspended. There was no evidence to support the allegation that he had kidnapped anyone.

**Result:** The investigation was closed as *unfounded* (kidnapping) and other misconduct noted charges preferred for being unfit for duty due to intoxication.

### **Case #8 OFF-DUTY POLICE OFFICER ARRESTED FOR D.W.I.**

**Allegation:** New York State Police reported the arrest of off-duty Police Officer Jones, for driving while intoxicated.

**Investigation:** Investigation Units from this Department responded to the State Police barracks and conducted an investigation of the incident surrounding Jones' arrest. They learned that he had been involved in an accident and that an investigation by State Troopers determined that he was driving at an excessive speed and appeared to be under the influence of alcohol when they first observed him. Jones refused to submit to a Breathalyzer test. He was represented by the PBA and declined to be interviewed.

**Result:** Representatives of this Department took possession of P.O. Jones' firearms, shield, and identification, and suspended him from duty. Department charges were preferred against P.O. Jones. This investigation was closed.

### **Case #9 POLICE OFFICER ALLEGEDLY REMOVED \$10.00 FROM A COMPLAINANT'S VEHICLE**

**Allegation:** Mr. Jones reported that while making a delivery with his truck, he was issued a summons by P.O. Green. He alleged that P.O. Green took a ten-dollar bill, which he had in his wallet.

**Investigation:** Included the interview of other police officers at the scene and a passenger in the complainant's vehicle who refuted the allegation.



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Department records verified that a summons was actually issued to Mr. Jones by P.O. Green. This investigation was closed as unfounded.

### **Case #10 POLICE OFFICER ARRESTED FOR LEAVING THE SCENE OF A VEHICULAR ACCIDENT**

**Allegation:** Information received from a Detective Squad indicated that a vehicle involved in an accident, which resulted in the injury of a pedestrian, was believed to have been driven by an off-duty police officer.

**Investigation:** The pedestrian who was struck was interviewed and said that the driver of the vehicle that struck her was a heavy black man. A witness to the accident obtained the plate number of the vehicle. A computer record check disclosed that the vehicle was owned by a member of the NYC Police Department and that the owner reported his license plate stolen the day after the accident. A warrant was obtained authorizing the search and seizure of the officer's vehicle, and it was seized and vouchered as evidence. The vehicle fit the description given by the victim and witness of the occurrence. A lineup was conducted and the officer was identified by both the victim and the witness.

**Result:** He was placed under arrest and suspended from duty. The investigation was closed as substantiated. The officer eventually pled to the criminal charges and was dismissed from the Department.

### **Case #11 POLICE OFFICERS ENGAGING IN AUTO INSURANCE FRAUDS**

**Allegation:** Information was received from a confidential informant indicating that several police officers in Brooklyn were planning an auto insurance fraud by purchasing a late model Corvette wreck, and with the assistance of a collision repair shop, planned to fraudulently register, insure, and later report the vehicle stolen. This would enable them to collect the value of the Corvette from the insurance company.

**Investigation:** Internal Affairs initiated an investigation and with the assistance of the informant were able to identify the officers involved. A surveillance of the collision repair shop began and within a short time, one of the three (3) officers involved was seen supervising the delivery of the wrecked Corvette. A few days later, the wrecked auto parts from the Corvette were observed being loaded into a sanitation truck. The dumped parts were later covertly recovered from the sanitation pier just prior to them being loaded onto a barge for disposal at sea. The Corvette parts were



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safeguarded and vouchered as evidence. Approximately a week later, a computer check disclosed that the now non-existent Corvette had been registered, insured, and reported stolen. Investigation determined that a claim had been filed with GEICO Insurance Company. In addition, it was determined that the Police Officer who filed the fraudulent claim was also in possession of two (2) stolen vehicles which were used for personal transportation. The investigation utilized the services of the Auto Crime Unit to examine the stolen vehicles to determine what the VIN numbers were.

**Result:** The investigation resulted in the indictment and subsequent criminal convictions of two (2) police officers and the civilian collision shop owner. In addition, two (2) police officers that aided in the commission of the frauds were prosecuted in the Department Trial Room and were dismissed from the Police Department.

### **Case #12 POLICE OFFICER ARRESTED FOR FORCIBLY SODOMIZING A FEMALE**

**Allegation:** Ms. Jane Doe reported that while riding from Manhattan to Staten Island in her vehicle on the Staten Island Ferry, she was accosted by a police officer in uniform who took her into custody for a purported traffic violation. He directed her to a room reserved for police officers, located inside the terminal. At the point, he ordered her to sit down on a couch and he locked the door. No one else was present. He began to fondle her breasts and then forcibly sodomized her. He then took some money from her and making sure no one was outside, he permitted her to leave. Ms. Doe subsequently reported the incident to her local precinct.

**Investigation:** Internal Affairs was notified and conducted an in-depth investigation. It was learned that on another occasion, the officer had tried to force a female into his private vehicle at gunpoint, but she ran away. Department roll calls disclosed which officer was assigned to the ferry at the time Ms. Doe was accosted. Based upon the two women's physical description, the officer believed to have been involved in both incidents was identified. The officer was placed in a lineup and was identified by both complainants. In addition, a canvass of the ferry employees identified a crewman whom recalled seeing the officer in Ms. Doe's vehicle as they drove from the ferry.

**Result:** The police officer was arrested, suspended from duty and subsequently dismissed from the Department. He was indicted by a Grand Jury in



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Staten Island and was convicted after trial. He was sentenced to incarceration in a New York State correctional facility.

### **Case #13 HOUSING POLICE OFFICERS ARRESTED FOR RIPPING OFF DRUG DEALERS**

**Allegation:** The information, which included the identity of the Housing officers, was disclosed by a drug dealer who had been arrested and incarcerated. He offered the information in an effort to gain his release from jail. In addition, members of the drug dealer's family offered their cooperation in an effort to help their brother. As a result of the drug dealer and his family's cooperation, two Housing police officers were told that a drug courier would be delivering several kilos of cocaine to a location in Queens. The Housing police officers were told when and where the courier, who was actually a female undercover Detective from Internal Affairs, would be going to deliver the package of cocaine. The two Housing officers appeared at the designated location and attempted to rob the courier of the package of cocaine.

**Results:** They were apprehended at the scene and placed under arrested. Both eventually pled and were sentenced to prison. The case was closed as substantiated. It is important to note that this investigation owed its success to the joint efforts of the Housing Police, I.A.B., N.Y.P.D. Narcotics Unit, and Internal Affairs.

### **Case #14 POLICE OFFICER DEALS PHARMACEUTICAL DRUGS; IS ARRESTED, AND COMMITS SUICIDE**

**Allegation and Investigation:**

Police Officer Able assigned to the Street Crime Unit, met Police Officer Baker and socially on several occasions. During a casual conversation, Police Officer Baker learned that Police Officer Able's spouse was a pharmacist and owned a drug store. Baker subsequently approached Able and asked him to arrange for the purchase of a large amount of Quaaludes, a controlled substance. Able refused Baker's request. Baker approached Able again and was very forceful in his request to purchase the Quaaludes. He even suggested that they could fake a burglary to cover-up the loss of the drugs from the pharmacy and that Able did not have to tell his spouse at all. Able reported the misconduct to his





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Sergeant and they both went to their Commanding Officer and apprised him of the approach by Baker. They were immediately referred to Internal Affairs and Able agreed to work as an undercover in the case against Baker. Able contacted Baker and agreed to provide him with 2,000 Quaaludes and other kinds of federally controlled pharmaceutical drugs. A meeting was set near LaGuardia Airport between Able and Baker to exchange the drugs for a payment of \$2,600.00. The meeting took place as planned and the exchange was made. Baker left the area in his vehicle at high speed and a chase ensued. He was forced to stop some distance away and when confronted, refused to surrender.

Result: He drew his revolver and confronted the investigators that surrounded him. All efforts to convince Baker to surrender were unsuccessful. Baker used his revolver to take his own life.

The preceding material, taken from actual cases, was presented to you to dispel any notions that police officers are immune to the problems that other members of society face. It shows how lives can be affected and even destroyed when some permit themselves to surrender to the multitude of temptations that will arise in a police officer's career. The most effective shield police officers have against succumbing to those temptations is their **UNCOMPROMISED INTEGRITY!!!**

### CONCLUSION

By reviewing the past history of corruption trends, we clearly see a need for an internal investigative body. As professionals, we need to show the public that they can trust us. The Department's many Integrity Programs and monitoring systems (i.e. I.C.O., Patrol Supervisor, Reporting Corruption, etc.) will show the public our commitment to keeping their trust. It is through our partnership with the community that we are able to wear the title of **New York's Finest**.

Although numerous integrity-monitoring systems are in place throughout this Department, it is the responsibility of all members of the service to protect the pride that police officers have acquired through time. Although numerous outside agencies have the authority to investigate and/or prosecute corruption, it is important that it is exposed from within our ranks in order to maintain the high levels of integrity the vast majority of police officers take pride in.

We must continue to struggle successfully against the elements in our society that attempt to downgrade our efforts at achieving a completely honest and effective Department. During the course of this discussion, we have demonstrated how careers and lives can be destroyed by conduct that could have been avoided through a mature and active awareness of respect; respect for ourselves, co-workers and the community.



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The Mollen Commission acknowledged in its report that "Corruption is inevitable..." However, the report also noted that "tolerance for corruption is not...nor can it ever be acceptable."

Even with new safeguards in place to assure another Michael Dowd will never again go undetected, ***it still remains the absolute responsibility of EVERY member of the Department to preserve the high level of integrity the public expects from its police.***

The silence of honest officers allows corruption to flourish. Although high morale is vital to the success of law enforcement, it cannot come at the expense of the public's trust and an officer's safety. The Internal Affairs Bureau plays a vital role in insuring that both concerns are properly protected.

Our society, with its present social ills, places constant temptations on the integrity of Police Officers. Narcotic use, rampant in today's society, will not be tolerated by members of this Department. Members of the Department using illegal drugs must be identified and removed from this Department because of the corruption virus it breeds.

For the Department to succeed in maintaining public trust, every hardworking honest member must give their best effort in identifying these "bad cops" who tarnish our positive, hard earned image.

Corruption, drug use and criminal activity must be exposed from within our ranks in order that all police officers maintain the public's trust and be successful in diminishing crime through a partnership with the community we serve.



# POLICE STUDENT'S GUIDE

## Stress Management for Police Officers

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT STRESS AND STRESS MANAGEMENT?

All human beings encounter stress on a daily basis. Sitting in traffic, having a new baby, moving, changing jobs: all are stressful situations that we face during our lives. Stress is a normal reaction to daily existence. Some of us handle stress with a positive outlook, while others have more difficulty dealing with stressful situations. Each of us should recognize the conditions in our lives that are particularly stressful. We must be aware that constant stress can have unproductive and, possibly, even destructive results.

Because of the nature of their work, police officers usually are under a great amount of stress and should be able to recognize the conditions that can lead to unhealthy stress management, alcoholism or worst, suicide. As a police officer, you will often deal with people at their worst. Some will have problems that cannot be solved. In this section, we will try to help you to anticipate and deal with these stressors and to be aware of associated behaviors that can lead to problems.

### WHAT IS STRESS?

One only has to turn on the television to be exposed to the numerous programs depicting the life of a police officer. From the fictional drama of **NYPD Blue** and **Third Watch** to the real, but very unrepresentative, video tapes shown on **COPS**, the audience looks into what appears to be a world that is exciting, dangerous and challenging. The police represent that which is right and just in our society and are engaged in the quest of defeating the wrongs.

When you accepted this job, you began a process designed to make you adapt and conform to life in a semi-military organization. This para-military approach used at the Academy to discipline and teach is unfamiliar territory for the majority of recruits. Aside from its academic and physical demands, part of your training is meant to help you become acclimated to what is expected of you on patrol. You now have the responsibility of adjusting and adhering to *the job's* seemingly endless rules and regulations. These may seem petty and unfair at times, but there are valid reasons for them all. During your stay at the Academy and throughout your career, you will be repeatedly challenged. And as you'll learn, stress comes along with any of life's challenges.



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As a new recruit, you may have heard that police work is a stressful occupation which can have a negative impact on your personal life. You were chosen to become a New York City police officer because we believe that you have the ability to adapt to the demands this job will place on you. At this early stage of your career, it is critical that you lay a proper foundation on which to build throughout your career. This must include the careful and thoughtful development of a strong support system which includes family and friends, both on and off the job. It is this support system that will be there for you should stress, of any kind, become an issue.

### OVERVIEW OF STRESS THEORY

- **Stress is the non-specific response of the body to any demand.**
- **Stress is the arousal of the mind and body in response to demands made upon them.**
- **Stress is the mental and physical responses of our bodies to any type of change.**
- **Stress is the psychological reaction to excessive stimulation in comparison with an individual's resources for coping.**

#### **STRESS – IN PLAIN ENGLISH:**

Stress is whatever response your mind and body have to the demands, changes, or challenges you experience.

Some of you probably have the idea that stress is a bad thing. This is not the case. Stress is whatever response your mind and body has to the demand, changes, or challenges you experience during the course of your life. As such, stress is an inevitable and necessary part of our lives which we experience every day. Think about getting to the Academy today in time to stand muster. It may very well be that you left your house on time, encountered no traffic, and found the perfect parking space; or maybe you just caught the train or subway in plenty of time to arrive early to muster. Sounds like a stress free morning? It wasn't.

The demand was placed on you to be somewhere by a certain time. Your mind and body responded to the demand by getting you ready and out of the house on time. This is the kind of stress we experience all day long. But we don't think of it as stress because it is manageable and produces a positive result. Think



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about the amount of electricity needed to run a computer and how a surge of electricity can burn out its hard drive. Experienced at the right levels, stress is a catalyst for productivity. At the wrong levels, at minimum, it can lead to burnout.

When your mind senses changes or demands, it identifies them as **stressors**. Stressors can be tangible, such as a torn Achilles tendon, or indiscernible, such as emotions experienced during an interview for a job promotion. Tangible stressors can be much easier to deal with because you can see, touch, and feel them. Most of the time, these type of stressors have an identifiable beginning and end, making them more tolerable. Even the torn Achilles tendon will get better in time. Other types of stressors are more troublesome, partly because they seem unpredictable and you may feel as if you're powerless to change them.

Picture yourself walking into your precinct while a sergeant who does not particularly like you is adjusting the roll call. As you walk by the desk, the Sergeant looks up and makes a face when he sees you before going back to making the roll call changes. Suddenly you feel uncomfortable and begin to feel a little anxious. At roll call you're told you've been assigned to a good sector, a new RMP and a good partner for the tour. The next day you come in and experience the same reaction from the same sergeant. What should you make of his expression this time? At roll call, you learn that you're on a foot post in the rain. The sergeant later changes your post, assigning you to a bad smelling DOA and tells you to be thankful you're out of the rain. By the end of the tour you're wishing for the torn Achilles tendon.

### Eustress and Distress

Demands or stressors can be placed into two categories: **eustress** and **distress**. **Stress that presents the opportunity for personal growth and satisfaction is known as eustress.** Your experience of completing all the necessary paperwork and complying with the request made of you by Applicant Processing in order to be hired for this class is a prime example of eustress. Other examples would be daily aerobic exercise to enhance health and fitness or the completion of a major project resulting in a Master's degree. **Distress leaves you feeling drained and irritable because it is caused by troubles, such as the ending of a relationship or loss of job.** Because eustress produces positive results, we often do not recognize it as stress at all. On the other hand, because distress has such negative consequences, it has come to be thought of as the only form of stress.



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We respond to stress physiologically (the body) and psychologically (the mind). When it comes to stress, there is no clear division between mind and body. The body and mind work together to try and deal with stress. In order to understand how the mind and body attempt to deal with stress, imagine the following: Someone accidentally knocks into you as you're walking down the street and you begin to fall. Your mind and body register the event simultaneously and you respond by moving in a way that helps you regain your balance or **homeostasis**. Let's say the knock is so hard that you can't recover so easily. In this case you might move your arm to brace your fall, possibly breaking a wrist, or you might fall, flat on your face.

Now imagine a stressor as a major event that throws you for a loop, such as a death in the family or a breakup of an important relationship. Once again, your mind and body attempt to regain their balance but, for a few hours a day, a few days, weeks or months, you find yourself feeling sad and upset, even a little shaky. For a time you feel as though you've hit a concrete wall and fallen flat on your face. With time, your mind and body succeed in helping you regain your equilibrium as you get back on your feet and are ready to run with your friends.

Stress is often not the result of one single event. Instead, it often involves a series of demands or cumulative stressors placed on an individual. Everyone experiences those mornings where anything that can go wrong does go wrong, for instance, knocking over a coffee cup which spills onto your uniform shirt which you now have to change. Finally, you get out of the house only to be stuck in a traffic jam. You get to work too late to find a parking place, which almost makes you late for muster. Three days in a row just like the one described and you will experience the cumulative effects of stressors.

### The Body's Response to Stress

The response to stress in an individual is on two levels, physiological and psychological. On the physiological level, the body follows a three-stage response to stress that is called the **General Adaptation Syndrome (GAS)**. "General" refers to the fact that your body does not distinguish between stressors and may physically react the same way to joy as it might to fear.

- **Stage 1 - "Fight or Flight Response."** The first stage is the alarm phase, also known as the "fight or flight response." When the body senses a threat, such as being physically harmed, the autonomic nervous system (ANS) is triggered. The ANS has two branches, the sympathetic and parasympathetic nervous systems that balance the response of the body to the threat. The sympathetic nervous system energizes the body while the parasympathetic nervous system controls the output of energy.



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- **Stage 2 - Resistance Phase.** The second phase of GAS is the resistance phase. The ANS has gotten the body ready to deal with the perceived threat by adapting body systems. The body continues to resist until the perceived threat is over or it has depleted all of its energy supplies and can no longer fight the threat.
- **Stage 3 - Exhaustion.** If the demands continue over a period of time and the physical and psychological stores of energy are depleted, the body enters the last phase of general adaptation syndrome, exhaustion. It is at this point that an individual is susceptible to serious illness and if not checked, he or she may die.

### The Mind's Response to Stress

- **Level 1 - The Alarm Phase:** Your mind is presented with a situation (stressor) with which it is not familiar, and reacts with surprise and anxiety because of inexperience in resolving anything like it.
- **Level 2 - The Resistance Phase:** We learn to cope with the task effectively.
- **Level 3 - The Exhaustion Phase:** After prolonged exposure to the stressor you've come to no effective solution and you have depleted your internal resources. This leads to a state of emotional fatigue.

### YOUR UNIQUE RESPONSE

It is during the resistance phase that the ability to adapt or cope (regain your balance effectively) often becomes inhibited and the situation now becomes *distressful*. Our lives are made up of a series of experiences. What determines which situations you perceive as stressful is shaped by your assessment of past experiences and the meanings you have assigned to them? This is known as the **theory of cognitive appraisal**.

It may seem that some of us handle some stressors with ease, while others have more difficulty dealing with the same stressor. It is important to realize and *respect* that what is stressful to one person is not necessarily stressful to another. For example, no matter how hard you work out on your own time you can't quite seem to keep up in the gym. As you get dressed in the locker room your body reacts to this stressor by bracing itself, your heart beats rapidly, your upper lip is beaded with sweat, and your stomach becomes upset. Yet the recruit next to you



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is happily changing into gym attire while announcing that this is his favorite part of the day.

Individuals also have different response to stressors that might appear negative to the majority. Some individuals view an involuntary change in their work place as a threat because they have to learn new things and redefine who they are. Others view such an event as a challenge, which will allow them to broaden their knowledge and make them a better person. Those who view stress positively, as an inevitable and an essential aspect of daily life, will be less likely to suffer its unfortunate physical and emotional consequences.

### In Summary:

- Stress is a healthy, normal part of life. It is what helps us meet goals and remain productive.
- There are two types of stress: *eustress*, which helps us meet daily challenges; and *distress*, which brings negative physiological and psychological reactions.
- Your body's need to maintain homeostasis, or balance, is what makes adaptation to stressful situations possible.
- When a life event, or "stressor", takes place that may require you to adapt, you are knocked off balance.
- The way you perceive and interpret a stressor – ***your paradigm*** – will determine how you react to the stressor physiologically, emotionally and behaviorally.

## STRESS IN LAW ENFORCEMENT

From a slightly different perspective, stress can be understood as the psychological reaction to an excessive stimulation in comparison with an individual's resources for coping. Whatever is troublesome, overwhelming, or uncomfortable about a job can simply be labeled the stress (distress vs. eustress) of the job. This notion is in line with the theory of ***cognitive appraisal***, that if you perceive a stressor negatively, you will experience it as distressful.

As a recruit officer you will experience stress at the academy level. You are in the process of learning new material, acquiring new physical skills, and polishing old ones. You came on the job knowing how to drive but we will





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challenge you to drive safer and better. You know how to write but we will require that you articulate concepts on paper, so that they conform to Department standards. All of the stressors you will be exposed to at the Academy are aimed at making you a polished, competent professional.

The responsibility to maintain peace in a community and enforce its laws is in itself a difficult task. Added to the obvious challenges of being a police officer is the behind the scene roadblocks of political influences, power plays and budget constraints. Leading experts in the field have separated the stressors experienced in police work into several different categories. Examples of low stress events are excessive or unplanned overtime and working through the holidays or important family occasions. These stressors are often cumulative in effect. This means that, one at a time, these stressors may not be serious, but that they add up over time. High-level stress events are seen as suspension, dismissal and taking a life in the line of duty.

Somewhere in the middle are such stressors as changes in supervision which officers, including you, are bound to encounter during their careers. Imagine a new sergeant or lieutenant who supervises with a different style than you're used to. The supervisor takes action that you and your colleagues perceive as unnecessary or maybe even unfair. You find yourself in a dilemma. On the one hand, you want to do things they way you've become accustomed to doing it. On the other hand, you don't want to make an enemy of your supervisor by saying something that might offend him or her.

Another stressor in policing involves issues of mobility and advancement, and the perception some officers have regarding the limitations of career opportunities. One of the ways to deal positively with this concern is to plan your career carefully. You can start by asking yourself what kind of shield you think you will be turning in when you retire. Do you want to pursue a promotional or investigative track, or both? Ask yourself what skills you can develop which would be beneficial to you after retirement then set your goals.

Plan a long-term career path while keeping in mind the short-term accomplishments that will lead the way. Remember, the failure to plan a career by setting goals is a mistake many officers make. Working towards something rather than letting the winds of change blow you all over the job will give you a better sense of control and direction. As you pursue these goals, be sure to work to create positive relationships with the people around you. People of all ranks and status are essential for your success.



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Whatever you do in this Department, do not wish your life away by counting the days until retirement. Too many officers fall into this trap, imagining that the end of 20 years in the Department will somehow put them into some ideal life where all will be roses and sunshine: you will meet these guys and gals as soon as you leave us. The problem they have is that, in living for tomorrow, they do not enjoy today, and their careers and opportunities in the biggest, best, most successful, and most highly regarded police department in the country. In this job, as in the rest of life, getting to a goal should be at least half the fun. Enjoy it as much as you can.

Psychological stress in law enforcement, real or perceived, has a rippling effect similar to a flat stone tossed in a pond. Your squad, significant other, family, and friends can all be touched by the distress experienced in this demanding lifestyle. Managing stress at this stage of your career is about identifying what stresses you and keeping it at a challenging yet containable level. To do this you must be aware of what types of things you stress over, why you stress over them, and how you can better manage your stress reactions so that they do not interfere with your job performance and personal relationships.



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### **External Stressors- stressors from outside the law enforcement agency**

- Frustration with the American judicial system;
- Officer's dislike of the decisions and interests of administrative bodies affecting law enforcement work;
- Lack of public support and negative attitudes towards law enforcement;
- Negative or distorted media coverage of law enforcement.

### **Internal Stressors - stressors from within the law enforcement agency**

- Policies and procedures that are troublesome to officers;
- Sense that career development opportunities are inadequate;
- Lack of recognition for good performance;
- Poor economic benefits;
- Excessive paperwork;
- Inconsistent discipline.

### **Stressors in law enforcement work itself**

- Frequent exposure to life's miseries and brutalities;
- Boredom, alternately interrupted by the need for sudden alertness and mobilized energy;
- Fear and dangers of the job;
- Constant responsibility for protecting other people;
- The fragmented nature of the job, in which one person rarely follows a case through to conclusion;
- Work overload.

### **Stressors Confronting the Individual Officer**

- Fears regarding job competence, individual success, and safety;
- Necessity to conform;
- Necessity to take a second job or further education;
- Being criticized by peers;
- Altered social status in the community due to attitude changes toward a person because he or she is an officer (US Department of Justice, 1992).



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### Critical and Chronic Stress

The stress experienced by a law enforcement officer can be divided into two different areas: critical and chronic. ***Critical stress results from an incident that places demands on an officer that are above and beyond the normal call of duty.*** Examples are shooting an offender; death of a partner; hostage situations; and involvement in natural or man-made disasters. ***The chronic stress experienced by law enforcement personnel is often cumulative over time and affects an individual physiologically and psychologically.*** This can be caused by constant exposure to pain, suffering, violence, poverty, and death.

In many departments, the lifestyle of a police officer is dictated by shift assignments involving hours, which conflict with those of most other professionals. An officer assigned to a steady shift such as midnight to eight in the morning, will usually experience it as distressful. However, officers usually adapt over time and distress is reduced.

Research suggests that there is a strong influence of distress on an individual's physical and emotional well being, although findings are scant regarding the link between distress and specific illnesses. It's worth noting, however, that large numbers of law enforcement officers suffer from cardiovascular, respiratory and digestive disorders, as do workers in many other occupations. This may be linked to the experience of distress.

### PSYCHOLOGICAL EFFECTS

The extreme level of psychological distress in police work is known as burnout. ***Burnout occurs when your reserves of adaptability and energy are totally depleted and despite a vacation, you find it difficult to return to work.*** Inherent in the law enforcement culture is the belief that an officer alone can handle everything and anything emotional. Until very recently, seeking out professional help would put an officer in the precarious position of being placed on modified duty.

Prior to suffering burnout, an officer experiences ***overload***, which occurs over time as stressful events cited as stressors to a police officer accumulate. There is also the possibility of ***underload***, occurring when little or no demands are made on the officer leading to boredom. Both show up in symptoms such as sleeping difficulties, irritability, and difficulty in "getting started" at work, decreasing recreation, increasing family difficulties, inattention, and inefficiency. Often, dealing with the symptoms is done in self-destructive ways such as alcohol and/or substance abuse, sexual promiscuity, and isolation from friends and relatives.



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### EFFECTS ON THE FAMILY

Most of studies on police officers' marriages are with the wife being the non-member of law enforcement. Research found that wives had serious concerns regarding:

- Infidelity;
- Lack of quality time with self and children;
- Jealousy on both parts;
- Developing an adversarial relationship;
- Death or injury of spouse from police work;
- Isolation from social friends and the decline into alcoholism.

Initial research on this subject was conducted a generation ago, and found that police officers experienced a high rate of divorce. One study of that era suggested that, in large police departments, it was not difficult to find police officers on their third marriage by the age of 30. The fact is that the all-encompassing nature of law enforcement cannot help but affect family relationships. This Department, like others across the country, has long recognized these problems, and has done enough to address them that it is unlikely that these same statistics apply today. But there is no doubt that policing remains a stressful occupation.

Initially, you and your family may have little trouble adapting and coping with the demands of the job. When asked whether family or the job come first, new officers inevitably answer that family is their first priority. However, in time officers commit more of themselves psychologically to their career. The family takes a back seat to the demands of law enforcement. A competition between the Department and the family occurs. In order to achieve recognition, acceptance from peers and advancement in rank, the officer devotes more and more time to the Job. It is your responsibility to strike a balance between the two.

Strain also occurs as the officer may change attitudes and values due to experience on the street. There is an increase in cohesiveness with other officers, and an "**us vs. them**" mentality may develop as officers become angered by repeated criticism by the media, officials and community. The officer often comes home tense and wound up inside but cannot or does not want to share his or her feelings with the family. Perhaps he or she fears they won't understand what he or



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she has experienced or, perhaps, the officer wants to protect them. In either case, avenues of communication are strained. The result is that the family comes to feel more and more isolated, as if they aren't a part of the officer's life.

Police work tends to accentuate the personality characteristics of control, dominance, and authority. These characteristics are incongruent with what's needed to maintain harmonious relationships at home. In order to maintain control and reduce the possibility that street situations cause personal pain, detachment from emotions is sometimes necessary. Unable to easily turn this protective device on and off, police officers may carry it home with them. The family then senses the *wall* and dares not approach the officer. As a result, their isolation is increased.

Police officers often are exposed to incidents that trigger a ***fight or flight*** response. In order to control such reactions, the officer must maintain tight control. Failure to do so could result in complaints, the use of excessive force, or injury to another or the officer. There are also those times when the officer may experience feelings of animosity towards the bureaucracy of the Department, as a result of the frustrations he or she encounters on the job. Some officers then start to take out their frustrations on their families and become verbally or even physically abusive to them. Retired Los Angeles police officer and noted author, Joseph Wambaugh stated: "Police work is not particularly dangerous physically, but the most dangerous job in the world emotionally. Many of the stressors in policing need not be; they are not inherent in the nature of police work and can be alleviated."

### **Family, Friends, and Support Systems vs. *The Job***

At times it may seem nearly impossible to balance relationships and the "job". The truth is that, with a little thoughtfulness and self awareness, it is not as difficult as it may seem. The first step is to maintain clear and open lines of communication with the people who care about you. Many officers make the mistake of shutting their loved ones out of their careers. Your career is an important part of your life and, while you may not want to share certain details with family members, there is plenty to talk about which will not cause alarm or make them fear for your safety. By sharing this type of information, your loved ones are less likely to feel they have to compete with your career for your attention.

## **STRESS MANAGEMENT**

The ways people best manage stress vary depending on personality, cultural background and social milieu. The truth is that when someone is really suffering, stress management is one of those things that is probably easier said



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than done. Nevertheless, there are some things you can do to handle mild to moderate stress. Exercise is one. Meditation and relaxation techniques may also be helpful, although they required some training.

Chronic or severe stress is less easily managed, particularly when it is indicative of other issues that are unresolved. In such instances, it may be useful to talk to a counselor. Although there is no longer a stigma in the larger New York society linked to seeing a psychotherapist, many police officers remain hesitant. Part of the reason lies in their belief that counseling will negatively effect their career. Typically they fear that Psychological Services will be notified and their shield and firearms removed if, for example, they use their insurance to pay for outside services.

The truth is that no such notification takes place. The cost of counseling can be as high as \$200 per visit versus the \$10-\$25 co-pay if private insurance is used. Many officers who decide to pay out of pocket drop out of counseling before completing their treatment because of the cost. It is important that you know that you have an absolute right to confidentiality. Confidentiality can only be circumvented by your signature on a release.

Another issue that has received much attention is medication and whether its use will compromise full duty status. Unlike the medication commonly used 20 years ago, the newer medications available for the treatment of depression, for example, do not necessarily impact an officer's ability to remain full duty. As a result, there is no notification made to the Department should you be placed on any of these medications. While the dole test does not detect many of them, it is important to remember that you are asked to provide a list of medications you are taking just prior to submitting to the test.

Left untreated, problems that could have been resolved at an earlier stage may evolve into complicated issues that come to the attention of supervisors who feel they have no recourse other than to remove weapons. These situations can be avoided by obtaining the support and guidance of a trained counselor who can lend some objective insight into your problem.

### **CRITICAL INCIDENTS**

A critical incident is any event that is sudden, out of the realm of the ordinary, usually life threatening, and that has the ability to overwhelm your normal coping mechanisms. It may be a shooting, serious line of duty injury, or death, the death of a child, or a "close call". It may hit the papers or go without comment. You may lose sleep over it or not give it a second thought. You may be directly



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affected by the incident or be a witness to it. The bottom line is that a critical incident has the ability to affect how you function and feel—even years from now.

Critical incidents are typically outside the range of ordinary human experience. As a result, only a small percentage of the population has the ability to respond and function when they occur. As a trained, experienced police officer you will most likely be able to handle yourself during a critical incident. Afterwards, it is another matter. These types of events are likely to have a strong psychological effect on even the most prepared emergency service worker.

### Reactions to Critical Incidents

Not everyone will experience a critical incident in the same way. One-third of the officers involved in shootings experience a mild traumatic reaction, or none at all. Another third experiences a moderate reaction, and the rest experience a severe reaction. It's important that you go through a critical incident debriefing regardless of whether you turn out to be one of those officers who has only a mild reaction. Symptoms of critical incident stress may emerge long after the incident and interfere with your life. Reactions may include:

- Nightmares;
- Flashbacks;
- Distressing memories;
- Increased irritability;
- Obsession with the incident;
- Self doubt;
- Second guessing oneself;
- Feelings of inadequacy;
- Difficulty concentrating;
- Withdrawal from others;
- Sense of isolation.

### What to Do If You Have Been Exposed to a *Critical Incident*

It is normal to experience any of the above listed reactions after exposure to a critical incident. Should these reactions persist for more than a month after the incident, you should seek professional help. Talking about your experience will help you put your reactions into perspective. Left untreated you may develop Post Traumatic Stress Disorder, or **PTSD**. The Department's Early Intervention Unit (646-610-6730) provides critical incident stress debriefings and runs a monthly support group for those who have been involved in critical incidents. Officers that attend the support group usually experience reassurance and encouragement





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from their peers. Another option is to seek out a mental health care provider who is trained in the treatment of trauma.

### **SUICIDE AND THE POLICE OFFICER**

Contrary to popular opinion, police officers do not commit suicide more frequently than do members of other professions or the population as a whole. During 1977-1996, for example, the rate of suicide among New York City officers was equal to or even lower than the suicide rate of the city's resident population. Marital problems, alcoholism, and job suspensions were the most important individual characteristics associated with police suicide. Age, race, years of service, and rank were not associated with this risk.

Although the suicide rate among female police officers exceeded that of women in the general population, the number of suicides by female officers was - fortunately - so small that the differences between female officers and other women may not be significant. The rate of suicide has not risen in the years since 1996. However, initial investigation suggests that marital problems rather than job suspensions may currently be the major characteristic linked to suicide for both men and women officers. This underscores the importance of maintaining good relationships with the people you love. They are your major support group outside of the job.

The Department is concerned about its officers' emotional well being, so that police suicides are investigated thoroughly. Unfortunately, this process can be doubly difficult for officers and friends of the victim, who may be questioned regarding how and why the suicide took place. As police officers, you should be alert to signs of depression and suicidal tendencies among your friends and fellow officers. At the same time you should realize that thoughts of suicide are not always easy to detect.

A statement of intent to commit suicide or a reference to suicide must be taken seriously. People are usually conflicted about killing themselves. This means that a part of them wants to die while the other part wants you to rescue them. As a result, most people do give some indication of their intention at least once during the week prior to the act. If you think a fellow officer might be suicidal you should talk to the officer and/or alert a supervisor.

You should not be afraid to talk about suicide and the issues surrounding it with a person who is depressed. Talking about suicide does not plant the idea in someone's head or increase the likelihood that the person will end his or her life. If a peer appears close to killing him or herself, direct questions about how, when



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and where he or she intends to commit suicide can provide helpful information that may aid in the prevention of the attempt. Do not promise confidentiality under such circumstances.

Remember that ***you are not responsible for someone who commits suicide. You are not your suicidal brother or sister's keeper*** and should not be expected to be. Some people who kill themselves deliberately hide their intentions, making it extremely unlikely that you or anyone else will be able to alter the course of events. Others act impulsively, often while under the influence of drugs and alcohol. Keep in mind that suicide assessment is even difficult for mental health professionals and they often only see indicators after the fact, when a psychological autopsy is performed which analyzes all aspects of behavior.

### Depression

Most people who commit suicide are depressed. Depression is a medical condition which is typically characterized by intense sadness, hopelessness, despair, low self-esteem, lethargy, loss or gain of appetite, disruption of sleep, irritability, decreased ability to perform one's usual tasks, and loss of interest in once-pleasurable activities. The suicidal thoughts that may accompany depression are symptoms of a treatable illness linked to fluctuations in the chemistry of the body and brain. They are not signs of personal weakness or character flaws, nor are they conditions that will just go away by themselves.

If you have begun to think of suicide, it is important to recognize that these thoughts are expressions of a treatable medical illness. Don't let embarrassment stand in the way of vital communication with your physician, family or friends. Take immediate action and talk to someone today. Remember, ***suicide is a permanent solution to a temporary problem.***

### Suicide Warning Signs

- **Feelings of despair and hopelessness.** Be alert to talk about feelings of depression, despair, hopelessness and self-doubt.
- **Taking care of business.** If a person is making a will or otherwise winding up his or her affairs, there is a good chance they are considering suicide.
- **Rehearsing suicide.** A person who seriously discusses specific methods, or appears to be gathering information regarding techniques of suicide, increases the likelihood of committing it.



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- **Drug or alcohol abuse.** A person who is depressed may abuse drugs or alcohol. Drugs and alcohol can increase depression, decrease effectiveness of anti-depressant medication, and enhance impulsive behavior.
- **Beginning to feel better.** A person who is starting to come out of a depression may be more likely to attempt suicide than when he or she is completely drowning in sadness. The feelings of lethargy and immobility that accompany depression are lifting, resulting in an increase in energy that facilitates planning and action.

### ALCOHOL AND THE POLICE OFFICER

**The rate of alcoholism is no higher among law enforcement officers than any other occupation.** However, alcohol abuse among police officers is particularly troublesome because of the nature of their responsibilities and the fact that they carry weapons. As unarmed personnel at the Police Academy, you are in a special position.

Violations of Department policy regarding the consumption of alcohol are almost certain to result in the loss of your job.

Imagine yourself at home having a few drinks, after a hard day at the Academy. You think that nothing will happen because you are over 21 and are not violating the law. You hear loud noise and step out on your porch and observe that your neighbors are having an argument out on the street. You try to calm them down and someone calls the police. It's too late now to return to the house and suddenly, it dawns on you that you are a few hours from losing your job. The same thing is likely to happen if you are caught walking down the street, intoxicated after spending the evening at a bar with your friends.

Let's say that nothing comes of this situation and you graduate from the Academy on time and are sent to a precinct. You complete every shift without touching a drop and only have a few drinks off duty at social occasions like parties, family affairs, and weddings. Then one night, after your best friend's birthday, you get in your car with just a few beers under your belt. You know that you're not drunk and no one in his or her right mind would say that you were. You get on the highway and keep at a responsible 50 mph when, out of nowhere, a speeding car suddenly comes and collides into your passenger side. You go spinning into the guardrail. When the police come, they smell alcohol on your breath and then you realize that your career is down the drain.



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A small percentage of you will get into trouble for reasons other than having a few drinks followed by freak accident. Let's imagine that you are one of the few. For your first few years on patrol, you will stay out of trouble and won't take a drink while on duty. Maybe you'll also survive those nights you and your buddies spend hanging out at a bar. You're convinced that you don't have a problem because you know that you can stop drinking any time. When you wake up, feeling like hell, and tell your partner you've got the flu, you still believe you can stop whenever you want. Sometimes it does cross your mind that you've got to go on the wagon because the headaches are doing you in. The thought is fleeting and the guys insist that you join them with a six-pack of beer. After all, police work is stressful and all you are doing is winding down after a very rough tour.

Even when you begin to drink right after work before you've left the parking lot to go home, you're denying you have a problem. Only when you get into a car accident on your way home, do you realize that you have *chosen* to destroy your life and your career and that you have taken the life of one of the people you have sworn to protect. It's too late now because you are just another statistic, one more of one too many cases in which New York City police officers have injured or killed innocent people while drunk. Only as you walk out of the courtroom in handcuffs does it occur to you that no one forced you to drink. Then you remember what you were told at the Police Academy before they gave you your gun: ***The biggest obstacle to your completing your career in the New York City Police Department is alcohol.***

Without conscious awareness a small portion of police officers will follow the pattern described above and go from being an occasional social drinker, to a heavy or dependent drinker, to a problem drinker. Problem drinkers typically deny they have a problem, even when drinking begins to interfere with their lives at home and at work. Their denial is reinforced in the context of a peer culture in which drinking is viewed as an acceptable way to *unwind* at the end of a day. Fellow officers frequently contribute to the officer's problem by keeping silent about his or her behavior out of misplaced sense of loyalty.

The best thing that you can do for a police officer with a drinking problem is to ensure that he or she gets help. Remember, as long as the officer is drinking, the individual is a danger to him or herself and innocent others, including the people with whom he or she works. Remember, the police organization is responsive to officers who have problems with alcohol, particularly if they seek help before encountering situations that put people at great physical risk. These include drinking while driving, losing their cool on the street, and domestic abuse involving a firearm or serious physical threat.



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### Typical Stages of Alcoholism Among Police Officers:

- **On the job sobriety** – During the first few years, the alcoholic police officer may try to complete his shift in sobriety. His drinking is confined to off-duty hours.
- **Self-control weakens** – The officer begins to drink before his shift and perhaps on his meal break.
- **The problem becomes visible** – As the officer begins to drink more frequently on duty, his ability to function and cope on the job diminishes.

### Signs of Alcoholism:

- Absenteeism;
- Memory lapses;
- Leaving work early;
- Progressively lower job performance;
- Repeated accidents, particularly involving a vehicle.

**Physical Effects of Alcoholism.** Alcohol is a mood-changing drug that is physically and psychologically addictive. It is a “downer” or a depressant like barbiturates and tranquilizers, which affect the body in various ways. Some of the physical effects of alcoholism are listed below.

- **Blackouts:** Blackouts are times of temporary amnesia occurring in a person suffering from alcoholism. While experiencing the blackout, the victim functions normally; yet later, he cannot remember the episode.
- **Tolerance:** Alcohol tolerance develops from its constant use. Tolerance is the need to take increasing doses to produce a given effect.
- **Anxiety:** The consumption of large amounts of alcohol over a prolonged period of time produces a correspondingly progressive rise in anxiety. Anxiety, in turn, is responsible for such conditions as irritability and nervousness.



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- **Depression:** Depression is feelings of hopelessness, futility and unhappiness - is very common among alcoholics. Alcohol is a chemical depressant that works in similar ways as Valium and Librium.
- **Neurological Problems:** Prolonged, excessive drinking has long been associated with the loss of functioning brain tissue.
- **Liver Disease:** Alcoholism is associated with such liver problems as enlargement of the liver, cirrhosis, and liver hepatitis.
- **Heart Disease:** Congestive heart failure, for example, is common among alcoholics.
- **Impotence:** Alcohol is a common cause of impotence, the inability of a man to sustain an erection.
- **Gastritis:** Heavy drinking is a major cause of serious inflammation of the lining of the stomach, possibly resulting in the development of ulcers.
- **Esophageal Cancer:** Heavy drinkers have a far greater chance of developing cancer of the esophagus (throat).
- **Neuritis:** Prolonged intake of alcohol has a direct poisonous effect on the nerves in the arms and legs. Symptoms include tingling, pins and needles, itching etc.
- **Delirium Tremens:** Withdrawal from alcohol can cause extreme physical and emotional suffering. The **DTs** begin with tremors, sweating, and nausea. They can then progress to insomnia, profound confusion, delusions, hallucinations, and convulsions. This serious complication is fatal approximately ten percent of the time.

### Alcoholism Test:

The following questions can assist you in recognizing some of the symptoms of alcoholism and determining whether you or someone you know has an alcohol problem.

1 - 8 **Yes** answers are indicative of the early stages of alcoholism; 9 - 21 **Yes** answers are suggestive of the middle stages of alcoholism; 22 - 26 **Yes** answers indicate the beginning of the final stage of alcoholism.



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- Do you occasionally drink heavily after a disappointment, a quarrel, problems with citizens, or when the supervisor gives you a hard time?
- When you have trouble or feel under pressure, do you always drink more heavily than usual?
- Did you ever wake up on the "morning after" and discover that you could not remember part of the evening before, even though your friends tell you that you did not "pass out"?
- When drinking with other people, do you try to have a few extra drinks when others will not know it?
- Are there certain occasions when you feel uncomfortable if alcohol is not available?
- Have you recently noticed that when you begin drinking you are in more of a hurry to get the first drink than you used to be?
- Do you sometimes feel a little guilty about your drinking?
- Are you irritated when your family or friends discuss your drinking?
- Have you recently noticed an increase in the frequency of your memory "blackouts"?
- Do you often find that you wish to continue drinking after your friends say they have had enough?
- Have you tried switching brands or following different plans for controlling your drinking?
- Have you often tried to control your drinking by making a change in assignments, or by changing shifts?
- Do you try to avoid family or close friends while you are drinking?
- Are you having an increasing number of financial and work problems?
- Do more people seem to be treating you unfairly without good reason?
- Do you eat very little or irregularly when you are drinking?



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- Do you sometimes have the “shakes” and find that it helps to have a little drink?
- Have you recently noticed that you cannot drink as much as you once did?
- Do you sometimes stay drunk for several days at a time?
- Do you sometimes feel very depressed and wonder whether life is worth living?
- Sometimes after periods of drinking, do you see or hear things that aren't there?
- Do you get terribly frightened after you have been drinking heavily?
- When you are sober, do you often regret things you have done or said while drinking?
- Do you usually have a reason for the occasions when you drink heavily?





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### **GETTING HELP**

#### **Departmental Resources**

Early Intervention Unit

1-646-610-6730

24hrs./seven days a week.

Staffed by uniformed and non-uniformed peer counselors.

Counseling Unit

1-718-834-8433

Services provided by peer counselors for alcohol, prescription drugs and domestic violence related issues.

#### **Non-Departmental Resources**

Columbia University/Columbia Cares

1-800-845-8965

24 hrs/seven days a week/ Free services

Police Self Support Group

1-718-745-3345

Support for injured officers and officers suffering from catastrophic illness

#### **Choosing a Counselor**

If you have never had to seek out a therapist where do you start? A good place to start is by asking someone who has been involved in treatment. They can give you insight not only into their mental health care provider but can provide information about the therapeutic process as well. When you've picked a therapist and have an appointment date, give some thought to why you've decided to get professional help and what you expect from the counselor. Be sure to communicate your expectations to the therapist during your first visit. If you get the sense that you are not interacting well with the counselor, don't be afraid to say so and move on to someone else.

#### **What to Expect**

When you first go to a counselor, you will be asked a number of questions designed to help the counselor understand the issues that are of concern and how he or she can help you. During the first visit you will be asked to describe why you have come. You will also be asked questions regarding your personal history, which will help the therapist understand how your past is impacting upon your present.



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At this point, some people drop out of counseling because they feel they do all the talking and all the therapist does is nod his or her head. The truth is that the therapist can't get to know you and what your issues are unless they listen to you and assess what you're saying. If their silence bothers you, tell them. Let them know that you need them to be a little more interactive.

- Once your problem is identified, the therapist may ask you to go back and clarify a few things you've said in order to help you identify patterns of behavior you may need to address.
- Some therapists may give you assignments such as taking one night a week of just for yourself.
- Be prepared to work on your issues even if they seem unrelated to what you first came in for.
- If you sit there and say I don't want to talk about that today, be prepared to be asked why not. The therapist's observations should help you talk. If you find they do not, take it up with the therapist. **Fit** is crucial to any relationship, including a therapeutic one. It's important for you to have a **good fit** with whomever you choose to work with.

There is free help for police officers who wish to see counselors outside the Department at Columbia Presbyterian Medical Center. Columbia's senior clinicians will assess and refer officers to appropriate mental health providers. These visits are totally confidential and will be paid for by the Police Foundation. At no point in time will the Department be informed of who is participating in this program. If you feel you may benefit from these services, please call 1-800-845-8965.

### Types of Mental Health Professionals

- A **psychiatrist** is a medical doctor whose emphasis is on treating mental health issues through medication. Some psychiatrists also do talk therapy.
- A **psychologist** is a doctoral level mental health professional who is trained in talk therapy, as well as in conducting evaluations and testing.
- A **clinical social worker** is a master's level mental health professional whose training is in talk therapy.



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### References

Grossman, D. 1995. *On Killing: The Psychological Cost of Learning to Kill in War and Society*. New York: Little, Brown and Co.

Hendin, H. "Recognizing a Suicide Crisis."  
<http://www.afsp.org/research/hendin.3.htm>

Maris, R. W., A.L. Berman and M.M. Silverman, 2000. *Comprehensive Textbook of Suicidology*. New York: The Guilford Press.

Marzuk, P.M., M.K. Nock, A.C. Leon, L. Portera, and K.Tardiff, 2002. "Suicide Among New York City Police Officers, 1977-1996." *American Journal of Psychiatry*, 159:2069-2071.

Suicide Prevention and Bipolar Support Alliance. <http://www.dbsalliance.org>



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## People in Crisis

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT PEOPLE IN CRISIS?

Police work involves dealing with different kinds of people in a wide range of situations; a five year old child who's lost at Rockefeller Plaza at Christmas time; a girl who has been beaten by her boyfriend; a woman who has just witnessed the murder of her husband; a man who has been sexually assaulted; a man whose wife has just been killed in a car accident. While these situations are different, they share an underlying theme: all involve people who are experiencing a crisis. In order to resolve any one of these situations you not only need to learn police procedure and the law, but also a sophisticated set of communication skills. These skills will help you attend to the complex needs of the victims. How you deal with persons in crisis has implications for the quality of information that you gather at the scene. It also has implications for the apprehension and conviction of the offender in instances where a crime was committed. Equally important, your handling of a person in crisis strongly affects the psychological recovery of the victim.

This chapter examines the communication, procedural, and legal skills police need to effectively deal with people in crisis and, if a crime has occurred, to gather sufficient information to apprehend the offender. It provides a definition of crisis, an explanation of why police officers may find crisis situations difficult, a general description of crisis victims, and a discussion of the communication skills required to deal with traumatized persons. Particular attention is paid to instances of sexual offenses, aided cases, and those that involve notifications of injury or death.

### **Crisis - Defined**

A crisis is an unexpected or arbitrary event so overwhelming that it temporarily destabilizes an otherwise healthy individual. The psychological mechanisms the person normally uses to handle problems cease to work and functioning is impaired. Crisis states are commonly experienced among victims of accidents, crime, injury, illness, and disasters. *Victims* may include family and friends as well as persons directly affected by the crisis event. The crisis experience is subjective, and individuals may react differently. Take for example a vehicle accident in which an infant has been seriously injured. The mother of the child (the driver of the car) might be either calm and collected, dazed and unresponsive, crying, screaming, or physically uncontrollable. Her state of mind could rapidly shift from subdued shock to agitation. Similar variation can be seen among victims of crime, injury, illness, and disaster.



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CRISIS BEHAVIOR	VERBAL EXPRESSIONS	PHYSICAL MOVEMENT	DECISION MAKING	DISPLAY OF CONFIDENCE?
CRISIS VICTIM BEHAVIOR	Silence, yelling and screaming, inarticulate, cursing, referring to God, also reverting to native language	Running around, waving arms, hitting, grumbling or immobility	Indecision, What should I do?	Lack of confidence, Questioning previous decision, blaming self, Why me? What next?
RESPONDING POLICE OFFICER BEHAVIOR	Complete silence, shouting, jargon This guy looks bad; using codes, excessive use of siren, joking.	Posture (threatening) Strutting, rolling eyes, negative shaking of head, arms folded.	Inappropriate, assumptions (Quick) false expectations	Shifting roles, seeking to place blame. Unnecessary officious behavior. Assign self busy work, prolonged response - What can I do?
SUPPORTIVE BEHAVIOR IN CRISIS SITUATIONS				
RECOMMENDED P.O. BEHAVIOR TO RESTORE CALM	Calm, clear, free of curses and polite.  Allow ventilation, ask to relate story without constant interruption. Do not immediately jump to first name basis.	Body language, eye contact and facial expression conducive to listening and empathy. (e.g. arms folded)  Assign task in harmony with goals, call relatives, comfort someone else. Restrain only when necessary for safety.	Decisiveness, decisions based on safety of all concerned - psychological consequences of victim (awareness) objectivity. Take a second to check emotional state of both, e.g. self and victim  Provide inconsequential decision making. (Give general procedural information)	De-emphasize blame of person in crisis.  Minimum use of officiousness. Deal with person in crisis quickly but safely.  Convey to victim he or she did the right thing.
SUPPORTED CRISIS VICTIM BEHAVIOR	Ventilating in order to recapture dignity and respect.	Behavior is supportive when directed by responding Police Officer. (Successful resolution.)	Ready to receive general information better able to make minor decisions.	Regaining confidence by making minor decisions-feeling he or she did the right thing



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### The Challenge to Police

Police officers may find it challenging to work with people in crisis. The traumatic event, along with the raw emotion and behavior displayed by the victim, may make the officer feel uncomfortable, helpless, annoyed, or awkward. Officers may then engage in self-protective behaviors that increase the distance between themselves and the victim, resulting in the impairment of communication. It is also difficult to deal with people in crisis because they *invite* identification. This means that the police officer himself or herself begins to feel like a victim. This may occur if both officer and victim become frustrated when they are unable to recover property and apprehend the perpetrator. Victims sometimes blame the police for their disappointment in the criminal justice system. This may contribute to the officer's sense of victimization, making it harder for him to maintain empathy.

Police officers have far more influence than they realize in the healing process and ultimate recovery of the victim. While the restoration of property and conviction of the perpetrator may bring some relief to victims, they do not reduce the psychological effects of the crisis event; a police officer can. By providing the right kind of assistance to the victim, you can help diminish the negative effects of the trauma before it scars the individual for life.

Crime victims lose more than their property. They also experience an assault on their dignity, power, and security. The **loss of dignity** manifests itself as a sense of shame, embarrassment, humiliation, and possibly guilt; **loss of power** as a sense of confusion, helplessness, and indecisiveness; **loss of security** as a pervasive sense of anxiety. The police can play an important role in helping the victim regain his sense of self-esteem, personal wholeness, and belief that the world is safe. This helps the victim deal with the crisis event and helps them go forward in their lives. Take for example, a rape victim. The police officer may or may not be able to apprehend the perpetrator. A police officer that uses the crisis intervention techniques in a compassionate and professional manner will play an important role in helping the victim resume intimate personal relationships.

### CRISIS BEHAVIOR AND POLICE RESPONSE

The behavior of people in crisis can be identified by observing their verbal expression(s), physical movement, decision-making, and absence of confidence.



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### Verbal Expression

A person in a crisis situation may yell and scream, curse, refer to God, or begin to talk in a language other than English. The victim may be completely silent or unable to articulate what has happened. Avoid shouting orders, joking and using Department jargon. Department jargon is a foreign language to the crisis victim in the same way that a native language may be to the police officer. This situation should be handled in a calm manner with the officer speaking clearly and remaining respectful towards the victim.

### Physical Movement

The victim may be running around waving his or her arms, grabbing. Hitting, or completely be immobilized. Don't take agitated behavior as a personal affront. Take reasonable action to prevent injury to yourself and the victim. Restrain the victim only when necessary for safety. Do not give any visible indication – like rolling your eyes or shaking your head – that you are upset or disturbed; this is likely to further upset the victim. Instead, maintain friendly eye contact, indicating-by your facial expressions-that you are concerned and willing to listen.

### Decision Making

A crisis victim's behavior may appear to shift indecisively back and forth as if he's asking, "What should I do?" Be patient. You can help the victim overcome his sense of helplessness by allowing him to make inconsequential decisions. At this point you may provide general procedural information; e.g., court procedures, compensation board information, court dates, etc.

### Absence of Confidence

The victim may engage in behavior that demonstrates a lack of confidence. She is likely to have her "antennae up" and be looking for confirmation that she did something wrong. The victim may second-guess previous decisions and is sensitive to any display of blame. The nature of police fact-finding and report writing has a "blaming element," which can be hurtful. In an effort to gain control and initiate orderly behaviors, the officer may appear moralizing and critical. Avoid such behavior. Efforts should be made to de-emphasize blame. **Make clear what the victim did right rather than wrong**, such as calling for help.



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### Restoring Dignity, Power and Authority

When you arrive at the victim's home, introduce yourself and ask permission to come inside. This empowers the victim by giving him the authority to say yes or no. Ask the victim if he is ready to talk about what happened. Such questions have restorative powers because they restore the victim's freedom of choice. Let the victim know that he is both physically and emotionally safe to tell you what happened. Reminding victims that they are safe helps restore a sense of security. Create a "safe haven" and interview victims in private.

Try to balance the victim's desire for support with their need to maintain distance. Don't use the victim's first name while talking to them: this shows inappropriate familiarity and positions you too close to the victim to be professionally objective. At the same time, you should not act disinterested in the victim's problem because this would position you too far away. Let the victim know that they have "permission" to say what they want, and make sure that you react in a way that makes them comfortable.

Recognize that "ventilation" (expression of strong emotions) brings relief to the victim, legitimizes their experience, and helps restore dignity. Do not constantly interrupt while the victim is telling their story.

Don't say things like, "You need to calm down." This sort of statement implies that they shouldn't be feeling upset. Empower the victim by validating their experience. Statements like, "That must have been very upsetting," "This must be very painful for you to talk about," aid the victim's recovery.

If the victim's behavior does not support resolution, it may be useful to assign them to tasks that help redirect behavior. For example, ask him to call relatives or friends, or to comfort someone else who also is suffering.

### ACTIVE LISTENING

Active listening is a mode of communication that lets victims know that you are interested in what they have to say. While interviewing a victim, utilize the techniques of active listening mentioned below. They will enhance communication and facilitate the victim's recovery.

- **Clarification.** Interrupt the speaker when necessary to ask a question that illuminates what has just been said. It is best however, to clarify when the person has finished a segment of the story and not to interrupt repeatedly to ask about details. This indicates that you have been listening and that





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- the details are important to you. For example, when a burglary victim has finished talking about how he found the door and is ready to begin describing what was stolen, you might clarify by asking, "What time did you say this happened?"
- **Summarization.** When a person has completed a statement, it may be helpful to briefly summarize what has been said up to that point. This demonstrates to the victim that you have been following his account. For example, an officer might say to a burglary victim, "Let me see if I have this straight...You came home from work at about five and found the window broken and evidence that someone had entered the house."
  - **Allowing Silence.** Allowing silence is a way of showing that you are listening and want to hear what the victim has to say. Victims are often confused and need time to collect their thoughts. The tendency is to rephrase a question if it is not immediately answered. This can often be confusing to a victim because it indicates impatience.
  - **Stating the Obvious.** Victims are usually confused and think rather slowly. Reassurance can be helpful. "I am here to help you," "You are safe now," or "I can see that this has been an upsetting experience to you," are the type of statements that are important for the victim to hear.
  - **Personalized Statements.** Police officers do not differ from other people in large organizations in their tendency to make impersonal statements on the order of, "It's probably a good idea for you to see a doctor." When talking to victims, it is more effective to convey concern and involvement by prefacing statements with, "I feel," or "I think." "I think it's a good idea for you to see a doctor."
  - **Mind Reading.** Verbalizing the victim's unstated concerns can be helpful. An officer might reassure the victim by clarifying that victims have not been singled out and, instead, share similarities in experience. "I know burglary victims often wonder whether there is something special about their house that led the burglars to pick on them...I can tell you that burglars simply go where they think valuables are and where it looks like they can get in." An officer can help diminish the victim's fear by affirming that the perpetrators won't return. "I wouldn't worry about them coming back to harm you...victims often worry about that, but most burglars get what there is to get and then vanish."



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- **Sharing Feelings.** The officer's concern should be expressed in personal terms. Saying "I'm sorry this happened," is more comforting than "It's sad that this happened."
- **Non-verbal** aspects of speech are as important as the verbal. Body language (motion, posture) is also important because it lets the victim know whether or not they are safe with you. You should avoid facial expressions that indicate disbelief.
- **Eye Contact** is important because it shows that you are listening and concerned. Victims will often avoid eye contact, but the officer who keeps looking directly at the victim's eyes will eventually make a connection. The result is usually an improvement in the victim's response to the officer. On the other hand, the officer who is looking at a notebook or somewhere else may inadvertently communicate impatience and disinterest. Looking up to make eye contact after writing a statement and while asking the next question will help establish better communication between the officer and the victim.
- **Body Posture:** When we are attentive and listening, we tend to incline our heads (and sometimes the whole upper part of our bodies) towards the speaker. Standing or sitting with the head in an exactly upright position usually indicates that we are being impersonal. Leaning back from the speaker frequently indicates disbelief or skepticism. When interviewing victims, monitor your body posture to determine what is being communicated. This is less important when you are speaking, because the words will compensate somewhat for any body messages. Monitoring is very important when the victim is talking because they then gauge the officer's reaction and attitude only from the non-verbal messages.
- **Distance.** There is usually an optimal distance to maintain when talking to other people. If one stands too close or too far away, the conversation is likely to be uncomfortable. However, "personal space" varies from person to person and across situations. Generally, the closer one stands, the more one expresses intimacy. The greater the distance, the greater the feeling of formality. A police officer must learn to judge by victims' responses whether the distance is too great or too small. If a victim starts to edge away, the officer should stand fast until the victim has reached a comfortable place.



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- **Touching.** People generally feel more comforted when someone gives them a supporting hand or arm. However, some victims may be threatened if an officer reaches out to them. This is particularly true of victims of sexual assaults. One way out of this dilemma is for the officer to make it possible for the victim to initiate touching and to accept such an initiation if it occurs. (It can be devastating for a rape victim to touch a police officer's hand and have it jerked away). You can facilitate such initiation by putting your hand on a table between oneself and the victim or by standing close enough to allow touching. Alternately, an officer might make a gesture of offering a hand and allowing the victim to take it - or not.
- **Vocalization.** This term refers to the volume, speed, and pacing of speech. It is generally a good idea to speak to victims in a soft and slow voice, while allowing a few seconds to lapse between questions. People who are upset tend to speak loudly and quickly. The officer's soft, slow voice will lead them to speak in a similar fashion. People who hear themselves speaking in this manner are likely to be better able to control their own emotions than people who hear themselves talking loudly and quickly. Pacing questions slowly gives an impression of patience and concern. The quick firing of questions leads to an impression of impatience and adds a note of interrogation that can lead the victim to feel blamed.

## SEX CRIMES

In 2001, U.S. residents age 12 or older experienced approximately 24.2 million crimes, according to the findings from the National Crime Victimization Survey. Nearly a quarter of these (24%, or 5.7 million) were crimes of violence. This includes one **reported** Rape per 1,000 persons but as we will see later, only a small percentage of Rapes that occur are actually reported. During 2002, New York City recorded 2,017 Rapes and, despite the Department's best efforts to encourage reporting, many others almost certainly have occurred but have gone unreported.

It's important for police officers to understand that Rape and sexual assault are crimes of power and domination rather than sexual gratification. Rape and sexual assault not only involve a violation of the most private regions of the victim's body, but also an assault on the victim's self, identity, and sense of safety in the world. The fact is that victims often sustain more psychological-than physical-damage.



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The assault may or may not include overt violence or threats of violence and weapons may or may not be used; in either case, Rape and sexual assault are experienced as life-threatening events. During the event, most victims view their rapists as potential murderers and fear for their life.

### **Sex Offenses – NYS Penal Law**

Criminal Sexual Act (formerly known as Sodomy) and Rape involve two elements: some type of sexual act (penetration) and lack of consent. Penetration, as an essential element of Rape, means that the sexual organ of the male entered the sexual organ of the female. Penetration, however slight, is sufficient to sustain a charge of Rape. There need not be an entering of the vagina or rupturing of the hymen.

Lack of consent involves one or more of the following conditions: forcible compulsion of the victim; a physically helpless, mentally incapacitated, or mentally disabled victim, or a victim who is unable to consent due to age (less than 17 years old).

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### RAPE - FELONY

*A person is charged with Rape when he or she engages in sexual intercourse with another person who has not given consent. Rape is always a felony and may be committed in the following ten ways:*

*A person uses forcible compulsion upon another person to engage in sexual intercourse*

OR

*A person engages in sexual intercourse with another where lack of consent results from circumstances under which the victim clearly expressed that he or she did not consent, which would have been understood by a reasonable person in the actor's situation under all the circumstances (i.e., "date/acquaintance Rape")*

OR

*A person engages in sexual intercourse with another person who is mentally disabled (the person cannot understand the nature of his/her actions because he or she is suffering from a permanent mental disorder)*

OR

*A person engages in sexual intercourse with another person who is mentally incapacitated (he or she cannot understand the nature of his/her actions because he or she has been drugged or given alcohol without his/her consent)*

OR

*A person, 21 years old or over, who engages in sexual intercourse with another person who is less than seventeen (16 years old or less)*

OR

*A person, 18 years old or over (18, 19, or 20 years old), who engages in sexual intercourse with another person who is less than fifteen (14 years old or less)*

OR

*A person engages in sexual intercourse with another person who is physically helpless (passed out)*

OR

*A person, over 18 years of age, who engages in sexual intercourse with another person less than thirteen (12 years old or less);*

OR

*A person, 16 or 17 years of age, who engages in sexual intercourse with another person who is less than eleven (10 years old or less)*

OR

*A person engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some other factor than incapacity to consent (i.e., health/mental health care provider).*

### CRIMINAL SEXUAL ACT – FELONY (FORMERLY KNOWN AS SODOMY)

*A person is charged with Criminal Sexual Act when he or she engages in either oral or anal sexual conduct with another person who has not given consent. Oral sexual conduct means sexual contact, between persons not married to each other, involving conduct between persons consisting of: mouth to penis, mouth to anus or mouth to vagina or vulva; Anal Sexual Conduct is defined as conduct between persons consisting of penis to anus.*



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### SEXUAL ABUSE - FELONY

*A person touches, feels, rubs, etc., the sexual parts of another person by forcible compulsion; OR*

*A person touches, feels, rubs, etc., the sexual parts of another person when the victim is physically helpless; OR*

*A person touches feels, rubs, etc., the sexual parts of another person when the victim is less than 11 years old (10 years or less).*

### AGGRAVATED SEXUAL ABUSE - FELONY

*A person may be charged with aggravated sexual abuse when he or she inserts either: a foreign object (whether or not it causes a physical injury), or a finger (causing a physical injury or serious physical injury); into the vagina, urethra, penis or rectum of another person, and it is: by forcible compulsion; or the victim is physically helpless; or the victim is less than 11-years-old (10 years old or less); or the victim is incapable of consent by some reason **other than** being less than 17-years-old (i.e. victim is a patient of a health care/mental health care provider) or the victim is incapable of consent because of being mentally disabled or mentally incapacitated.*

### SEXUAL ASSAULT

*The term "sexual assault" is not a legal term. Instead, it is a term used by the public to include Rape, Criminal Sexual Act and Sexual Abuse. Use the term **sexual assault** when speaking to victims, since legal terminology like the crime definitions above can provoke anxiety and impair communication.*

Rape, Criminal Sexual Act, and Sexual Abuse are vastly underreported crimes. The National Victim Center reports that 683,000 women are raped per year, but that only 31 percent of Rapes are reported. There are many reasons that Rape is underreported and that victims hesitate to alert the police. They include embarrassment; reluctance to report a friend or family member; fear of reliving the trauma at the hands of police, doctors and lawyers; fear of social ostracism; fear of repercussions if the rapist is in a position of authority (a boss at work); fear that the rapist will return; and fear of being discredited.

Cultural stereotypes and biases surrounding the issue of sexual assault reinforce victims' fears about calling the police. Such biases include the notion that some people aren't real victims or "deserve" to be raped because of their sexual history, lifestyle, dress code, or behavior prior to - or during - the crime (e.g., they went into a stranger's car or apartment, were intoxicated prior to being assaulted, dressed in revealing clothing or have no visible injuries that suggest they struggled).



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Not so long ago, it was believed that married women were the sexual property of their husbands and could not be raped. This view was reinforced by a law stipulating a "marital exemption" for Rape and sexual assault. This has since been found unconstitutional and the marital exemption for "Rape 1st Degree" (P.L. 130.35) and "Criminal Sexual Act 1st Degree" (P.L. 130.50) has been eliminated. A spouse who forcibly Rapes or sexually assaults another spouse is therefore subject to prosecution.

Sexual assault affects women, children and men of all ages and racial and cultural backgrounds. According to the U.S. Department of Justice, an estimated 91% of the victims of Rape and sexual assault are female and only 9% are male. Nearly 99% of reported offenders are male. Most victims of Rape and sexual assault know their assailant. The National Victim Center reports that 13.3 percent of college women say they had been forced to have sex in a dating situation. The number of Rapes reported in New York City confirms the prevalence of acquaintance Rape. From January 2, 2003 – April 20, 2003, for example, the Department recorded 82 stranger Rapes, 411 acquaintance Rapes, and 93 domestic Rapes. A preliminary breakdown of relationships between victim and suspect for Rapes under investigation for 2002 in New York City indicates that 16.8 percent were strangers, 17.9 percent were family relationships and 65.3 percent involved acquaintances.

There is no *correct way* for a victim to react during a Rape or sexual assault, nor any *right way* to handle an attacker. One woman may be paralyzed by fear and rendered mute and helpless by circumstances that would inspire another to fierce resistance. One rapist may run from a woman who resists. Another may kill the victim who resists. How an individual will respond to an attempted sexual assault is also unpredictable. This is because response involves the utilization of largely involuntary psychological mechanisms of survival.

You may encounter a rape victim who is mentally ill. The rape may lead to the onset of symptoms or the person could have been raped when they were already symptomatic. In either case, the officer should not assume that a person demonstrating symptoms of mental illness has not *really* been raped.

You may encounter a rape victim who has been drugged. Certain drugs (Rohypnol and GHB) result in significant memory loss so the victim remembers little about the rape. Be alert for descriptions that indicate the possibility that the perpetrator has drugged then raped the victim. Statements like "I went home. The next thing I remember is waking up and my vagina hurt..." or, "I just saw a blur"; "I think something happened but I don't remember," may indicate that the victim has been drugged. It's important that you tell the doctor handling the



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**Sexual Offense Evidence Collection Kit** that the victim may have been drugged so the doctor can promptly collect a urine sample and request that it be analyzed for drugs.

*A Sexual Offense Evidence Collection Kit is a kit used by physicians in hospitals to gather evidence from a victim of a sex offense. The kit is used to standardize the collection and processing of evidence in sex crime cases. The kit contains slides, swabs, test tubes and envelopes to collect evidence" (PATROL GUIDE: 218-33).*

A complainant may initially say she was assaulted. Do not assume the assault was sexual without investigating what happened. Look for cues which indicate disbelief ("I can't believe this just happened"), the feeling of being degraded or contaminated ("I want to wash") or what psychiatrists call a "spontaneous denial" – when the officer asks if the victim was sexually assaulted, she quickly and insistently negates the possibility ("Nothing like that happened!! I was just assaulted.").

Perpetrators of Rape and sexual assault come from every race, class, ethnicity and occupational category. Statistics show that most rapes occur within the same ethnic, racial, and class group. White rapists tend to victimize whites, blacks to victimize blacks, college students to victimize other students, and so forth.

It is essential that police officers put aside biases and stereotypes when dealing with victims of sexual assault. Failure to do so is likely to negatively impact upon your ability to communicate with the victim, reducing your access to important information, impede the efforts of subsequent investigators, and compound the victim's psychological distress. Think of the rape victim as if she were your mother or daughter. That will help you overcome your biases and facilitate empathy.

### Interviewing Victims of Sexual Assault

*The information you need to collect includes: a description of the suspect, any identifying characteristics such as marks, tattoos, scratches, details of the assault (penetration, body parts involved, what the perpetrator said and did, what the assailant asked the victim to do), etc.*





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*Try to ensure that the victim does not take a shower, wash her hands, or change her clothes until evidence has been collected. Sexual offense evidence (not including the sexual offense evidence collection kit) is defined for this procedure as being bloodstains, serology, body fluids and/or other biological evidence (e.g., clothing, bedding, undergarments, etc.) to be analyzed for the purpose of obtaining a DNA profile (Patrol Guide: 218-33.).*

Before you arrive at the scene, ask yourself how you feel about responding to a sex crime victim. If you've been raped or sexually assaulted as children or adults, you may find it difficult to deal with a victim of sexual assault or Rape. You may also find it easier to empathize.

Every effort should be made to show sensitivity to the victim. They may prefer to speak with a female or male officer. **Unless the victim has a preference for a female officer, it is not inappropriate for a male officer to interview the victim.** A male officer is likely to be the first man with whom the victim has a close conversation since the rape. A positive communication with a male in such a case can affect how soon and successfully the victim can resume normal relationships with other men, including spouse and partners.

Usually, upon arriving at a rape scene, officers will find that the victim of a sexual assault is under severe emotional stress, ranging from hysteria to deep depression. She may be sobbing uncontrollably, excited to the point of incoherence, or be in a state of shock.

Fear is the most common reaction to rape and it usually has not dissipated by the time the police arrive. The officer should expect the victim to remain fearful during the interview. He should try to comfort and reassure her that she is safe and has nothing more to fear.

If the victim is silent during the interview, it doesn't necessarily mean she's hiding what happened. It may mean that she is having a difficult time organizing her thoughts and initiating a conversation about the incident.

Rape victims who are composed and able to calmly discuss the rape are usually controlling their feelings. They may also be in a state of "numbness" which helps protect them from being overwhelmed by "too much" feeling. Smiling, giggling, or laughing are also defenses against crying and other manifestations of sadness.

Officers may feel discomfort interviewing a rape victim because of the private nature of the crime and the fact it necessitates a detailed discussion of intimate acts and body parts that are linked to sex.



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It is better to be forthright about discomfort than to display non-verbal behaviors that are subject to misinterpretation. The officer who is anxious might initiate the conversation by telling the victim, "I'm going to have to ask you a few questions about what happened...you will probably be a little uncomfortable when I get to them, and so will I...but there aren't very many, and I'm not going to be asking a lot of details."

After you have attended to the victim's medical needs and established a relationship, you should ask the victim to tell the story in her own words. This allows the officer to utilize active listening techniques to indicate concern and interest. Also, it may eliminate the need for further questioning. Do not rush; a rapid "firing" of questions is likely to be interpreted as a second assault.

Unless you have been sexually assaulted and are willing to share that with the victim, do not say, "I know how you feel." This kind of statement is likely to make the victim angry because she knows that you can't know how it feels unless you've been there.

The rape victim may begin to stammer or otherwise indicate discomfort as she gets to sexual details. Give her encouragement, "I know it's hard to talk about...just take your time." You may wish to help the victim by asking specific questions like, "Did the man have sexual intercourse with you?" This may make it easier for the victim to respond because they can answer "Yes" or "No." There may be legal implications to such prompting, however, so officers should encourage the victim to tell as much as possible of the story in their own words.

When describing the details of what happened, victims may use language that makes you uncomfortable. She may use terms for body parts that are troublesome to you. Awareness of this possibility will help you avoid communicating your feelings to victims. Remember, the victim needs to describe events in words that are familiar to her, regardless of what they mean to you.

If the victim uses terms that are vague and confusing, ask her what she means. "He raped me" has different meanings to different people and may include Criminal Sexual Act as well as vaginal penetration. Also needing clarification are terms like "private parts."

When asking victims the details of what happened, do not use confusing terms to protect yourself from words that make you uncomfortable. Indirect phrases like "down south" or "private parts" promote confusion. Use clinical terms, like *vagina* or *penis*, unless the victim indicates unfamiliarity or discomfort with them. If she does, use the terms she uses or prefers.



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Victims who have been sexually abused in ways other than - or in addition to - forced intercourse sometimes hesitate to tell the officer about it. At the same time, they want to get it off their minds, and be reassured that there is nothing about them that made the rapist select them. The officer can help the victim provide important information by making statements like, "I know that rapists sometimes force women to do other things besides sexual intercourse. If he made you do anything else, you should tell the doctor and the investigator who will talk to you later." This statement acknowledges that other acts are not uncommonly demanded by rapists and also gives the woman another resource with which to help cope with the crisis.

There is no "right way" to respond to a Rape or sexual assault. No one knows how he or she will react until it happens to him or her. The officer should try to dissuade sex crime victims from the belief that that they are somehow responsible for what happened to them. One way to do this is to reassure victims that they did the right thing during the crime -- "I would have done the same under the circumstances." If you cannot understand the victim's response or it seems inappropriate to you, avoid communicating your feelings to the victim.

The act of taking the report is an important part of the healing process for the victim. It can be a form of closure for the event. Whether the taking of a report results in prosecution is irrelevant to the therapeutic process. When the police fail to take a report, neglect to take notes, or fail to actively listen, the victim's loss of dignity and power is compounded.

When filling out reports, **do not** include material that reflects a personal opinion, bias or stereotype. **Do not** write, for example, "she was intoxicated, "mentally ill" or "emotionally disturbed." These statements reveal confusion or bias on your part. Such statements can and will be used against the victim if the case goes to court. Also, treat family and friends as crime victims. When talking to family members, don't use the word "Rape." Instead, use "sexually assaulted."

### Victim Responses to Rape

- *Sexual Activity:* The survivor may temporarily lose interest in sexual activity.
- *Social Withdrawal:* The survivor may terminate friendship and refuse to participate in social events.
- *Shock:* The survivor may be calm, collected and/or distant.
- *Disbelief:* Did this really happen to me?



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- *Embarrassment*: Reluctance to notify family or friends for fear of how they will react.
- *Shame*: Feeling dirty, unclean.
- *Sleep Disorders*: Sleeplessness, nightmares and/or flashbacks.
- *Guilt*: What did I do to cause this? If only I had...
- *Depression*: Feeling hopeless and/or extreme fatigue.
- *Loss of Control*: Feeling unable to control surroundings. Inability to make decisions.
- *Disorientation*: Inability to concentrate or to put things in perspective.
- *Denial*: Block out and deny the experience. Resist talking about the assault.
- *Fear*: Fear of being in a similar area to where the attack occurred. Fears for safety and reluctance to go out.
- *Anxiety*: Nervousness and physical symptoms such as muscle tension, sleep disturbances, nausea, and/or stomach problems.
- *Anger*: Anger toward the rapist or toward those who haven't been supportive.
- *Self-blame*: The survivor may irrationally blame herself for the attack.
- *Symptoms of Post-Traumatic Stress*: Flashbacks

### AIDED CASES

During the course of your daily activities, you will often respond to assignments in which a person may require some type of medical aid or assistance. An occurrence requiring that a person, **other than a prisoner**, receive medical aid or assistance is referred to by the Department as an "Aided Case."



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In most respects, an Aided Case is like any other case involving a victim in crisis and the same communication techniques should be employed. An officer who conducts himself in a competent manner, takes charge of the situation, is concerned and gains the trust of the aided person most likely will reduce hysteria and confusion. You should do all you can to minimize the injury or illness and to instill confidence in the aided and his/her family or friends. You should refrain from voicing personal opinions. You should realize that humor and undue familiarity are out of place. Be tactful. Little information can be obtained when those you are interviewing panic, and refuse or become unable to answer your questions.

Special procedures that are applicable to Aided Cases include:

- Render any reasonable assistance to a sick person by administering first aid and requesting response of an ambulance ("bus") if necessary.
- Required information should be obtained from the person most capable of supplying the facts.
- If present, keep members of the family informed, but avoid making statements that might unnecessarily upset anyone.
- When assigned an aided case and the case appears suspicious, an investigation must be conducted to obtain all necessary facts.

### **Aided Persons and Their Property**

- When it is apparent that the victim of an aided case is unable to safeguard his/her own property, the assigned officer is responsible for doing so;
- If the victim is removed to a hospital and admitted as a patient, the hospital will safeguard the property;
- When the victim is unconscious or otherwise incapable of safeguarding his/her property, you must accompany the aided person to the hospital and witness the inventory search performed by hospital personnel;
- Hospital staff will itemize the property on the Hospital Property Record; you will verify the list and sign it;
- Although not mandated by the Patrol Guide, it is suggested that hospital personnel conducting the search be requested to sign your Activity Log after recording the list of property;



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- If property is illegally possessed or contraband, it must not be turned over to hospital personnel. Instead, you will take possession and have it invoiced at your command.

### **Emergency Medical Service (EMS)**

Most ambulances that respond to the scene of aided cases are under the control of the Fire Department of the City of New York (FDNY), Emergency Medical Service. Ambulance personnel are New York State licensed Emergency Medical Technicians (EMT) or Paramedics with extensive training. When an ambulance is required, the Communications Division will contact EMS to dispatch an ambulance to the scene.

### **When a Sick or Injured Person is Given Voluntary Aid (by a Doctor, EMT, or Paramedic)**

Pending the arrival of an ambulance, allow voluntary aid if you reasonably believe the volunteer is a professional (Doctor, EMT or paramedic). You should observe any aid given, if possible. When the situation is under control:

- Request the person who gave voluntary aid to show identification;
- Make an Activity Log entry;
- Record in "Details" section of Aided Report Worksheet/Police Accident Report

### **AIDED CASES ON NYC TRANSIT TRAINS**

Accidents can occur anywhere, however some accidents are characteristic of the subway system; these range from such mundane, unpleasant situations as stalled trains; to fires in the tunnels, to people falling off platforms onto the tracks and sometimes into the path of an oncoming train.

The experienced police officer realizes that if an aided case can be removed from a train without causing further injuries to the person, they should do so (*this may be accomplished with the help of Transit employees and/or passengers*). The reason for this is that we have a dual responsibility in these instances, one is to the sick or injured person, and the other is to the persons aboard the train who wish to continue on to their destinations.



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Consider the following situations:

1. A passenger on a train who is the victim of a gunshot: **The train should not be moved.** Help will be dispatched to the scene. *This is considered a Crime Scene.*
2. A passenger with a broken arm: The aided may be removed from the train, or if this cannot be done without causing further injuries to the aided, a point can be coordinated with the assistance of Communications and NYC Transit where help can be dispatched somewhere along the train's route and the train kept in service.
3. A passenger who has an upset stomach: The passenger may be removed from the train with the help of NYC Transit employees and/or passengers.

This may often be a difficult decision to make. You must quickly, but carefully weigh the outcome of the situation before making the final determination. In all instances, Communications will be kept informed of all developments in conjunction with ongoing aided cases. The well being of the aided is of the utmost importance. However, where possible, avoid unnecessary interruptions of train service. In addition, notify passengers of delays in train service and alternate routes.

### **"Man Under"**

One type of aided case commonly referred to as a "man-under" involves a person who has been run over by a train. In many cases the person may be severely mutilated, including amputations, decapitations or the torso being halved. It is not uncommon for such a severely injured person to still be alive after such an accident. This type of case should always result in a request for the services of E.M.S., Emergency Services Unit (ESU) and a request that electrical power to the subway tracks be shut off. In most cases, removal of the injured or deceased person should be made by ESU personnel.

### **Space Case**

Another type of aided case commonly referred to as a "Space Case" involves a person who has been caught between the train and the subway platform. Often, this occurs when a person has their foot caught in this space while a train is in motion. This can cause the person to be dragged down into the gap (*between the platform and train*), often in a corkscrewing manner, which can result in the severing of the limbs or torso below platform level. Because of the



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pressure of the train acting like a tourniquet, such person may still be alive and will remain so until removed from the space.

In addition to aided procedures, additional matters must be considered; statements from, and information related to the train crew must be obtained; police lines will be established, and if foul play is suspected, crime scene boundaries must be set up. In addition, the train will be taken out of service, which means passengers must be evacuated from the involved train. Service disruptions will also be a factor; trains running behind the involved train will need to be re-routed. When communicating reasons for train delays to passengers, it is sometimes best not to reveal elaborate details – just say there is a sick passenger. The exact nature of what happened does not need to be widely aired, since it may cause alarm and confusion among the commuters, resulting in panic, injury or death.

One important thing to be aware of is that persons underneath or pinned by trains may be in direct contact with the third rail which conducts 600 volts of electricity. These persons will not be electrocuted unless they're grounded. If you physically touch them, you may complete the ground, causing both of you to be electrocuted.

### **AIDED REPORT WORKSHEET**

The AIDED REPORT WORKSHEET is an official record that may be introduced as evidence in legal proceedings. It is imperative that information on the AIDED REPORT WORKSHEET is as accurate as possible in order to assure justice to those involved. There are other self-serving reasons for accuracy as well. Court litigation may take as long as ten years before coming to trial or settlement. Over that period of time, the details of the incident you handled may have been long forgotten. The AIDED REPORT WORKSHEET is designed so that necessary information can be written and recorded, rather than left to one's memory. Reviewing this report will, in most cases, refresh your memory and leave little room for error - if you've prepared the AIDED REPORT WORKSHEET correctly and made complete and accurate ACTIVITY LOG entries.

All the forms that you prepare may, at times, give you the impression that your main function is to record and compile statistics. In a sense, this is true. But as long as you are recording, you should do the job properly. If an aided person is denied compensation because you were too lazy to fill out a form, you are not doing your job. Similarly, if the form is improperly prepared, you have denied the aided protection - which was your main responsibility in the first place.





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Again, a positive police/client relationship is called for when you are involved with the public. Part of your service is to record and gather statistics; any attitude of carelessness or laziness only brings attention to you, which will likely be reflected in an unfavorable evaluation.

An Aided Case, (Radio Code 10-54), requiring the preparation of an Aided Report Worksheet, is defined as any occurrence which requires that a person, **OTHER THAN A PRISONER** receive medical aid or assistance because such person is:

- a. Sick or injured (except vehicle accident);
- b. Dead (except vehicle accident);
- c. Lost person;
- d. Mentally ill;
- e. An abandoned, destitute, abused or neglected child;
- f. Runaway child;
- g. Adult requiring care due to arrest, hospitalization, death of parent/guardian/person responsible for care.

An Aided Report Worksheet is **NEVER** required in the following cases:

- A **prisoner** is **never** the subject of an Aided Report Worksheet. A prisoner's sickness or injury is entered on a **Medical Treatment of Prisoner Form** and is included on arrest paperwork.
- A person injured, sick or dead as a result of a **vehicle accident** is **never** the subject of an Aided Report Worksheet. This information is included on a **Police Accident Report**, discussed in a later lesson.

**Note:** A bicycle is not defined as a vehicle in the Patrol Guide. Therefore, an incident, involving a bicycle, which results in an injury to a person will be handled as an Aided Case, provided no motor vehicle is involved.

### Captions on Aided Report Worksheet

**Aided #:** Obtained when information contained on the AIDED REPORT WORKSHEET is entered into the Automated On-Line Aided System (O.L.A.S.) through the *FINEST* system or Local Area Network (LAN) terminals. Aided numbers are automatically and sequentially issued by the computer system for each command and will be composed of a twelve-digit number.



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**Jurisdiction Code:** Be specific regarding the jurisdiction of the aided, e.g., Transit, Housing, NYPD, Port Authority, etc.

- 00**    ***NYPD (other than Transit or Housing)***
- 01**    ***Transit Bureau***
- 02**    ***Housing Bureau***

**Card Number:** If more than one (1) AIDED REPORT WORKSHEET is necessary, indicate on the front of the AIDED REPORT WORKSHEET under the caption "Card No.   1   of   2   at top right side of form.

If a number of persons are aided as a result of the same occurrence:

1. The first numbered O.L.A.S. AIDED REPORT WORKSHEET will describe the full details.
2. On each succeeding worksheet for the same case, only the aided number, name, address, sex, age and the nature of the injury of the person aided will be entered. (*Include name of hospital & attendant if different from the first worksheet*).
3. Under details, make reference to the full name of the person on the worksheet that shows the complete details.

### **Time / Date of Occurrence:**

When a report is received concerning an aided case that occurred on a previous date:

1. Under details enter "Reported" - time and date with brief explanation for delay.
2. Use military time of when incident occurred.

**Aided Information:** Indicate surname, first name, middle initial, full address, home & business phone number or indicate whether or not aided is homeless.

**Place of Occurrence:** Give location (*address, etc.*) where aided occurred, if it happened on the subway, indicate subway line (*BMT "R," IND "F," "IRT "7" train etc.*).

**Is Aided Victim of a Crime?** Check to indicate whether the person's injuries resulted because he or she was a victim of a crime.



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**Choose / Check Type of Aided:** Check if aided "Refused Medical Aid"

**ACR / PCR #:** Include the Ambulance Call Report (ACR) number or Patient Care Report (PCR) number related to the Aided, this is obtained from the responding EMS personnel.

**Removed to:** Indicate the name of a hospital / morgue the aided was removed to (if applicable).

**Treated by:** Enter Doctor's name. Enter the ADMISSION # only if the aided person was unidentified and hospitalized.

**Notification:** Required if the aided is admitted to a hospital or dies.

1. Required information for notifications must always be obtained.
2. When notification is made, enter information on appropriate space on the AIDED REPORT WORKSHEET, and indicate time, date and who made the notification.
3. If notification is not made, enter the name, address, phone # & relationship of a person to be notified under "DETAILS."

**Children or Dependent Adults Uncared for?** Check yes or no, if yes, indicate disposition under Details

**City Involved?** Check yes or no. If yes; list the Department or agency involved, on the front of the Worksheet and under "Details", enter official diagnosis, description of area and witness(es) name(s), address and telephone number, if available.

**Notifications to:** Check when a necessary notification was made to:

1. Precinct Youth Officer (Child's Temporary Resident Precinct) – if person deceased or removed to hospital and uncared for children are left with friends, neighbors, relatives, etc. not residing in household.
2. Precinct Youth officer (Child's Permanent Resident Precinct) – if child is neglected, abused or maltreated.
3. Emergency Services Unit – if cardio-pulmonary resuscitation (CPR) is administered by members of the service.



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4. Harbor Unit – if person injured or killed in boating accident or person aided on an island inaccessible to a patrol precinct.
5. Missing Persons Squad (Medical Examiner's Liaison Unit) – if person killed as a result of a bicycle accident NOT involving a motor vehicle.
6. Highway District (Accident Investigation Squad) – if person killed or seriously injured and likely to die as a result of a bicycle accident NOT involving a motor vehicle.
7. Unit Concerned – if directed by Patrol Guide, or other directive, forward duplicate copy of Online Aided System (OLAS) Aided Report to unit concerned.

In addition, generate an On-Line Aided System AIDED REPORT WORKSHEET and use as a duplicate report.

### **Additional Reports prepared:** Including

1. Line of Duty Injury Report
2. Domestic Incident Report
3. Taser / Stun Device
4. COMPLAINT REPORT WORKSHEET

Enter a Complaint number and Precinct number if a COMPLAINT REPORT WORKSHEET is prepared in connection with an AIDED REPORT WORKSHEET when:

- A crime is involved (assault)
- The victim is dead or dies

EXPOSURE REPORT # (used for MOS exposed to hazardous materials)

- Enter an Exposure Report # if required.

### **Rear of Aided Report Worksheet**

**EDP:** Check if an aided person has a known prior history of being emotionally disturbed.

Check all boxes pertaining to the actions of an EDP.

- Attempted physical harm to self;



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- Attempted physical harm to others;
- Placed self in dangerous situation;
- Physically threatened others;
- Verbally threatened others;
- Spoke of harming self or others;
- Unable to care for self;
- Other (specify).

**CPR:** If M.O.S. administered Cardiopulmonary Resuscitation to an aided person, check the appropriate boxes. Indicate "mouth-to-mouth" or aided resuscitated.

**O.C. Spray used:** If issued O.C. spray was used, list all details in "Details" section, including the rank, name, and tax number of M.O.S. who discharged spray.

### Details (for all Aided Cases)

1. Indicate circumstances surrounding the particular incident. In addition include the following, if applicable:
  - a. If the city is involved, an "Official" diagnosis from the hospital is required.
  - b. Enter an accurate description of "Unidentified" persons who are the subject of an aided case. Include clothing worn.
  - c. If an unidentified person is treated and released from the hospital, record such facts in this caption.
  - d. In homicide cases enter the name of the Detective assigned.
  - e. If case involves a dead human body (DOA), enter the name of the person notified at the Medical Examiner's Office and case number received.
  - f. Mentally ill cases - include any written statements concerning the patient and name of the psychiatrist.
  - g. Indicate name of relative or friend who will care for dependent adult or child.



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- h. Record name, address, telephone number and relationship of the person to be notified if the aided is hospitalized or dies.
- i. If C.P.R. is administered by a member of the service [non-ESU], indicate name and list any protective equipment used (mask, gloves, etc.). In addition, indicate length of time and results obtained.
- j. When a "Mental Health Removal Order" is involved, indicate the name of the responding city psychiatrist under "Details" on AIDED REPORT WORKSHEET.
- k. Identity of the person notified of presence of "Medic Alert Emblem."
- l. Name and badge number of morgue vehicle operator removing a dead human body.
- m. Name and address of person / undertaker receiving the body (if authorized).

### PROCEDURES FOR HANDLING A DEAD HUMAN BODY

Assignments that require you to respond to the scene of a deceased person (commonly referred to as a D.O.A. – “*Dead on Arrival*”) are among the most sensitive of all tasks. You are usually the first Department representative to arrive at the scene. In some cases, you will be the first to discover a dead human body.

The majority of dead human bodies you will encounter will be those of people who have died of natural or accidental causes. The death of a family member is a sad occurrence and you should show sympathy toward those concerned. Keeping this in mind, you must also remember that the location where a DOA is found should be treated as a possible Crime Scene and not unnecessarily disturbed. Remember, it is your responsibility to protect the scene and allow only those who are authorized to disturb the body or its effects. Those individuals are:

- a. Paramedic, E.M.T., or doctor (caution not to disturb evidence).
- b. Medical Examiner or assistant.
- c. District Attorney or assistant.
- d. Members of the Detective Bureau, detective squad or Crime Scene Unit.



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- e. Members of Highway District assigned as "accident technicians" or "accident investigators."
- f. Member of Emergency Service Unit, if body is on train tracks or in subway tunnel.

### Dead Human Bodies

A declaration of death may be made by a physician or by a city ambulance attendant, Emergency Medical Technician or Paramedic. The title and name of the person making the pronouncement of death are entered under the "Details" section of the COMPLAINT REPORT WORKSHEET, the **AIDED REPORT WORKSHEET** and in your ACTIVITY LOG.

When the cause of death is not suspicious, the body is released to the family by the Medical Examiner ("M.E."). If the cause of death is suspicious, cannot be determined, or when no family member is present, the body will be delivered to the morgue.

When you respond to the scene of a death, you should refrain from making statements concerning the possibility of an autopsy. In the absence of *compelling public necessity*, no autopsy will be performed over the objection of a surviving relative or friend if it is contrary to the religious beliefs of the deceased.

*"Compelling Public Necessity"* means:

1. That the autopsy is essential to the conduct of a criminal investigation, or
2. That discovery of the cause of death is necessary to meet an immediate and substantial threat to public health, or
3. The M.E. deems it necessary and obtains a court order authorizing such procedure.

### Searching Dead Human Bodies and Premises

In order to preserve the integrity of the scene, and protect you against unwanted claims of theft, all searches will be conducted under the guidance of a supervisor. Therefore, you will request and await the Patrol Supervisor before searching. The body will be searched at the scene if possible. If a body is removed from navigable waters - Harbor Unit does the search and turns over the property to a precinct member to voucher. A responsible person should witness the search, if possible. A police officer of either sex may search a D.O.A. Make



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ACTIVITY LOG entries of identity of witness(es) to search. A complete search of the premises will be made and **ALL** property removed from the body except clothing actually being worn. **ALL** property removed will be listed in your ACTIVITY LOG, verified by a supervisor and removed to your command, while another M.O.S. remains with the body to await its removal.

At the command, you will prepare a PROPERTY CLERK'S INVOICE (discussed in another lesson). The INVOICE will be an itemized list of all property removed.

### **Decedent's Property**

It is the Police Department's responsibility to safeguard the property of a deceased person so that those legally entitled to the property will receive it (e.g., family, those named in wills, codicils, etc.). Additionally, this property, in most cases will lead to the positive identification of the deceased.

### **Identification Tag**

An IDENTIFICATION TAG (PD317-091) also referred to as a "95 Tag" is placed on dead human bodies, parts of bodies and human fetuses that are to be delivered to the morgue (also used for unconscious accident victims who are removed to the hospital). The lower half of the tag is used as a receipt for a body delivered to the morgue, and for body and death certificate if released to a funeral home.

### **Safeguarding a D.O.A.**

From time to time, you may be assigned to guard a dead human body at a residence. In such cases, you will stay with the body until a morgue attendant or an authorized undertaker removes it. You will fill out the IDENTIFICATION TAG (front and back), obtain receipt of the IDENTIFICATION TAG (bottom half), and secure the premises when leaving, by locking the door and pasting a seal on the door and the doorjamb unless there is a co-occupant. Deliver the key to the premises and IDENTIFICATION TAG receipt to the Desk Officer.

### **Procedures for Sealing a Residence**

- Paste "SEAL FOR DOOR OF DOA PREMISES" on door and doorjamb. The door will not be sealed if there is a co-occupant.





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- If the deceased lived alone, and the door is sealed, the Desk Officer may permit a person (*relative, friend, etc.*) to enter in order to obtain clothing for burial purposes. Accompany the person and apply a new Door Seal on the doorjamb when finished.

### **AIDED NOTIFICATIONS - GENERAL**

Notifications are necessary when an aided/accident victim is:

1. Dead;
2. Seriously Injured and Likely to Die;
3. Admitted to a hospital;
4. Less than 18 years of age.

When making a notification, be aware that you may be the bearer of possibly tragic news. Avoid any actions (*expressed or implied*) that may cause undue alarm. In making the notification, give an impression of sympathy and concern. It is important that you display credibility.

Frequently, when a notification is made regarding a minor injury, the officer does not give all the facts. The imagination of the person being notified is then allowed to exaggerate the situation. Be brief when making a notification but relate all required information.

Inform the aided person's relatives or friends of:

1. Name of the hospital aided has been removed to;
2. Name of doctor, if available;
3. Location and telephone number of the hospital;
4. Your name, shield number and command;
5. The circumstances of the incident and condition of aided.



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When assisting a person who is admitted to a hospital, you will enter on the Aided Report Worksheet any available information that will assist the Department in notifying family or friends. If you are unsuccessful in your attempts to make the notification, you will enter the following information in the "Details" section of the Aided Report Worksheet:

1. Complete description of the person;
2. Name and location of a "person to be notified."

The Aided Report Worksheet is then delivered to the Command Clerk, who will continue notification efforts.

When a notification must be made to next of kin or friend/relative regarding an aided who is seriously Injured and likely to die, any notification should be made in person by a police officer. It is a good idea to have a relative/friend present during the notification to console the person being notified. Notifications of minor illness or injury may be made by telephone.

When a telephone notification is not possible, police officers from the resident precinct, may respond to the residence to make the notification. If a notification is not possible because relatives or friends reside outside New York City, Inter-City Correspondence will be utilized to send local law enforcement to make the notification.

### DEATH NOTIFICATIONS

Notifications pertaining to death are described in Patrol Guide section 216-04. These will be some of the most stressful jobs you will encounter as a police officer. In a study of homicide detectives, one senior officer reported that, during his first death notification he became so nervous that he was literally unable to speak and was forced to ask his partner to deliver the message for him. Continual performance of death notification does not appear to reduce the associated anxiety: *this is a very tough job, even for veteran officers.*

In an effort to contain an unpredictable and demanding situation, some police officers develop their own procedure for delivering death notifications. One officer regularly asked the family some general questions. This opening encouraged the family to anticipate being told that something terrible had happened. The officer then disclosed the news while his partner observed the family's reaction, in case a member should respond aggressively to the news.



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Developing a personal routine for the delivery of death notifications can be useful as long as it does not involve the type of defensive detachment that protects you but not the survivors. For example, the “I don’t pull any punches,” approach which pits police against the next of kin, will greatly increase the emotional upset experienced by the deceased family and friends.

The importance of properly conducting death notifications cannot be overlooked. An officer’s ability to deal effectively with such situations can substantially assist survivors in resolving their loss. A poorly conducted notification or one that is performed in a seemingly callous or unsympathetic manner can intensify the personal suffering to the survivors.

### Death Notification Procedure

1. Prior to making the notification, talk about your reactions to the death with your partner or other officer. This will enable you to better focus on the family when you arrive.
2. Before the notification, try to determine whether adult members of the immediate family are at home.
3. Present credentials and ask to come into the residence.
4. If possible, suggest that the next of kin or family members sit down. Then proceed with the notification in the most relaxed manner possible. Speak in a slow, calm manner, and proceed with the notification until completed.
5. Do not make a notification to children. Children should be out of the room when the notification is given. Parents or other adults previously known to the children should make such notifications.
6. Inform simply and directly with warmth and compassion.
7. The pace of your delivery will be dictated by the actions of the survivor. If permitted, it is best to deliver your message in a gradual but direct manner. For example, you may begin by saying, “Mr. Smith, your son has been in a bad accident this evening.” The survivor may query by asking, “Is he all right?” or insist on knowing straight off “Is he dead?” In both examples the officer should respond truthfully.



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8. When making a notification, *do not use police jargon*. Do not use expressions like "expired," "passed away," "decapitated," or "killed." Such words detract from a competent and compassionate notification. Being too graphic at this stage can create an emotional overload for the survivor that will complicate an already difficult situation.
9. Continue to use the words "dead" or "died" throughout the conversation. Continue to use the victim's name, not "body" or "the deceased."
10. *Sample script*: "I'm afraid I have some very bad news for you." Pause a moment to allow them to prepare. "(Name) has been involved in \_\_\_\_\_ and (s)he has died." Pause again. "I am so sorry." Adding your condolence is very important because it expresses feeling rather than facts, and the survivors to express their own.
11. Do not blame the victim in any way for what happened, even though he or she may have been fully or partially at fault.
12. Do not discount feeling, theirs or yours. Intense reactions are normal. Expect fight, flight or other forms of regression (behaviors characteristic of early periods of life). If people go into shock, have them lie down, elevate their feet, keep them warm, monitor breathing and pulse, and call for medical assistance.
13. Join the survivors in their grief without being overwhelmed by it. Do not use clichés. Helpful remarks are simple and direct; they validate, normalize, assure, empower, and express concern. Examples: "I am so sorry." "It's harder than people think." "Most people who have gone through this react similarly to what you are experiencing." "If I were in your situation, I'd feel very \_\_\_\_\_, too."
14. Answer all questions honestly (requires knowing the facts before you go). Do not give more detail than is asked for, but be honest in your answers.
15. Depending on the situation you can offer to make calls to clergy, relatives, and employer. Provide survivors with a list of the calls you make, as they will have difficulty remembering what you have told them.
16. When a child is killed and one parent is at home, notify that parent, then offer to take them to notify the other parent.



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17. As the person making the notification, it is your responsibility to evaluate the physical and emotional condition of the survivor(s) and their overall environment. Do not leave survivors alone. Arrange for someone to come and wait until they arrive before leaving.
18. Let the survivor(s) know you care. If there is anything positive to say about the last moments, share them now.
19. Be sure you know how to procure immediate medical or mental health care should family members experience a crisis reaction that is beyond your response capability.

One study suggests that the performance of death notifications may be a source of occupational burnout. Don't let this happen to you. Talk to fellow officers about what happens. If necessary, seek help. (Eth, et al., 1987).

One officer confided that after delivering a death notification he would always go to a bar and "get loaded." Don't let this happen to you. If necessary, seek help. (Eth, et. al, 1987)

Once the taboo is lifted from talking about death notification, peer support can be openly elicited from colleagues and administrators within the force. (Eth., et al, 1987)

You will have personal reactions to death notification. Don't hesitate to talk about them with a qualified disaster mental health person within the Department or outside. Don't try to carry the emotional pain all by yourself, and don't let your emotions and the stress you naturally experience in empathizing with the bereaved build into a problem for you (National Center for Post-Traumatic Stress Disorder, Department of Veteran Affairs).

You may be assigned to a D.O.A where the family is present. This can be emotionally difficult for you, particularly if the dead person is a child. Talk to peers. Talk to your spouse or family members. How you feel in the presence of a grieving family is not something that has to be kept a secret.



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### RESOURCES AVAILABLE TO CRIME VICTIMS

#### Crime Victim's Compensation Program

Crime victims are entitled to compensation by the State Crime Victim's Compensation program. The Crime Victims Compensation Board may grant a monetary award for a wide variety of circumstances, which are described in detail in the application brochure. Awards are granted for medical expenses, lost earnings, burial expenses, counseling services, cost of repair or replacement of essential personal property, and transportation expenses for court appearances related to the crime. Inform them that applications are available at any precinct station house.

A member of the service who receives a report of a crime involving personal physical injury to an innocent crime victim will comply with the following procedures regarding the Crime Victim's Compensation Program:

- Notify the victim, or a dependent or a surviving relative of the State Crime Victim's Compensation Program;
- Provide the victim or relative with the brochure application;
- Indicate this notification under the "Details" section of the Complaint Report Worksheet;
- The New York State Crime Victims Compensation Board is authorized by Article 22 of the New York State Executive Law, and has an office at 55 Hanson Pl., Brooklyn. The telephone number is 1-800-247-8035.

#### Who Can File a Claim?

The following people may file claims:

- A victim of a crime who has sustained personal physical injuries or psychiatric disability. Victims of sex offenses or elderly victims of crime need not to have sustained personal physical injuries to file;
- The surviving spouse, parent, child or person arranging for the burial of a victim who dies as the direct result of a crime;
- Parents, spouses or children of homicide victims may be eligible for reimbursement of the cost of psychological counseling;



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- Those dependent upon the victim - who died as the direct result of a crime - for their principle support;
- Those who suffer a loss of support as a result of the death of a "Good Samaritan" killed as a direct result of aid given to a crime victim;
- A "Good Samaritan" who suffers any out of pocket losses as a result of aid given to a crime victim.

### **What is the Deadline for Filing?**

Claims must be filed within one (1) year after occurrence or death. This time may be extended for good cause for a period not exceeding one year.

### **What Tests Will The Board Apply?**

Police records must show that a crime was committed and such crime was promptly reported. Awards will not be made if police records show that such report was made more than seven (7) days after the crime unless the Board judges that the delay in reporting the crime was unavoidable.

### **Safe Horizon**

Safe Horizon is a not-for-profit corporation established by the Mayor in July 1978, to reduce the trauma, cost and inconvenience associated with being a crime victim in New York City. By building on existing services in the community (law enforcement and social service agencies), Safe Horizon's goal is to offer a comprehensive array of services to all types of crime victims throughout the city. The agency seeks to strengthen and expand services now provided to victim groups with particular problems, such as battered women, senior citizens, families of homicide victims, victims from out-of-town and Rape victims.

The Safe Horizon Hotline provides crisis counseling, services (such as relocation and transportation), information and referrals for crime victims 24 hours a day. Project SAFE, a home security program for senior citizens, provides emergency burglary repair, lock installation and lock exchange.

Safe Horizon has also developed neighborhood-based programs to provide services to victims in their own communities whether or not an arrest has been made. Neighborhood offices are open on the upper West Side, Bedford-Stuyvesant, Kingsbridge, Washington Heights/Inwood, Jamaica and in the Claremont Village Housing Development in the Bronx. Working with NYPD, Safe Horizon offers counseling, assistance in obtaining emergency food, shelter,



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money and other emergency services; assistance in replacing stolen documents, information and referral to appropriate community agencies, and assistance to merchants who have been victimized or who are potential victims.

Safe Horizon operates a program for families of homicide victims in Brooklyn. Families are contacted and offered counseling, assistance with funeral arrangements and help in applying for financial aid.

A Visitors' Assistance Center has been developed to facilitate the cancellation and replacement of stolen credit cards, travelers' checks and airline tickets for victims from out-of-town. The Project also offers interpreter services, when possible, and provides counseling to traumatized victims.

Safe Horizon operates court-based services in Criminal Courts in Brooklyn, the Bronx, Queens, and Staten Island and in Family Courts in the Bronx, Brooklyn and Manhattan. Court projects offer counseling and other services (in English and in Spanish). Staff counselors explain the court process, answer questions about the criminal justice system, and attempt to allay fears victims may experience. Among the court-based services are: transportation; a reception center which provides a secure, quiet room for victims and witnesses awaiting court appearances; counseling and referral to social service agencies; a children's center which provides day care for child victims and children of victims and witnesses; assistance in getting recovered stolen property returned; restitution for crime victims and alternatives to adjudication through mediation at a dispute settlement center.

### LifeNet

LifeNet is a treatment referral program for individuals or families in need of counseling assistance outside the purview of this Department, e.g., drug/alcohol abuse, mental health related issues, the lonely and confused, etc. If you respond to an aided case and encounter such individuals or families, you are directed to give them a **LifeNet Information Card (misc. 4203)** which contains the program's telephone numbers: (1-800-LIFENET or 1-877 AYUDESE [Spanish line]). LifeNet personnel are accessible 24 hours a day, 7 days a week, 365 days a year. LifeNet is not intended as an alternative means by which to handle mentally or emotionally disturbed persons who may pose a danger to themselves or others. In these situations you will comply with Patrol Guide 216-05, discussed in a later chapter.





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The anonymous, toll-free hotlines are staffed by mental health professionals who are trained to listen to callers' problems, assess the nature and severity of their concerns, and connect them to appropriate services in communities throughout the city.

LifeNet should be contacted when you encounter an individual who doesn't require any additional police involvement, is not a danger to themselves or others and who might benefit from speaking to a LifeNet counselor to discuss their options for counseling and/or treatment. Examples of persons who may benefit from receiving a LifeNet card include crime victims, depressed people, substance abusers, domestic violence victims, confused or lonely elders, traumatized persons, and chronic callers.

If you feel strongly that a person may benefit from some type of counseling and the individual is unable or unwilling to contact LifeNet, you can call LifeNet directly and forward the pertinent information to a counselor. The counselor will review the information and will make the appropriate referrals.

You may have some reservations about leaving a LifeNet card with an individual that you deem harmless, only later to discover that they indeed harmed themselves or someone else. It is not expected that you play "psychiatrist," but it is expected that you thoroughly investigate for dangerous and life threatening risks before you refer a call to LifeNet. For example, the presence of weapons will always preclude the involvement of LifeNet.

The LifeNet card is intended to assist and provide relief in a difficult situation that has been determined to be of no imminent risk to self or others. Moreover, appropriate use of a LifeNet card can save you time by relieving you from returning to the scene later, perhaps when it has escalated to the point of presenting risk or harm to others in the community.

LifeNet is a service of the Mental Health Association of New York City in collaboration with the New York City Department of Mental Health, Mental Retardation and Alcoholism Services. It is the only hotline authorized by the City of New York to establish linkages with the city's 22 Mobile Crisis Teams. LifeNet assists over 3,000 callers per month.

### **Medic Alert**

Tragic, even fatal, mistakes can be made in emergency medical treatment unless the special problem of the person is known. A diabetic could be neglected and die because he/she was thought to be intoxicated. A shot of penicillin could end the life of one who is allergic to it. Persons dependent on medications must continue to receive them at all times.



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Who needs Medic Alert? Persons with any medical problem or condition that cannot be easily seen or recognized need the protection of Medic Alert. Heart conditions, diabetes, severe allergies and epilepsy are common problems. About one in every five persons has some special medical problem.

When is Medic Alert important? Whenever a person cannot speak for himself or herself - because of unconsciousness, shock, delirium, hysteria, loss of speech, etc. --the Medic Alert emblem speaks for him/her.

How does Medic Alert Work? The Medic Alert emblem - worn on the wrist or neck - is recognized the world over. On the back of the emblem is engraved the medical problem and the file number of the wearer, and the telephone number of Medic Alert's Central File. Doctors, police, or anyone giving aid can immediately get vital information - addresses of the personal physician and nearest relative, etc. - via collect telephone call (24 hours a day) to the Central File.

What is Medic Alert? It is a charitable, nonprofit organization. Its services are maintained by a one-time-only membership fee and by voluntary contributions from friends, corporations and foundations.

### CONCLUSION

Your obligation to respond to the needs of crime victims and injured persons cannot be overlooked. Police officers are viewed as the defenders of a civilized society and the manner in which we react to persons who request our assistance has far reaching effects on every facet of the victim's recovery, our investigation, and trust between the Department and the community. Thus, you must make every effort to perform your duties professionally, thoroughly, and with compassion and respect for the citizens of this city.



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### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this chapter – ***People in Crisis***. These procedures must be read in conjunction with this chapter. Questions for the 2<sup>nd</sup> Trimester Exam may come from these procedures:

- 216-01 Aided Cases, General Procedures
- 216-02 Preparation of Aided Report Worksheet
- 216-03 Unidentified Persons
- 216-04 Dead Human Body, General Procedure
- 216-14 Aided Cases on NYC Transit Trains
- 216-15 Notifications
- 218-28 Safeguarding Property of Deceased Person



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## People in Crisis

### REFERENCES

Eth, Spencer, D. Baaran, and R. S. Pynoos, "Death Notification," *Bulletin of American Academy of Psychiatry Law*, 15:275-278 (1987).

International Association of Chiefs of Police, "Death Notification," Training Key # 358, 1987.



# POLICE STUDENT'S GUIDE

## Missing Persons

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT MISSING PERSONS?

***This subject goes directly to our primary responsibility: to protect life.*** First, we must know which persons are considered missing, in the sense that their disappearance trips a police investigation. Not everybody who fails to appear at home or at work when expected is considered by this Department to be a missing person. Once we have determined that a person is, indeed, missing, we must know how to investigate their absence and to alert others to it as thoroughly, accurately, and quickly as possible. There is a direct relationship between the swiftness and accuracy of the investigation and the likelihood that a missing person will be found and returned to his or her home and family.

### WHAT IS A MISSING PERSON?

According to the Patrol Guide, a missing person is defined as a person ***missing from a New York City Residence, and is:***

- M***entally/physically impaired to the extent that hospitalization may be required;
- I***s 65 years of age or older;
- S***enile/mentally challenged/disabled and not capable of self care or clear communication;
- S***uicidal;
- I***nvuntary disappearance;
- N***ot yet 18 years of age;
- G***one swimming (possible drowning).

Reports of persons missing from temporary residences within New York City (like hotel guests; college and university students) will be accepted. In such cases, complainants will also be instructed to file a complaint of a missing person with the law enforcement agency where the missing person resides. Thus, for example, if a New York University student whose permanent residence is in Philadelphia were to be reported missing from his or her Manhattan dormitory room, he or she would be reported as a missing person here, and the complainant in the case would be advised to file an additional report with the Philadelphia Police Department. The same procedure should be followed with hotel guests: we will accept a report of a Los Angeles based businessperson who was missing from a New York hotel, but we would also advise the complainant to contact the LAPD to assure that the individual was reported missing with that



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## Missing Persons

agency. Whenever possible, of course, officers should assist complainants in contacting and filing missing person reports with such other agencies.

**Note: *There are no minimum time limits to be observed before accepting a complaint about a missing person;*** as soon as we hear about a missing person, we should initiate our investigative procedure.

***Missing Persons do not include the following categories of people:***

1. Persons wanted for a crime
2. Persons wanted on a warrant
3. Persons 18 years of age or older, who have left home voluntarily because of domestic, financial or other similar reasons.

### **What Are a Police Officer's Responsibilities When Called to Investigate a Missing Person?**

When called to investigate a report of a missing person, a police officer should interview the complainant to determine if, in fact, the complaint of a missing person is valid. If there is a valid complaint of a missing person, the responding officer should immediately begin to gather information such as:

1. An accurate description of the missing individual
2. A description of the clothing worn
3. Location the missing was last seen
4. Whether the missing person is believed to be using public transportation. If so:
  - a. Obtain information on the type of transportation, route and possible destination(s).
  - b. Obtain the Administration for Children's Services caseworker's name and telephone number, if applicable.
5. Biological parents' name, address and telephone number, as appropriate. This is particularly important when missing persons are children of separated or divorced parents, or are adopted.



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Many missing children turn out to have been abducted by divorced or separated parents who are unhappy with court-ordered custody arrangements. In other cases, adopted children are abducted by and/or run off with their biological parents.

6. Ascertain whether the missing person has Alzheimer's disease and is registered with the ***Alzheimer's Association Safe Return Program***, as appropriate. If the missing person is so registered:
  - a. Determine whether the missing was wearing a Safe Return wristband or necklace and request that complainant provide the Safe Return Identification number.
  - b. If the identification number is unknown, the responding member of the service will ***call the Alzheimer's Association at 1-800-272-3900*** to obtain the number and any other information the Association has on the missing person.
7. Establish a crime scene if appropriate.
8. Prior to initiating any further action, ***an initial search of the building*** from which they have been reported missing (e.g., their home; apartment house; school) will be conducted in the following cases:
  - a. A report of a missing person 65 and older;
  - b. A missing person under ten years old;
  - c. A senile or disabled missing person reported missing from a hospital or institution.
9. If the Patrol Supervisor has not already been assigned to respond to the scene by the Communications Division, it is the police officer's responsibility to request that the Patrol Supervisor respond to the scene.

### How are Complaints of Missing Persons Recorded?

A complaint of a missing person is recorded on a ***Missing/Unidentified Person Report***. This report is issued a complaint number obtained from the complaint index.



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## Missing Persons

### Special Category Missing Persons

When a report of a missing person falls into one or more of the following special categories of missing persons, ***an immediate investigation and search is required:***

1. Child under 16 years of age, ***or***
2. Mentally/physically impaired to the extent that hospitalization may be required, ***or***
3. Senile/retarded or disabled and not capable of self-care or clear communication, ***or***
4. Sixty-five years of age or older, ***or***
5. Unique/unusual case, ***or***
6. Missing under circumstances indicating unaccountable or involuntary disappearance, ***or***
7. Possible drowning victim.

### What is to be Searched?

It is the responsibility of the police to conduct the search for the missing person. When circumstances dictate, the search should begin with the location the missing person was last seen, or last known to have been. Every effort must be made to conduct a proper search to ensure that any and all evidence relating to the missing person is discovered and properly preserved. ***A search should begin with the establishment of a crime scene and expand from there.*** The following are typical steps involved in the Department's searches for missing persons.

1. Establishment of a crime scene;
2. Searches of the area where the missing person was last seen or known to have been;
3. Building searches of the residence or facility at which the missing person was last seen or to which he or she was headed;
4. Door-to-door searches;





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5. Land, sea, and air searches, involving the Aviation and Harbor Units;
6. K-9 searches;
7. Roadblocks and checkpoints.
8. School searches;
9. Residential building searches;
10. Grid searches;
11. Transportation route searches.

All these methods may be utilized by the supervisor on the scene to conduct a search for a missing person.

### Children Reported as Missing Persons

Every day, children are reported missing from their homes for several reasons; a toddler who wanders away from home unnoticed, a teenager who runs away from home, a non-custodial parent removes a child from their home during a custody dispute, or a stranger abducts a child.

***The search for a missing child demands a swift, coordinated and accurate response from law enforcement, as the longer a child is missing the less successful a search and recovery effort is likely to be.*** Obtaining necessary information from members of a child's family may be difficult due to the traumatic experience of a child reporting missing. Police officers should use every method available to them to attempt to calm the family and gain the information necessary to immediately begin the search for the child.

In interviewing the complainant it is important to determine if the person who took the child is known, (i.e., family member, spouse, biological parent). If there is a relationship between the abductor and the child, law enforcement should attempt to obtain information concerning the immediate physical danger to the child.



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## Missing Persons

### **Amber Alert Plan**

The **Amber Plan**, initiated in 1996, is a voluntary partnership between law enforcement agencies and broadcasters to disseminate urgent bulletins over the radio, television, Internet, and print media, etc., in the most serious child abduction cases. **The Emergency Alert System** (EAS) is used to air a description of the missing child and suspected abductor. The system allows for prompt involvement of the entire community to assist in the search for and prompt return of abducted children.

### MANDATORY PATROL GUIDE READING

- 207-23 Missing Persons

### HOMEWORK

1. Explain "missing person" as it is defined in the Patrol Guide.
2. List the special category missing persons and explain a police officer's responsibilities when called to investigate them.



# **POLICE STUDENT'S GUIDE**

## **Policing The Emotionally Disturbed**

### **WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT EMOTIONALLY DISTURBED PEOPLE?**

Encounters with “emotionally disturbed persons,” otherwise known as “EDP’s,” are among the most frequent and sensitive of all police interactions. On average, NYPD patrol officers are dispatched to reports of EDP’s almost 200 times a day. Other officers encounter EDP’s independent of the radio dispatcher, when they see them while patrolling their posts or are told about EDP’s by passersby. This simple math should tell you that every patrol officer – *including you* – is certain to be asked to respond to or handle EDP situations fairly often.

EDP calls as difficult as they are frequent. What and whom you will find when you respond to them is likely to vary enormously. About 40 times a day, officers who respond to EDP calls find that the people involved have already left or are in the care of other responsible people. More often (about 155 times a day), officers find people who are acting in a manner that seems irrational. Most EDP calls turn out to involve people who are neither a danger to themselves or others. Nevertheless, police are called to respond to a large number of cases that are dangerous or that, if improperly handled, could quickly become dangerous. As police, we are responsible for getting such people to mental health professionals, but we also have other responsibilities: We must protect the lives and safety of EDP’s, as well as the lives and safety of other innocent people, including ourselves. We also have an obligation to protect EDP’s’ rights and dignity.

Dealing with people who are emotionally disturbed requires a high degree of skill and sensitivity. In these situations, thoughtless or hasty police actions may quickly make things worse, causing EDP’s to act in ways that require officers to use force that might otherwise have been avoided. Therefore, it is essential that officers know how to recognize EDP’s and how to avoid actions that might agitate EDP’s. No police skill is more critical than the ability to defuse, rather than to escalate, potentially explosive situations, and few situations are more potentially explosive than encounters with EDP’s.

This lesson is designed to help you recognize the most common behavior patterns and indicators of emotionally disturbed persons, and to dispel the myths and misunderstandings that surround EDP’s. Most importantly, you will learn specific guidelines to resolve these encounters in a safe and professional manner, without using unnecessary force, and causing unnecessary damage to the lives, safety, rights, and dignity of the mentally ill, their families, and bystanders, as well as you and your fellow officers.



# POLICE STUDENT'S GUIDE

## Policing The Emotionally Disturbed

### RECOGNIZING EMOTIONALLY DISTURBED PERSONS

Recognizing and properly handling situations involving persons who may be emotionally disturbed is critical to the safety of you and others - including the EDP - and to your effectiveness as a police officer.

It is important to recognize that EDP's are not *bad guys* who intentionally give officers a hard time. Officers must be able to recognize EDP's and to understand that EDP's have little or no control over their actions.

Not all EDP's suffer from mental illness. There are many reasons why a person may act in an emotionally disturbed manner, such as mental illness, influence of alcohol or chemical substances, a medical condition (e.g., Alzheimer's), or the experience of an extremely stressful situation.

Regardless of the cause, EDP's should be treated with patience and understanding. They should not be forcibly handled unless it is clear there is no other way to meet your responsibility to protect life. ***Never use force or threat of force against an EDP unless there is no other way to protect life against imminent danger.*** Officers should keep a safe distance from EDP's and otherwise avoid putting themselves in harm's way.

Officers should avoid dealing with EDP's while alone. These are volatile situations that require back-up assistance. Should you encounter an EDP while alone (e.g., while patrolling a foot post), call for other officers to aid in handling the situation. In doing so, be sure to tell the dispatcher that backup officers should respond quietly unless, of course, there exists circumstances that would justify an emergency response.

Unless there is immediate risk to life, officers who provide back-up assistance at EDP calls should respond quickly but quietly, avoid the use of lights or sirens, which may alarm EDP's.

***Supervisors are required to respond to all EDP calls. If the supervisor is not yet on the scene and it is apparent that an EDP is unarmed, non-violent and willing to leave voluntarily, the EDP may be taken into custody without the specific direction of a supervisor.***

Officers should try to contain EDP's and avoid managing their problems in front of an audience. Bystanders usually make EDP situations worse, and should be asked to leave.



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Officers should make sure that nobody takes any sudden or unplanned action unless life is in immediate danger.

Nobody should threaten the EDP. Instead, the contact officer should make it plain to the EDP that the police want to help him or her and that the way to accomplish this is for the EDP to put down any weapon and to come to the police for help.

Officers should take as much time as necessary to take EDP's into custody. Specially trained and equipped Emergency Service Unit ("ESU") officers will be automatically dispatched to respond to assignments involving EDP's.

Officers should take great care to assure that they do not restrain or confine EDP's in ways that may hurt – or even kill – them. **NEVER CONFINE EDP's – OR ANYBODY ELSE – IN FACEDOWN, PRONE POSITIONS FOR LONGER THAN IT TAKES TO HANDCUFF THEM.**

On occasion, EDP's come to police attention because their actions are criminal, and result in injury to people or damage to property. When this happens and it is clear that a person who has committed a crime is an EDP, he or she will be taken to a mental health facility. When such a person is cleared for release by the mental health professionals, he or she should be arrested, charged with the crimes involved, and taken to court for criminal proceedings.

Whenever a person who is about to be arrested is acting irrationally or violently resists arrest, the Patrol Guide procedure for Mentally Ill or Emotionally Disturbed Persons will be Instituted (Patrol Guide: 216–5; Patrol Guide: 208–06). Once in Custody, the subject will be removed to a hospital for examination. (Patrol Guide: 208–2).

Prisoners demonstrating extreme emotional disturbance will be removed to the nearest hospital (Patrol Guide procedure 210–04: Prisoners Requiring Medical/Psychiatric Treatment).

Prisoners suffering from "**cocaine psychosis**" will be **brought to an appropriate hospital facility** and **not to a police facility** (Patrol Guide procedure 208-06).



# **POLICE STUDENT'S GUIDE**

## **Policing The Emotionally Disturbed**

### **WHAT IS MENTAL ILLNESS?**

Mental disorders are illnesses that affect a person's thinking, feelings, or behavior. Mental illness can range from chronic mild forms to life-threatening disorders. Mental illness may begin in childhood or at any point later in the life cycle. Otherwise healthy children and adults may experience symptoms of mental illness when experiencing stressful events (e.g., divorce, loss of a loved one) or trauma (e.g., car accident, shooting).

#### **What Causes Mental Illness?**

The causes of most mental disorders are unknown, but they appear to be biological and environmental. Causes are easier to determine in instances of substance-induced disorders linked to the use of alcohol or illicit drugs like cocaine (e.g., cocaine induced psychosis). The consumption of alcohol or non-prescription drugs is likely to aggravate the symptoms of mentally ill people.

#### **People With Mental Illness**

At times, people with mental illness call for police assistance themselves. They may be victims of crimes or accidents or witnesses; they may call to report that they are planning suicide; they may realize that they need help because, for example, they have stopped taking their medications. Police officers have come across EDP's while attending community crime prevention program meetings, while handling completely unrelated situations, and while processing prisoners already in custody. In other words, EDP's may come to police attention in virtually any way imaginable.

Who are people with mental illness? Psychiatric illness affects people of all races, ethnic backgrounds and social class; it does not discriminate. It is an affliction that affects people regardless of intelligence, achievement, or prominence.

- Like other members of the community, mentally ill people may be professionals, office workers, laborers, homemakers, children, elderly people, or people who depend on welfare and other social services for survival.
- One in five families in America is affected by mental illness.
- Most people diagnosed with a mental illness have never been hospitalized and do not need in-patient care.



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## Policing The Emotionally Disturbed

- The main reason for hospital admissions nationwide is an exacerbation of a psychiatric disorder. At any time, almost 21% of all hospital beds are filled with people with mental illness.
- Mental illness is more common than cancer, diabetes, or heart disease.
- Mental illness can range from mild to severe.

### RECOGNIZING EMOTIONALLY DISTURBED PERSONS

Recognizing and properly handling emotionally disturbed persons is critical to your effectiveness as a police officer. EDP's often exhibit behavior patterns and verbal indicators that seem **Inappropriate, Inflexible, and Impulsive** (*the "Three I's"*). By carefully observing behavior patterns that you judge to be **Inappropriate, Inflexible, or Impulsive**, you may be able to recognize a person who is emotionally disturbed. Examples of behavior patterns or verbal indicators that might fit within the **"Three I's"** are listed below:

#### Typical Behaviors of EDP's That Fit the "Three I's":

1. **Inappropriate Physical Appearance:**
  - Disheveled or bizarre physical appearance, or
  - Appearance that is inappropriate to the environment (e.g., a person who wears shorts in winter, or a heavy coat in the summer).
2. **Inappropriate Body Movements:**
  - Strange posture or mannerisms (e.g., continuously looking over one's shoulder as if being followed, maintaining the same or unusual body positions for an extended period of time, pacing or agitated movements, repetitive movements, or lethargic or sluggish movements).
3. **Disturbances in Perception:**
  - Responding to voices or objects that are not there, or
  - Expressions of grandiose ideas (e.g., the person believes himself to be Abraham Lincoln).



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## **Policing The Emotionally Disturbed**

- Hallucinations, delusions or other false beliefs, or
- Major memory lapses, confusion, or unawareness of people or surroundings, or
- Rapid shifts in subject in a manner that seems incoherent.

### **4. Disturbances in Thought:**

- It may be hard to follow an EDP's train of thought.
- They may jump from subject to subject in a manner that appears incoherent.
- Their speech may be difficult or impossible to interrupt.

### **5. Inappropriate Moods or Rapid Mood Swings:**

- Rapid or extreme mood swings from elation to depression, or
- Overreacting to a situation in an overly angry or frightened manner, or
- Speech patterns that lack the normal ups and downs of emotion, or that contain uncontrollable bursts of emotion, or
- Expressing feelings of persecution (e.g., expressing ideas of being harassed or threatened), or
- Obsessive thoughts or preoccupation with subjects such as death, or guilt.

### **6. Acting or Threatening to Cause Injury to Self or Others:**

- Cutting self with a sharp object, causing cigarette burns on body, starving self, or expressing a desire to do the same to self or others.

### **Environmental Indicators Exhibited by Persons Who are Emotionally Disturbed:**

#### **1. Inappropriate Decorations**

- Strange trimmings or inappropriate use of household items (e.g., aluminum foil covering windows).





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## Policing The Emotionally Disturbed

### 2. Inappropriate Waste or Trash:

- Hoarding or accumulating extraordinary amounts of household items, otherwise known as “pack-rattling” (e.g. accumulating extraordinary amounts of string, newspapers, paper bags, or trash to the extent that it becomes a safety and health hazard). This may be a particular problem among the elderly and officers should be alert to it, or
- The presence of feces or urine on floors or walls.

### Mental Illness, Crime and Danger

There is no causal relationship between mental illness and crime or between mental illness and violence. Most people who are mentally ill do not engage in criminal behavior and most mentally ill persons are not dangerous. A Justice Department study found that only four percent of all violence in a one year period was associated with mental illness. Compare this to the largest risk factor for violence: alcohol and drug abuse. People who abuse alcohol and drugs are 16 times more likely than those with schizophrenia and bipolar disorders to be violent.

### POLICE HANDLING OF EMOTIONALLY DISTURBED PERSONS

Police encounters with mentally ill persons first became a major issue in the late 1960s, when a *deinstitutionalization movement* began. This was a long legal battle that was designed to protect people who, rightly or wrongly, were believed to be mentally ill. Before the movement began, such persons had very few rights, and it was comparatively easy to confine them to harsh mental institutions for long periods. The movement succeeded, making it more difficult to institutionalize people against their will. As a consequence of this movement and of reduced funding for mental treatment generally, the number of people confined to mental institutions has declined by at least half a million over the last generation.

This has had consequences for the police, especially in big cities. Across the country, police are called upon to respond to more and more situations involving mentally ill and emotionally disturbed persons. Police response to these situations requires specialized skills and training. Knowing how to communicate verbally and non-verbally, and knowing how to intervene tactfully and sensitively



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can dramatically enhance the likelihood that situations involving the emotionally disturbed will be resolved safely and effectively.

It is not reasonable for anybody to expect you to be an expert at diagnosing the specific causes of EDP's problems or at prescribing treatment for them. **Your job on the street is to recognize EDP's to assure that you treat them in the most respectful and humane way; and to get them to the mental health professionals who can provide proper care for them.** As you read this material and, later, as you actually encounter EDP's, however, you may wish to know more about the nature of their problems. The material in Appendix "A" at the end of this chapter is a good foundation for such knowledge.

### NYPD POLICY DEALING WITH EMOTIONALLY DISTURBED PERSONS (PATROL GUIDE PROCEDURE 216-05)

The primary duty of all members of the service is to preserve human life. The safety of all persons involved is paramount in cases involving emotionally disturbed persons. If such a person is a danger to himself or others, necessary force may be used to prevent serious physical injury or death. Physical force will be used only to the extent necessary to restrain the subject until delivered to a hospital or detention facility. **DEADLY PHYSICAL FORCE WILL BE USED ONLY AS A LAST RESORT TO PROTECT THE LIFE OF THE UNIFORMED MEMBER OF THE SERVICE ASSIGNED OR ANY OTHER PERSON PRESENT.**

*If the Emotionally Disturbed Person is armed or violent, no attempt will be made to take the EDP into custody without the specific direction of a supervisor, unless there is an immediate threat of physical harm to the EDP or others present.* If the EDP is not immediately dangerous, the person should be contained until assistance arrives. If the EDP is unarmed, not violent and willing to leave voluntarily, a uniformed member of the service may take such person into custody. When there is time to negotiate, use all the time necessary to insure the safety of all individuals.

#### Definitions:

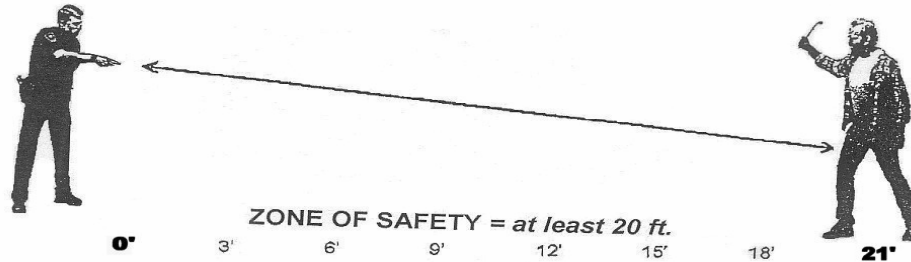
- **Emotionally Disturbed Person (EDP)** - a person who appears to be mentally ill or is acting in a bizarre manner, and who is conducting himself in a manner that a police officer reasonably believes is likely to result in serious injury to himself or others.



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- **Zone of Safety** - the distance to be maintained between the EDP and the responding member(s) of the service. This distance should be greater than the effective range of the weapon (other than a firearm), and it may vary with each situation. A **minimum distance of twenty (20) feet** is recommended. An attempt will be made to maintain the "zone of safety" if the EDP does not remain stationary.



### Distance Equals Safety

Leave yourself space to retreat when dealing with someone who is out of control. This will allow you time to attempt to communicate with the emotionally disturbed person.

Upon arrival at the scene you must assess the situation as to the threat of immediate serious physical injury to the EDP, other persons present, yourself, or other members of the service. Where possible, you should **take cover, utilize protective shielding**, if available, and **request additional personnel**, if necessary. Once you have assessed the situation and evaluated the threat of immediate harm, you are likely to be faced with three (3) possible scenarios:

- The EDP constitutes an immediate threat of serious physical injury or death, or
- The EDP is unarmed, non-violent, and willing to leave voluntarily, or
- The EDP does not pose an immediate threat, but is unwilling to leave voluntarily.

### Bringing the EDP into Custody:

1. In situations in which an EDP's actions constitute an **immediate threat of serious physical injury or death to himself or others present**, you must act immediately and take reasonable measures to terminate or prevent such behavior. As you do so, keep in mind that:



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- **Deadly physical force may be used only as a last resort to protect the life of persons or officers present.**
  - **Damaging property does not necessarily constitute an immediate threat of serious physical injury or death.**
2. When you encounter situations in which EDP's are unarmed, not violent, and willing to leave voluntarily, you may take them into custody without the direction of a supervisor.
3. When you encounter situations in which EDP's pose ***no immediate threat***, but are ***not willing to leave voluntarily***, take the following actions:
- Attempt to **isolate** and **contain** the EDP while maintaining a "zone of safety."
  - Maintain the "zone of safety" until the Patrol Supervisor and Emergency Service Unit (ESU) personnel arrive.
  - ***Do not attempt to take the EDP into custody without the specific direction of a supervisor.***
  - Call for an ambulance, if one has not already been dispatched.
  - If they are not already present, make sure that the Patrol Supervisor and Emergency Service Unit (ESU) personnel are responding.

### **Establish Police Lines:**

It is very important to establish police lines at the scenes of EDP incidents. Police lines allow us to establish safe distances between the EDP and rescue workers, to protect innocent bystanders, and to afford a higher degree of dignity to the EDP. Police lines can range from the establishment to outer perimeters, in serious cases, or more simply, creating a reasonable distance between the EDP and the public at large.

Whenever possible, avoid having to deal with an EDP in front of an audience. The presence of bystanders may cause an EDP to resist you because he does not want to *lose face* in public. Sometimes, bystanders even encourage EDP's to resist or, in the classic situation we have all seen in the movies, to jump from a window ledge or roof. Avoid this. If bystanders are present at an



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encounter with an EDP, ask them to leave so that they do not affect the situation. If an EDP is stationary, establish a frozen area and keep all non-essential personnel out of it. These situations are difficult enough without having to worry about whether the presence, or actions, of bystanders will complicate matters.

### PROPER TACTICS WHEN HANDLING EDP's

Before you arrive at the scene of a possible EDP, or substance abuse incident, **think tactics**. The following list provides some basic guidelines.

1. Before you get to the scene, begin gathering all information possible. You might ask communications to obtain "call back information" regarding the EDP or whether or not any other officer is familiar with the EDP. Such information may include:
  - Whether the person is armed with weapons;
  - Medical or psychiatric history;
  - Location of the subject (home, park, prisoner holding cell, etc);
  - Presence of other adults, children, friends;
  - Whether the person is violent;
  - Whether the person has an arrest record or history of violence;
  - Whether the person has a history of alcohol or substance abuse;
  - Whether other uniformed personnel are on the scene (ambulance, fire department, police);
  - Whether other officers within your precinct know the person.
2. One officer should assume the role of the "Contact Officer" and the other as the "Cover Officer." The contact officer will do **all** of the talking with the EDP. (This prevents the confusion and agitation that might ensue as a result of too many people talking at the same time).
3. Get as much information regarding the EDP as possible from family members or others present. This might include past incidents where police have been called, hospitalizations, medications, drug and alcohol use, past suicide attempts, history of violence, availability of weapons, and/or what triggered the current incidents.
4. Be aware of your surroundings (look for weapons, dangerous condition, entrances, exits, etc.)



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5. Maintain a safe distance from the EDP. When an EDP is violent, maintain a barrier between yourself and the EDP.
6. Respect the EDP's personal space (personal space is defined as the amount of space an individual needs between him and you to feel safe).
7. Do not take offense at any actions or words directed against you. Remember that you are there because EDP's have mental health problems. Even those who may have committed crimes may not be in control of themselves, and are not purposely trying to offend you or anybody else. Their actions are not deliberate choices. Instead, they are the results of a psychiatric illness or other condition.
8. Avoid attempts to intimidate or threaten EDP's. Such techniques may work with rational criminals, but are likely to further excite EDP's.

### Communicating with EDP's:

In order to assess the situation, you may want to ask questions of the EDP. When you try to communicate, be attentive to your tone of voice and body language. If there is something about you or your partner's way of talking that appears to agitate the EDP, have the officer with the best rapport be the designated **contact officer**. He or she will do **all the talking with the EDP**, while the other officer acts as the **cover officer**. Listen carefully, be empathetic, and avoid phrases that will trigger anger, misunderstandings, or agitation.

Methods of dealing with mentally ill persons may depend on the type of mental illness; these are described in detail in Appendix "A," but the following brief summaries also are useful. An individual with a **panic disorder** may think he is having a heart attack or dying. If the officers are familiar with the EDP because they or their colleagues have been called to the scene multiple times and are sure the person is suffering from a panic disorder, it can be helpful to reassure the individual that he is going to be fine, and is not dying.

**Psychotic** and/or **schizophrenic** individuals have difficulty distinguishing fantasy from reality, and may suffer from delusions. Because their delusions are real to them, **you will lose credibility with them if you try to talk them out of their delusions**. Be empathic and try to establish a rapport. You may acknowledge that you know that the psychotic or schizophrenic believes what he is saying, **but you can let him know that you don't share the same belief** (e.g., "I know you're hearing voices but I cannot hear the voices, myself"). Be firm and reassuring. This may help the schizophrenic gain control of unwanted



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## Policing The Emotionally Disturbed

impulses and loose thoughts. It can be helpful to focus on some aspect of the individual's situation that is not strictly related to their mental illness-such as suggesting to a naked person in the subway that she might like to come with you and get a warm coat.

**Cocaine induced psychosis** individuals may become psychotic for reasons other than mental illness. See Patrol Guide 208-6 for a discussion of cocaine induced psychosis and relevant police procedures.

**Manic** individuals are overexcited and irritable. They suffer from extreme mood swings, and typically come to police attention when they are overexcited and irritable. Manic individuals may not present communication problems if approached calmly and competently. Still, a manic individual can become combative, particularly if he is suffering from paranoid ideas (false beliefs that someone is trying to hurt him). Remember to **isolate** and **contain** the individual and call for the Patrol Supervisor, Emergency Services Unit (ESU) and Emergency Medical Services (EMS) personnel.

**Paranoid** individuals believe that the people around them are out to get them, and often interpret events as evidence of plots against them. Because paranoids are likely to see the arrival of the police as part of such a plot, managing them can be very difficult. **Do not try to disprove the person's false beliefs or pretend you agree with them.** Avoid direct confrontation and, instead, assure the paranoid that you are there to help and protect, rather than to hurt. Challenges or dares will only heighten the person's suspicions, make them feel threatened, and motivate them to act out physically. It is best to start in a low key, non-confrontational manner. Use polite requests for cooperation rather than commands, and indicate that you are just trying to do your job. Move deliberately and slowly. Sudden changes in posture and bodily motion will make the individual feel threatened and needlessly stimulate the paranoid into action. Therefore, you should move in a way that shows that you do not intend to challenge or threaten the individual.

All people become depressed at times during their lives, but someone suffering from a major depression may believe that all hope is lost. In the worst case, they may be suicidal, and may also wish to take others with them. Even when dealing with depressed persons who are not clinically psychotic, remember that they may also present the potential for suicide, and for aggression towards others. The approach to such persons, especially those who indicate that they are suicidal, should be made only after the officer's safety can be assured. If the person appears suicidal, sudden moves should be avoided except as a last resort to restrain the person. The individual may think and speak slowly, ask the



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same questions repeatedly, and seem to reject or ignore much of what is said to him. In order to get the person to talk, it may help the officer to focus on the symptoms of the depression itself. "You look like you are under a lot of stress." It is important for the officer to become familiar with the immediate environment from the outset. They should try to find out what keeps the individual settled and what seems to agitate him. If possible, engage the person in conversation. Be a good listener and exhibit compassion.

Most people who are depressed and suicidal are not out of touch with reality. They see suicide as the only way out of their problems.

- Take suicidal threats seriously.
- You cannot make somebody suicidal when you show interest in his or her welfare by discussing the possibility of suicide.
- Suicidal people may get others to kill them (e.g., by provoking a confrontation with armed police officers).
- Suicidal people can be a danger to others. Ten percent (10%) of suicides are preceded by a homicide.
- In general, rushing in to rescue a suicidal person increases the risk to everyone.

### **Communicating With Mentally Ill or Emotionally Disturbed Individuals**

The following section suggests some general rules that will help you to communicate with individuals who are emotionally disturbed. These rules can function as guidelines that will help you gain an EDP's cooperation ("buy time") until a supervisor or ESU arrives, and/or gather important information about the individual's medications, abuse of drugs or alcohol, psychiatric history, prior calls to police, what triggered current upset, weapon availability, history of violence, etc., and most importantly, contribute to a safe and non-violent resolution to the situation. Remember that many EDP's have problems controlling their impulses. It is therefore important that you not engage in activities that further undermine their control.

**The following is a list of tactics that are helpful when communicating with mentally ill or emotionally disturbed individuals:**

1. Do not rush unless necessary to protect yourself or others.
2. Do not make sudden movements.
3. Move deliberately and slowly.





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4. Keep a distance. **Remember – Distance Equals Safety.**
5. Keep a barrier between yourself and any potentially dangerous EDP.
6. Do not “crowd” an EDP.
7. Do not challenge the EDP's perceptions. These may be hallucinations or delusions, but they are real to him.
8. Do not stare at or maintain ongoing eye contact with the EDP, who may see this as challenging or threatening.
9. Unless there is no other way to protect yourself or others against imminent harm, avoid behavior that causes agitation.
10. Do not lie or try to deceive. Once you break trust with an EDP, it is almost impossible to get it back.
11. Do not act in a confrontational manner by arguing with or challenging the EDP. Remember, be empathetic and a good listener.
12. Do not try to intimidate or frighten the EDP into submission.
13. If you are the designated “contact partner,” listen and try to maintain empathy.
14. Act as calmly as possible.
15. If you are the “contact partner,” lower your radio. The “cover officer” will handle the radio.
16. Coordinate your plan of action. Do not surprise your partner by taking any sudden or unexpected action unless someone's safety is in imminent danger.
17. Take as much time as you need to avoid injury to anybody: in these situations, time works to your advantage. Don't lose this advantage by rushing or by forcing a confrontation.



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### WHEN THE EDP HAS BEEN TAKEN INTO CUSTODY

Once the EDP has been taken into custody, either voluntarily or involuntarily, police officers are responsible for the proper care, custody and transportation of the EDP from the scene of the incident to an appropriate medical facility. You must take the following steps to ensure that proper and safe custody is maintained.

1. Remove property that is dangerous to life or will aid in escape.
2. Have the EDP removed to a hospital in an ambulance.
  - Restraining equipment may be used if the EDP is violent, resists, or upon direction of a physician.
  - When a female EDP is being transported, another female officer or an adult member of the immediate family should accompany the female EDP.
3. The uniformed member of the service must ride in the body of the ambulance with the EDP.
  - At least two officers must be assigned to safeguard if more than one patient is being transported.

### THE USE OF FORCE WHEN HANDLING EDP's

When EDP's present a danger to themselves or others, law enforcement personnel are authorized to take them into custody and to transport them to hospitals. As indicated above, sooner or later, every police officer finds himself in a situation involving a mentally ill person who is acting in a dangerous manner. This person may be attempting or threatening to commit suicide by jumping out a window, or in front of a train; she might be holding a knife and thrashing aimlessly about, clearly endangering all persons nearby. What should you do in these situations?

Unless immediate action is necessary to protect someone's safety, you must attempt to **isolate and contain** the mentally ill person. The first step in doing this is to immediately insure that a supervisor and an ambulance are responding.



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Like all other persons taken into police custody, EDP's must be rear-cuffed at the earliest opportunity to reduce the potential for resistance and or injury to themselves or others. Additionally, alternate restraining devices (i.e., velcro straps, mesh restraining blankets, etc.) should be used, when possible or necessary, to restrain or further restrain a subject whose actions or behavior may cause injury to himself or others.

As in all situations, police officers will use force only when necessary. **With EDP's, as in every case, you may use only the minimum amount of force reasonably necessary to control the situation.**

If the emotionally disturbed person is dangerous to himself or others, the law and department policy allow the use of **necessary force** to prevent serious physical injury or death. One example illustrating this point might be that of a person attempting to jump off a roof. In this case it may be proper for the officer to physically restrain the individual by grabbing and cuffing him/her.

***Remember that deadly physical force may be used only as a last resort to protect your life or any other innocent person's life. The primary police mission when dealing with emotionally disturbed persons is to isolate and contain them, while insuring that no person's safety is endangered.***

In any case, when there is time to negotiate, take all the time necessary to insure the safety of all individuals concerned. Await the arrival of the supervisor and the Emergency Services Unit (ESU) whenever no immediate action to prevent injury or death is required. Physical force will be used only to the extent necessary to restrain the subject until delivered to a hospital or detention facility.

A police officer's obligation is to do what is **reasonable and necessary** to insure the safety of all persons involved in any police-citizen contact. Police officers must remember that taking and maintaining cover, establishing containment, waiting and using delaying tactics and distraction are legitimate tools used during potentially hazardous encounters.

**Non-lethal devices** that are carried in the patrol officer's auto or on your person include:

- A four-foot, non-ballistic, polyguard shield (in RMP)
- Pepper Spray (on person)



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**Non-lethal devices** that are carried in Patrol Supervisors' autos and by ESU (which is also equipped with additional equipment) include:

- **Taser:** this is a non-lethal, gun-type device that fires two small darts attached to fine electric wires. When the two darts penetrate the body, they complete an electrical circuit that knocks subjects off their feet. It has an effective range of less than 15 feet.
- **Nova Stun Device:** this is a hand-held device that uses an electric shock to disable resisting persons.
- **Pressurized Water Device (Water Cannon)**
- **Four or Five Foot Shields**
- **Shepherd's Crook**
- **Velcro Restraining Straps**
- **Pepper Spray**

### POSITIONAL ASPHYXIA AND HOW TO AVOID IT

Positional asphyxia is death by inability to breathe because of the position of one's body. It is a silent killer that, police have learned the hard way, can quickly take the lives of persons who are confined or held down in prone positions or, worse, "hogtied." Hogtying involves restraining the movement of a rear-cuffed person by restraining his ankles with a cord or rope and then moving his feet toward his wrists and tying the rope or cord restraining his feet to the handcuffs. **Hogtying is prohibited.** When people are confined in this position-rear-cuffed, lying on their abdomens – regardless of whether they are actually hogtied – most of their body weight is focused on their diaphragms. This makes it impossible for them to breathe or even to call out. Instead, they struggle and grunt, trying desperately to get out of their positions. Officers have mistaken their struggling for resistance, and as a result, applied more pressure to hold them prone-resulting in death.

Positional asphyxia has been rare among persons taken into police custody in New York City, but even one such death is too many. It has occurred when police have restrained violent EDP's by hogtying them, by continuing to



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allow them to lie prone after they have been rear-cuffed, and by placing them in prone positions in the rear seats of police cars while they are transported.

### To Avoid Causing A Death By Positional Asphyxia, Adhere To The Following Rules:

- **Do not hogtie anybody:** under no circumstances may persons taken into custody be “hogtied.” This technique is highly lethal and may not be employed under any circumstances with an EDP or anyone else.
- **Get people in custody off their stomachs as soon as possible:** under no circumstances may EDP's or other persons in custody be restrained confined, or transported in a prone position for longer than it takes to complete rear-cuffing them.
- **Do not use ropes on anybody:** under no circumstances may rope be used to restrain an EDP or anyone else.
- **Do not use choke holds:** members of the service will not use choke holds against other persons.
- **Get immediate help to people who have difficulty breathing:** whenever anyone taken into custody appears to have difficulty breathing or is otherwise demonstrating life-threatening symptoms, medical assistance must be **immediately** requested. The patrol supervisor will direct that alternate means to maintain custody be utilized, if appropriate. When no supervisor is on the scene of an EDP, the senior member present at the scene will direct and coordinate operations, pending the arrival of a supervisor.

### GUARDING EDP'S AT THE HOSPITAL

1. You must safeguard the EDP at the hospital until examined by a psychiatrist.
  - You must inform the psychiatrist of the circumstances that brought the EDP into police custody.
  - If you are relieved by another officer at the completion of your tour, you must inform the relieving officer of the circumstances in which the EDP was taken in custody. This is critical information because the



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examining psychiatrist's main source of information about the EDP is likely to be the officer who is safeguarding the EDP.

2. You must also make entries in your **ACTIVITY LOG** and prepare an **AIDED REPORT WORKSHEET** or Prisoner Medical Treatment Form that is delivered to the Desk Officer upon completion.
3. When entering a psychiatric ward:
  - Escort the EDP to designated area.
  - Sign in Psychiatric Admitting Log.
  - Unload your firearm at the firearm safety station. Place your ammunition in your pocket, and holster your weapon.
  - Confer with the psychiatric admitting staff and provide necessary information regarding the circumstances that brought the EDP into police custody.
  - Safeguard the EDP at the hospital until a psychiatrist examines him or her.
  - Inform the psychiatrist of the circumstances that brought the EDP into police custody.
  - If the psychiatrist refers the EDP to the Emergency Room, reload your firearm at the firearm safety station and make interim remarks in the Admitting Log.
  - Upon departing, make sure that your firearm is reloaded, prepare Aided Report (indicating the EDP's Admission Number), and sign out on the Admitting Log.

### LEGAL ISSUES REGARDING MENTAL ILLNESS

**The Mental Hygiene Law** governs the way people are handled when they are admitted to, treated in, and discharged from in-patient and out-patient facilities. Admission criteria to psychiatric facilities are set forth in Section 9 of the Mental Hygiene Statute. The table in Appendix "D" outlines the parts of Article 9 that pertain to the removal of individuals to hospitals for evaluation.



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**Section 9.37** permits a physician who has received Special Designation by the NYC Department of Health and Mental Hygiene to order that a person who, by reason of mental illness is likely to do harm to him/herself or others, be removed to a hospital for evaluation for psychiatric admission.

**Section 9.41** examines the role of police and peace officers in involuntary and emergency admission processing. This section states "Peace or Police Officers may take into custody and transport to a (psychiatric) hospital, any person who appears to be mentally ill and is conducting himself/herself in a manner which is likely to result in serious harm to himself/herself or others."

While it is not necessary that you, as a police officer, make a psychiatric diagnosis, your training in mental illness should enable you to articulate why certain behaviors indicate its presence. These behaviors should be described on an Aided Report Worksheet or Domestic Incident Report in all custody cases. Remember that you are required to describe behavior that evinces mental illness and that you demonstrate that there is reasonable cause to believe that the person poses a threat of serious harm to self or others.

This is a serious responsibility because we are denying the liberty of someone who has not broken the law. In practical terms, whether to take a mentally ill person into custody is the decision of the Patrol Supervisor who responds. Many times, though, as the first responder, along with Emergency Medical Service, the first responsibility – to detain or release a person – is yours. For this reason all police officers should have a working knowledge of the Mental Hygiene Law, especially standards of Emergency Admission.

**Section 9.43** states that a person who may be mentally ill is brought before the Court and whose behavior may cause harm to himself or herself or others can be ordered by the presiding judge to be removed to a hospital for evaluation for psychiatric admission.

**Section 9.58 of the Mental Hygiene Law** states that a physician or qualified mental health professional who is a member of a **Mobile Crisis Outreach Program** is authorized to remove or direct the removal of one who appears to be mentally ill and a dangerous threat. It should be noted, however, that responsibility for securing a person during removal and transport is the responsibility of the Police Department. Know the special procedures concerning Section 9.58 (Mobile Crisis Teams):



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### Involuntary Admissions:

1. Two (2) physicians authorize transport - police may transport.
2. A **Mental Health Removal Order** is issued.
3. Mental Hygiene Warrant - Court authorized transport. **In the Borough of Brooklyn only** - police must transport to court. The judge then determines mental status and threat of danger.
4. Police initiate emergency admission.
5. Mobile Crisis Outreach Teams authorize removal or direct the removal of persons they deem dangerously mentally ill - police must transport.

### Kendra's Law:

**Section 9.60.** Assisted Outpatient Treatment (AOT) also referred to as "Kendra's Law." This law establishes the procedure for a court to commit an individual against his or her will to outpatient treatment. Family members can make a petition for this law - to the court and other interested parties - for a person to be placed in assisted out- patient treatment. If such an order is obtained and presented to the precinct Desk Officer, the following special procedure must be followed:

1. The Desk Officer must request the radio dispatcher to assign the Patrol Supervisor and an RMP to execute the order.
2. The Desk Officer can direct an RMP to the command to transport the clinician to scene.
3. The Patrol Supervisor will permit the Assisted Outpatient Treatment Clinician to interview the subject to gain his or her cooperation.
4. The Patrol Supervisor will assign an officer to accompany the subject in the ambulance to the psychiatric emergency room of the hospital stated on the removal order.
5. The officer assigned will remain with the subject until he or she has been examined by the hospital psychologist.
6. Comply with **P.G. 216-07** for firearms safety guidelines.





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### **LIFENET**

In some cases, people who need or request help for emotional problems, and appear to present no danger to themselves or others may be referred to **LIFENET**. This is a 24-hour a day, seven day a week helpline operated by the Mental Health Association of New York. It is staffed by mental health professionals, who can assist in finding a resource that will benefit the recipient. The officer on the scene can either give a Lifenet card to an individual who may need help, or refer such person(s) to the following number:

**1-800-LIFENET**



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### APPENDIX "A"

#### SPECIFIC MENTAL DISORDERS

Familiarity with different kinds of mental illness and how they are defined by mental health professionals will enable you to better understand and recognize the complex behavior exhibited by people with mental illness. Knowing a person's mental condition may facilitate your ability to aid him or her safely, and with no more force than is necessary. In these situations, as in all others our goal should be to avoid using force if at all possible and, when force is required, to use no more than we absolutely must.

It can also be useful to know the types of medication that are used to treat certain mental illnesses. The discovery of bottles of medication on the property or person of a mentally ill individual may help you determine what sort of condition he has. People sometimes stop taking their medications because they don't like the side effects. A person who stops taking medication is more likely to show symptoms of mental illness than someone who is taking her medication as prescribed. Nevertheless, it can be difficult to assess whether or not the person is taking his medication by simply looking at the date and counting pills. This is because people may throw out pills or take a handful at once. Occasionally a person may develop psychiatric symptoms or disturbed behavior as a side effect of medications prescribed for physical illness. It can be useful to bring all bottles along with the EDP to the hospital.

#### **Psychosis**

An individual who is psychotic has difficulty distinguishing fantasy from reality. He may have **hallucinations** (hear voices or see things and people that aren't there) or experience **delusions** (false beliefs that he is convinced are true). Psychosis may be linked to different mental disorders such as schizophrenia or manic-depressive psychosis. It can also be induced by drugs, such as cocaine.

Medications that are used to treat individuals who are psychotic and/or delusional include Haldol, Prolixin, Stellazine, Clozaril, Risperdal and Zyprexa, Geodon, and Abilify.



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### Paranoia

A person who is paranoid believes that events, actions, and behaviors of people in his surrounding environment are directed at him or her. In milder cases, he or she may believe that people are talking about or plotting against him. In more severe cases, he or she may be convinced that people want to hurt him. He or she may be dangerous if they are experiencing **command hallucinations** and are **hearing a voice telling them to hurt someone**. Individuals who are paranoid and psychotic may also be a danger to themselves if, for example, they drive at high speed trying to get away from the people they believe are trying to hurt them. Paranoia may be linked to different mental disorders such as manic-depressive psychosis, schizophrenia, and Alzheimer's Disease.

It is important to know that some paranoids can fake normality and appear relatively undisturbed very quickly after mistreating others. For example, the police may receive a call for help made by the wife of a man whom she accuses of threatening her life and beating her. When they arrive on the scene, however, the officers may encounter a calm and relaxed, well-dressed man who makes counter-allegations against the wife (she starts the arguments; she gets overexcited, etc). It's therefore important that officers carefully interview the relevant people on the scene in order to properly assess the situation.

Medications that are used to treat individuals who are psychotic and/or delusional include Haldol, Prolixin, Stellazine, Clozaril and Risperdal, Zyprexa, Geodon and Abilify.

### Mania

Mania is one phase of a mood disorder called bipolar illness (or manic-depression) that is generally marked by periods of predominantly elevated but often irritable mood. The behaviors that characterize mania may be only minor changes from normal, or they may be extreme.

The range of behaviors and characteristics of a person experiencing a manic episode may include the following symptoms:

- Increase in activity level socially, at work, or sexually;
- Physical restlessness;
- More talkative than usual or under pressure to keep talking;



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- Conversation seems to race from one idea to another;
- Opinion of self may be inflated;
- Distractibility (attention easily drawn to unimportant or irrelevant things);
- Actions may appear irresponsible (buying sprees, driving recklessly, sexual promiscuity);
- Diminished need for sleep;
- Delusions (false beliefs);
- Hallucinations (hear voices or see people who aren't there);
- Anger, irritability, explosiveness;
- Euphoria (extreme happiness);
- Paranoid delusions (false beliefs that someone is trying to hurt them);
- Delusions of grandeur (false beliefs that they are God)
- Impulse control problems.

Medications used to treat the mania linked to manic-depressive psychosis include Lithium, an anticonvulsant medication called Lamictal, and Valproic acid (which is sold under the brand names Depakote and Depakene).

### **Depression**

Depression is a mood disorder that is generally marked by periods of feeling very down or low. Everyone has experienced a measure of depression under certain circumstances. But when a person's emotional state does not seem appropriate to his circumstances, and his emotional behavior interferes with his life at home and at work, he may be regarded as emotionally disturbed. People who are depressed may experience or demonstrate:



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- Preoccupation with death or suicide;
- Difficulty controlling impulses;
- Inability to experience pleasure;
- Slowed speech and movement;
- Increased or decreased appetite;
- Sleeping problems, such as waking up very early in the morning;
- Low self-esteem;
- Withdrawal;
- Neglected personal appearance (dirty, messy, or inappropriate clothing);
- Sad or tense facial expression;
- Tearful, shivering;
- Irritable, detached, hostile, or suspicious;
- Difficulty concentrating;
- Apparent memory loss;
- Lack of emotion.

Medications used to treat moderate and severe forms of depression include Prozac, Zoloft, Paxil, Welbutrin, Remeron, Effexor, and Celexa.

### **Manic Depression or Bipolar Disorder**

Manic-depressive people experience extreme and sometimes-rapid mood swings alternating between depression and mania or elation. When encountering mania, the person almost always suffers from bipolar illness.



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### **Schizophrenia**

There are a wide variety of schizophrenic conditions, ranging from fairly good reality contact to major disorganization and deterioration of behavior. In its most common form, the individual exhibits a pattern of bizarre conduct, joined to periods of normality and good general orientation. During periods of flare-up in the illness, in the extreme form when likeliest to come to the attention of the police – the individual shows a frank loss of control, often with paranoia, an inability to communicate logically, and hallucinatory behavior – hearing and seeing things that aren't there. Types of schizophrenia include paranoid schizophrenia which is characterized by a well-developed set of delusional beliefs that involve ideas of persecution. Characteristic beliefs and behaviors of schizophrenia may include:

- Thought and speech appear illogical, or loosely and incoherently connected;
- Unrelated attitude in conversation;
- Words may be combined in a meaningless string (word salad);
- Attention fades in and out;
- Severe indecisiveness and an inability to carry out normal activities;
- Disheveled appearance;
- Lack of drive or motivation;
- Withdrawn or absorbed in his own thoughts;
- Hallucinations;
- Paranoid thinking;
- Irrational belief that he is superior; has a special calling; is God;
- Hostility and belligerence;
- Repetitive movements;



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- Incoherent and illogical patterns of thought and speech;
- Belief that someone is controlling their thoughts put thoughts into their head, or that people can read their thoughts;
- Belief that others are forcing them to act against their will;
- Dramatically increased or decreased body movements (characteristic of what is called catatonic schizophrenia);
- Impaired impulse control.

Medications that are used to treat individuals who are psychotic and/or delusional include Haldol, Prolixin, Stellazine, Clozaril, Risperdal, Zyprexa, Geodan and Abilify.

### **Anxiety Disorders**

Anxiety is normally experienced by most people in response to external or internal events that trigger discomfort, uncertainty or danger. Such anxiety producers might include the impending loss of a loved one, preparing for and taking an examination, changing work environment, or confronting a new and potentially threatening situation. Some people, however, experience chronic and/or high levels of anxiety when exposed to situations that could be characterized as routine or normal. The different types of anxiety disorders include free-floating anxiety, phobias, Post-Traumatic Stress Disorder ("PTSD"), and panic attacks.

**Free-floating Anxiety** is a general state of anxiety that seems to engulf the person most of the time. This kind of anxiety makes a person prone to impulsive acts. Very anxious people tend to get into disputes with other people. They are so edgy that they misperceive situations. People with free-floating anxiety may be subject to "panic attacks."

**Phobias** are characterized by a persistent, debilitating, and severe fear of specific objects (like spiders) or situations (riding in an enclosed space like an elevator). Typically, the person recognizes that his or her fear is excessive or unreasonable but feels helpless in controlling control it.



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**Post Traumatic Stress Disorder** (PTSD) is a condition that develops in some survivors of catastrophic events such as military combat, rape, a shooting, or some other disaster. A person suffering from PTSD may suddenly feel as though the traumatic experience is happening again (a “flashback”) and behave inappropriately and appear terrified.

**Panic Attacks** are sudden, overwhelming feelings of anxiety, which can induce a state of frenzied agitation. The person is overwhelmed by terror. Symptoms may include sweating, vertigo (dizziness), palpitations, chest pains, fear of losing control, and a feeling of approaching death. Individuals with panic disorder may repetitively end up in medical emergency rooms until they are finally seen by a psychiatrist and released. Panic attacks usually last up to 10-15 minutes and then subside.

Medications used to treat anxiety disorders include Ativan, BuSpar, Klonopin, Paxil, Prozac, and Zoloft.

### **Physical Illnesses with Symptoms Similar to Mental Disorders**

It is important to keep in mind that certain physical illnesses may manifest symptoms similar to mental disorders. There are also certain physical illnesses that are characterized by behavior that appears antagonistic, oppositional and belligerent. An individual with a brain tumor may appear to be psychotic. An elderly person with an infection may become agitated, actively fighting anyone who tries to take him to the hospital. A person who is epileptic and coming out of a seizure may seem disoriented, display a blank stare, and not be able to answer the officer's questions. Someone with **Tourette Syndrome** may spasmodically let out a stream of obscenities that he cannot control. Mostly illegal substances and prescription drugs, such as marijuana, cocaine or percocet, may cause some individuals to exhibit symptoms typical of certain mental illness, including psychosis, paranoia, belligerence, and euphoria.





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### APPENDIX "B"

#### ELEVEN MYTHS ABOUT MENTAL ILLNESS

**Myth 1:** People with a severe mental illness, such as bi-polar illness or schizophrenia, are usually dangerous and violent. They are more likely to engage in violent behavior than those without mental illnesses.

**Reality:** People with mental illnesses are more likely to be victims of a crime, rather than perpetrators of crime. Studies show that there is no relationship between being treated for a mental illness and a potential for future violence.

**Myth 2:** Psychiatric disorders are not true medical illnesses. They are not like heart disease or diabetes. In fact, there really is not such a thing as mental illness. Some people just act crazy.

**Reality:** Mental illnesses, like heart disease and diabetes, are real illnesses that appear to be caused by a combination of biochemical imbalances that make someone more susceptible to getting ill. They appear to be brought on by some stress in the environment. Research is beginning to show that there are genetic and biological causes for some psychiatric disorders, and that they can be treated effectively.

**Myth 3:** Mental illnesses are not treatable and treatment cannot match the success rates of other illnesses.

**Reality:** Surgeon General David Satcher in his 1999 Report estimated that the rates of successful treatment of Schizophrenia, Bi-Polar or Manic Depression and Clinical Depression, equaled or exceeded other common illnesses.

**Myth 4:** Mental illness is the result of parenting.

**Reality:** Most experts agree that a genetic susceptibility, combined with other risk factors, leads to psychiatric disorder. Mental illnesses have a biological cause and are not caused by bad parenting.

**Myth 5:** Depression results from a personality weakness or character flaw, and people who are depressed could just snap out of it if they tried hard enough.

**Reality:** Depression has nothing to do with being lazy or weak; it results from changes in brain chemistry or brain function. Medication and/or psychotherapy often help people recover.



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**Myth 6:** Schizophrenia means split personality, and there is no way to control it.

**Reality:** Schizophrenia is often confused with multiple personality disorder. Actually schizophrenia is a brain disorder that robs people of their ability to think clearly and logically. The estimated 2.5 million Americans with schizophrenia have symptoms ranging from social withdrawal to hallucinations and delusions. Medication has helped many of these individuals to lead fulfilling, productive lives.

**Myth 7:** Depression is a normal part of the aging process.

**Reality:** It is not normal for older adults to be depressed. Signs of depression in older people include loss of interest in activities, sleep disturbances, and lethargy. Depression in the elderly is often undiagnosed and it is important for seniors and their family members to recognize the problem and seek professional help.

**Myth 8:** Depression and other illnesses, such as anxiety disorders, do not affect children or adolescents. Any problems they have are just part of growing up.

**Reality:** Children and adolescents can develop severe mental illnesses. In the United States, one in ten children and adolescents has a mental disorder severe enough to cause impairment. However, only about 20 percent of these children receive needed treatment. Left untreated, these problems can get worse. Anyone talking about suicide should be taken very seriously.

**Myth 9:** If you have a mental illness, you can will it away. Being treated for a psychiatric disorder means an individual has in some way failed or is weak.

**Reality:** Serious mental illness cannot be willed away. Ignoring the problem does not make it go away, either. It takes courage to seek professional help.

**Myth 10:** Addiction is a lifestyle choice and reveals a lack of willpower. People with a substance abuse problem are morally weak or bad.

**Reality:** Addiction is a disease that generally results from changes in brain chemistry.

**Myth 11:** People with mental illness cannot work or be productive in the community.



# **POLICE STUDENT'S GUIDE**

## **Policing The Emotionally Disturbed**

**Reality:** Although people with mental illness have an unemployment rate in excess of 85%, with the right combination of medication, talk therapy, and community support, thousands of people with mental illness work, pay taxes, and make valuable contributions to their communities.



# POLICE STUDENT'S GUIDE

## Policing The Emotionally Disturbed

### APPENDIX "C"

#### INTERACTING WITH A PERSON WITH MENTAL ILLNESS

The person with mental illness in a crisis situation is generally afraid. Therefore, when interacting with this person:

#### You Should:

- Continually assess the situation for danger.
- Maintain adequate space between you and the person.
- Be calm.
- Give firm, clear directions. The person is probably already confused and may have trouble making even the simplest decision. If possible, only one officer should talk to the person.
- Respond to apparent feelings, rather than content (e.g., "You look/sound scared.")
- Respond to delusions and hallucinations by talking about the person's feelings rather than what he is saying (e.g., "That sounds frightening.")
- Be helpful. People, generally will respond to questions concerning their basic needs (i.e., safety). "What would make you feel safer/calmer, etc.?"
- Address basic needs when appropriate (tissue, cup of coffee, etc.)
- **Not** join into behavior related to the person's mental illness (e.g. agreeing/disagreeing with delusions/hallucinations).
- **Not** stare at person – This may be interpreted as a threat.
- **Not** confuse the person – One officer should interact with the person. If a direction or command is given, follow through.
- **Not** give multiple choices – Giving multiple choices increases the person's confusion.
- **Not** whisper, joke or laugh – This increases the person's suspicions and the potential for violence.
- **Not** deceive the person – Being dishonest increases fear and suspicion; the person will likely discover the dishonesty and remember it in any subsequent contacts. Don't make promises/threats that you can't follow through on.
- **Not** touch the person – Although touching can be helpful to some people who are upset, for many it may cause more fear and lead to violence.
- **Not** minimize concerns (e.g., "Oh, things can't be that bad," etc.).



# **POLICE STUDENT'S GUIDE**

## **Policing The Emotionally Disturbed**

### **Asking Questions**

- Ask simple and direct questions.
- Ask open-ended questions.
- Develop a rapport – this helps to overcome the person's fear and mistrust.
- Identify and communicate with the healthy aspects of the person. Even the most disturbed person has areas of "normal" functioning.
- Determine reasons for the individual's actions.
- Be honest – perceptions of deceit may escalate violence and be perceived as a challenge.

### **Understanding the Person**

- Listen to the person – be an active, empathetic listener.
- Recognize and respond to physical needs.
- Paraphrase responses and check for understanding.

### **Encouraging the Person to Respond**

- Use calm, simple, direct instructions/request.
- Restate person's statements. (Disputant: "I can't sleep," Officer: "You're having difficulty sleeping?")
- Use simple acknowledgements – this encourages further communications; "uh-huh," "I see." Allow sufficient time for response.
- Use the term "go on" and "and then...?" As general leads.
- Give broad opening such as "you look like you need to talk things over with someone." This indicates willingness to listen and relieves tension.
- Seek clarification and problem for specifics. This encourages talking and provides accurate information. "I'm not sure I understand, could you explain?"
- Use position of authority in a positive manner.
- Keep person talking; never reach complete closure.
- Stress positives, such as person's strengths, qualities, and resources.
- Avoid expressing approval or disapproval.
- Discuss alternatives. This enables the person to consider options. "When you feel this depressed, what can you think of that might make you feel better?"
- Respect, attentiveness, openness, acceptance and positive attitude increase effectiveness of communication.



# **POLICE STUDENT'S GUIDE**

## **Policing The Emotionally Disturbed**

- Appeal to emotions rather than intellect if you know the person is under the influence of drugs. Be quiet after asking a question; listen as carefully as you question.

### **Actions to Avoid In All Crisis Encounters**

- Do not challenge person's delusions.
- Do not allow yourself to be manipulated. Avoid yes or no responses to personal questions.
- Do not falsely threaten arrest.
- Do not legalize – this may intensify hostility.
- Do not overreact to gang language or to sexual, racial, ethnic insults aimed at you.
- Do not order, command, warn, or threaten – this creates fear/resistance, invites testing, promotes rebellious behavior.
- Do not moralize, preach, or judge – this communicates a message of self-righteousness.
- Do not name-call or ridicule.
- Do not negate the seriousness of the crisis – this causes misunderstanding, evokes hostility, and causes the person to be embarrassed.

### **SUICIDAL PEOPLE**

- Most are not acutely psychotic at the time of the attempt.
- Most are depressed – the nature of their problem is usually more understandable, making them easier to communicate with.
- Have feelings of hopelessness and helplessness and do not believe there is any way out of their situation.
- There are many different reasons why people commit suicide.

### **Approaching a Suicidal Person**

- Remember that a suicidal person may attempt to have others kill him. "Suicide by Cop," i.e., provoking an officer to kill a person is not uncommon.
- Remain calm – displays of tension can heighten a critical situation.
- Make a plan and follow it – rushing to rescue a person increases risk to all.



# **POLICE STUDENT'S GUIDE**

## **Policing The Emotionally Disturbed**

- Be alert – crisis situations are unstable; continuously evaluate the crisis. Remember that a suicidal person may become homicidal.
- If suicidal gestures are not apparent, ask the person about suicidal intent.
- Minimize the presence of people with no need to be at the scene, including law enforcement personnel; this will reduce embarrassment - as well as potential negative stimulation in the environment - for the suicidal person.

### **Actions to Avoid in Suicide Situations**

- Do not make sudden moves – use physical tactics as a last resort.
- Do not leave the person unattended.
- Do not deny the person's suicidal feelings.
- Do not rush/pressure the person to make decisions or to abandon their suicide plan.

### **Suicide within Police Lockups**

- The majority of suicides in the correctional system occur in police lockups.
- Fifty percent of local correctional facility suicides occur within the first 24 hours of incarceration.
- Be aware of the cluster effect. Suicides often follow other suicides or attempts, especially if there has been a great deal of publicity.
- Manipulation – people sometimes say that an inmate is manipulating attempting suicide only for attention. Take all suicide attempts seriously.

### **Officer Action to Reduce Lockup Suicides**

- Be familiar with minimum standards and regulations for management of lockup.
- Thoroughly search arrestees prior to placement in cell.
- Place inmates identified as “high risk” on constant watch and immediately refer them for mental health services; do not isolate a suicidal inmate.
- Remove all items dangerous to the inmate.



# **POLICE STUDENT'S GUIDE**

## **Policing The Emotionally Disturbed**

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# POLICE STUDENT'S GUIDE

## Policing The Emotionally Disturbed

### APPENDIX "D"

#### MENTAL HYGIENE LAW ARTICLE 9

The table below outlines the Parts of Article 9 that pertain to the removal of individuals to hospitals for evaluation.

STATUTE	AUTHORIZING PARTY	MENTAL ILLNESS STANDARD	DANGEROUSNESS STANDARD	HOSPITALIZATION STANDARD
9.27	Two (2) physicians <sup>1</sup> formally request transport; <ul style="list-style-type: none"> <li>• Police <i>may</i> transport</li> </ul>	Has a mental illness <sup>2</sup>		In need of involuntary care and treatment
9.37	Examining physician designated by NYC Dept. of Health & Mental Hygiene (DOHMH); <ul style="list-style-type: none"> <li>• Police <i>must</i> transport.</li> </ul>	Has a mental illness	Which is likely to result in serious harm <sup>3</sup>	Immediate inpatient care and treatment is appropriate
9.41	Any police or peace officer <ul style="list-style-type: none"> <li>• Police <i>may</i> transport</li> </ul>	Appears to be mentally ill	Is conducting self in a manner likely to result in serious harm	
9.43	Court; <ul style="list-style-type: none"> <li>• Police <i>must</i> transport</li> </ul>	Has or may have a mental illness	Which is likely to result in serious harm	
9.45	DOHMH Commissioner/Executive Deputy Commissioner; <ul style="list-style-type: none"> <li>• Police <i>must</i> transport</li> </ul>	Qualified reporter reports a mental illness	Which is likely to result in serious harm	Immediate inpatient care and treatment is appropriate
9.55	Qualified psychiatrist <sup>4</sup> who is treating or supervising treatment of person in an OMH-licensed facility which has no inpatient unit; <ul style="list-style-type: none"> <li>• Police <i>must</i> transport</li> </ul>	Appears to have a mental illness	Which is likely to result in serious harm	Immediate inpatient care and treatment is appropriate
9.57	An emergency room physician in a hospital with no psych inpatient capacity; <ul style="list-style-type: none"> <li>• Police <i>must</i> transport</li> </ul>	Appears to have a mental illness	Which is likely to result in serious harm	Immediate inpatient care and treatment is appropriate
9.58	Qualified mental health professionals on an approved Mobile Crisis Team; <ul style="list-style-type: none"> <li>• Police <i>must</i> transport</li> </ul>	Appears to have a mental illness	Is conducting self in a manner which is likely to result in serious harm	
9.60	Examining physician determines that a patient in outpatient commitment ("Kendra's Law") has failed to comply with order; <ul style="list-style-type: none"> <li>• Police <i>must</i> transport</li> </ul>	Has a mental illness		Immediate inpatient observation, care and treatment may be appropriate.

<sup>1</sup>Defined as a licensed physician in the State of New York.



# POLICE STUDENT'S GUIDE

## Policing The Emotionally Disturbed

<sup>2</sup>Defined as "an affliction with a mental disease or mental condition which is manifested by a disorder or disturbance in behavior, feeling, thinking, judgment to such an extent that the person afflicted requires care, treatment and rehabilitation"

<sup>3</sup>Defined as: *Self--*"...a substantial risk of physical harm to the person as manifested by threats of, or attempts at, suicide or serious bodily harm or other conduct demonstrating that the person is dangerous" to self; or *Others--*"...a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm."

<sup>4</sup>Defined as a licensed physician who is either Board Eligible or Board Certified by the American Board of Psychiatry and Neurology or Board Eligible or Board Certified by the American Osteopathic Board of Neurology and Psychiatry.



# POLICE STUDENT'S GUIDE

## Policing The Emotionally Disturbed

### APPENDIX "E"

#### SOURCES

In addition to NYPD documents, the following materials were consulted during the writing of this chapter:

Council of State Governments, *Criminal Justice/Mental Health Consensus Project* (New York, June 2002).

Finn, Peter, and Monique Sullivan, *Police Response to Special Populations* (Washington DC: U.S. Department of Justice, National Institute of Justice, October 1987).

Fyfe, James J. Policing the Emotionally Disturbed, *Journal of the Academy of Psychiatry and the Law* 28:345-7 (2000).

"Training to Reduce Police-Citizen Violence," pp. 165-179 in William H. Geller and Hans Toch, eds., *Police Violence* (Yale University Press, 1996).

Fyfe, James J., Jack R. Greene, William F. Walsh, O.W. Wilson, and Roy C. McLaren, *Police Administration*, fifth edition (New York: McGraw-Hill, 1997).

International Association of Chiefs of Police, Suicide Intervention, *Training Key # 273* (1979).

International Association of Chiefs of Police, Abnormal Behavior, *Training Key # 274* (1979).

International Association of Chiefs of Police, Detention of the Mentally Disturbed, *Training Key # 327* (1982).

John Jay College of Criminal Justice, Office of Special Programs, *Managing Situations Involving Mentally Disturbed Persons: A Training Manual for a Basic, Seven Hour Course for Police Officers* (New York: John Jay College, 1987).

John Jay College of Criminal Justice, Office of Special Programs, *Managing Situations Involving Mentally Disturbed Persons: A*



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*Training Manual for a Five Day Course for NYPD Emergency Service Police Officers* (New York: John Jay College, 1987).

Murphy, Gerard R., *Special Care: Improving the Police Response to the Mentally Disabled* (Washington DC: Police Executive Research Forum, 1986).

National Mental Health Association, *Aiding People in Conflict: A Manual for Law Enforcement*, seventh edition (Alexandria VA, 1988).

New South Wales (Australia) Law Reform Commission, *Discussion Paper 29: People with an Intellectual Disability and the Criminal Justice System: Policing Issues* (Sydney, September 1993).

Police Executive Research Forum, *The Police Response to People with Mental Illnesses, Trainers' Guide and Model Policy*, Modules V and VI (Washington DC: Police Executive Research Forum, 1997).

Temple University Criminal Justice Training Programs, Deputy Sheriffs' Continuing Education Program, *Responding to Emotionally Disturbed Persons: Instructor Guide and Student Workbook* (Philadelphia, August 2000).

*Zuchel v. City and County of Denver* 997 F.2d 730 (10th Cir. 1993).



# POLICE STUDENT'S GUIDE

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### APPENDIX "F"

#### ACKNOWLEDGMENTS

In March 2003, James J. Fyfe, the N.Y.P.D. Deputy Commissioner of Training, invited more than 40 members of the NYPD and the mental health and legal communities to a symposium on Policing the Emotionally Disturbed. Those who participated were provided with the NYPD's training materials related to emotionally disturbed persons, and were asked to provide input into this curriculum. Insofar as possible, we have attempted to incorporate their insights into this chapter. We are extremely grateful for their participation. In the symposium, especially to those (indicated with an asterisk) who subsequently provided us with written comments and suggestions:

Craig Acorn, Esq.\*  
Staff Attorney  
Mental Health Project  
Urban Justice Center

Gail Donoghue, Esq.  
Special Assistant  
NYC Law Department  
Office of the Corporation Counsel

Captain Gail Assante  
Executive Officer, 9<sup>th</sup> Precinct  
NYPD

Spencer Eth, MD\*  
Medical Director  
St. Vincent's Hospital

Ray Brescia, Esq.\*  
Project Director  
Community Development Project  
Urban Justice Center

Detective Anthony Favara  
Emergency Service Unit  
NYPD

Detective John Busching  
Emergency Service Unit  
NYPD

John Feinblatt, Esq.  
NYC Criminal Justice Coordinator

Lieutenant Jack Cambria  
Commanding Officer  
Hostage Negotiation Unit  
NYPD

Charlotte Fischman, Esq.\*  
Kramer, Levin, Naftalis & Frankel, LLP  
Richard Friedman, MD  
Associate Professor of Clinical Psychiatry  
Weill College  
Cornell University

James Curran, MSW\*  
Dean of Special Programs  
John Jay College of Criminal Justice

Michael Gagliardi  
Assistant Commissioner  
Security  
NYC Department of Homeless Services



# POLICE STUDENT'S GUIDE

## Policing The Emotionally Disturbed

Patricia L. Gatling, Esq.  
Commissioner, NYC Commission on  
Human Rights  
Fred A. Levine, Esq.  
Fountain House

William Goodman, Esq.  
Legal Director  
Center for Constitutional Rights

Stephen Hammerman, Esq.  
Deputy Commissioner, Legal Matters  
NYPD

Mary Haviland, Esq.  
Co-Director, Family Violence Project  
Center for Urban Justice

Fred Levine, Esq.\*  
Director  
Fountain House

Robert Loudon, Ph.D.  
Director, Criminal Justice Center  
John Jay College of Criminal Justice

Hunter McQuisition, MD\*  
Chief Medical Officer  
NYC Department of Health and  
Mental Hygiene

Richard P. Miraglia, CSW\*  
Director, Bureau of Forensic Services  
New York State Office of Mental Health

Jonathan Moore, Esq.  
Moore & Goodman, LLP

Isaac Monserrate  
Assistant Commissioner  
NYC Department of Health and  
Mental Hygiene

Pamela Morschauser  
Local Forensic Coordinator  
NYS Office of Mental Health

Lieutenant John Murphy  
Emergency Service Unit  
NYPD

Raymond Pitt, PhD  
Professor Emeritus  
John Jay College of Criminal Justice

Deputy Inspector Lisa Prati\*  
Patrol Service Bureau  
NYPD

Melissa Reuland  
Senior Research Associate  
Police Executive Research Forum

Josh Rubin  
Special Assistant to the Executive Deputy  
Commissioner  
NYC Department of Mental Health and  
Hygiene

Inspector Kathy Ryan  
Patrol Borough Manhattan South  
NYPD

Captain Gabrielle Sbano  
Executive Officer, 6<sup>th</sup> Precinct  
NYPD

Lloyd Sederer, MD  
Executive Deputy Commissioner  
NYC Department of Health and  
Mental Hygiene

Michael D. Thompson  
Director, Criminal Justice Programs  
Council of State Governments



# POLICE STUDENT'S GUIDE

## Policing The Emotionally Disturbed

### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this chapter – ***Policing the Emotionally Disturbed***. These procedures must be read in conjunction with this chapter. Questions for the 2<sup>nd</sup> Trimester Exam may come from these procedures:

- PG 208 – 06 Arrest-Security Measures
- PG 210 – 04 Prisoners Requiring Medical/ Psychiatric Treatment
- PG 216 – 05 Mentally Ill Or Emotionally Disturbed Persons
- PG 216 – 06 Mental Health Removal Orders
- PG 216 – 07 Firearm Safety Stations At Psychiatric Wards And Admitting Areas



# **POLICE STUDENT'S GUIDE**

## **Policing The Emotionally Disturbed**

### **HOMEWORK**

- 1) Define "Emotionally Disturbed Person"
- 2) List and explain the criteria used to identify abnormal behavior.
- 3) Explain the proper procedure for taking an E.D.P. into custody.
- 4) Explain the procedure for guarding E.D.P.s at the hospital.
- 5) Briefly explain the Mental Hygiene Law





# POLICE STUDENT’S GUIDE

## Introduction to the Penal Law

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT THE PENAL LAW?

The Penal Law provides police officers with detailed definitions of conduct comprising criminal offenses in New York State (NYS). The NYS Penal Law defines the **acts** (what is legally prohibited) and **omissions** (failure to do what is legally required) that are defined as offenses in New York, and in conjunction with the Criminal Procedure Law (“C.P.L.”), forms the legal basis for identifying, investigating, and prosecuting those charged with committing an offense.

The Penal Law is a constantly evolving body of law that reflects society’s acceptance or condemnation of certain behavior. It originated in 1881 and was substantially revised in 1967. In recent years, new offenses have been added in the areas of stalking, computer-assisted money laundering, theft of computer software, identity theft and terrorism offenses.

### FOUR PARTS OF THE PENAL LAW

The NYS Penal Law is divided into four parts:

- Part One            General Provisions            Sections 1.00 – 40.15
- Part Two            Sentences                            Sections 55.00 – 85.15
- Part Three        Specific Offenses                Sections 100.00 – 275.45
- Part Four        Administrative Provisions    Sections 400.00 – 500.10

### PART ONE: GENERAL PROVISIONS

*Title A* of General Provisions describes the General Purposes of the Penal Law. They are as follows:

1. ***To forbid conduct that causes or threatens to cause harm to individuals or public interests.*** The phrase “public interests” means the general good order and peace of the community. A riot that results in substantial destruction of property is an example of an illegal activity that damages the interests and good order of the community, as are many *Quality of Life* offenses. These, generally defined, are offenses that may not harm particular individuals as a robbery or larceny would, but that diminish neighborhoods and make them less desirable places to live,



# POLICE STUDENT'S GUIDE

## Introduction to the Penal Law

work, play, and raise children. Loud and unruly street crowds, streetwalking prostitutes, drug dealers, and aggressive panhandlers all are quality of life violators.

2. **To provide notice.** In the simplest terms, the Penal Law provides notice by telling people what constitutes criminal conduct and what punishment will be imposed if found guilty.
3. **To define crimes and accompanying mental states.** The Penal Law defines the elements of each offense and the *mens rea*, or the state of mind, required to complete each offense.
4. **To distinguish among serious and minor offenses and prescribe the penalties for them.** Society treats conduct differently depending on the harm caused. Thus, the Penal Law distinguishes between such minor infractions as Disorderly Conduct, a violation punishable by a fine or 15 days in jail, and Murder 1<sup>st</sup> degree, punishable by the death penalty.
5. **To allow appropriate public response to offenses.** Examples include victim impact statements, revised penalties, and intermittent sentencing, depending on severity of the offense and whether or not the perpetrator shows remorse.
6. **To prevent and deter offenses by sentencing, rehabilitating, and, when necessary, confining offenders.** This involves philosophies of corrections, which examine the dynamics of detention, rehabilitation and retribution.

### Definitions (Article 10.00)

Part I also includes important definitions (Article 10.00) that are used throughout the Penal Law. These constitute legally specific terms whose definition may be different from how you and other members of the public understand them. As you study and work with the law, you will begin to incorporate these terms into your working vocabulary; they include the following:

- **Offense** – any conduct punishable by imprisonment or fine in New York State
- **Traffic Infraction** – conduct defined in the New York State Vehicle and Traffic Law
- **Violation** – an offense other than a traffic infraction punishable by no more than 15 days imprisonment in a city or county jail



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## Introduction to the Penal Law

- **Misdemeanor** – an offense other than a traffic infraction punishable by more than 15 days but no more than a year imprisonment (365 days) in a city or county jail
- **Felony** – an offense punishable by more than a year imprisonment (366 days) in a state prison
- **Crime** – a misdemeanor or felony
- **Person** – a human being, but may also be a business, an association, a partnership, or a government or part of government. Generally speaking, a person is an entity that can be hurt by criminal behavior.
- **Physical Injury** – impairment of physical condition or substantial pain
- **Serious Physical Injury** – a physical injury that causes death, or creates a substantial risk of death, or serious, long-term disfigurement, or the loss or impairment of health or any bodily organ
- **Deadly Weapon** – an item designed specifically to cause death or serious physical injury. This class of devices includes any loaded weapon, readily capable of firing a shot that can produce death or other serious physical injury, or a:
  - Switchblade knife;
  - Gravity knife;
  - Pilum ballistic knife;
  - Metal knuckle knife;
  - Dagger;
  - Billy;
  - Blackjack; or,
  - Metal Knuckles.
- **Dangerous Instrument** – includes any instrument, article, or substance, which, under the circumstances in which it is used or attempted, or threatened to be used is capable of causing death, serious injury, or serious impairment. This category differs from deadly weapons in that it includes items that have legitimate uses – kitchen knives, vehicles, screwdrivers, ice picks, hammers, axes, baseball bats – but that, the circumstances, are used to hurt or kill people. A simple way to distinguish between deadly weapons and dangerous instruments is to point out that most of us own and regularly use things that can be used as dangerous



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## Introduction to the Penal Law

instruments; but only criminals own the switchblades, metal knuckles, etc., that are classified as deadly weapons.

### Principles of Criminal Liability

Title B of the Penal Law is comprised of Articles 15 and 20. These Articles concern physical and mental conditions that must exist for a person to be held criminally liable for his or her conduct. Among other things, this title defines **culpable mental states** like **intentionally**, **knowingly**, **recklessly**, and **criminal negligence**. It also states the principle that ignorance of the law is no excuse for wrongful behavior.

### Defenses and Affirmative Defenses

Articles 25-40 define the defenses that may be used in court; these include **justification**, **infancy**, **mental disease or defect**, **entrapment**, **duress** and **renunciation**. A **defense** is any evidence offered by the accused to defeat a criminal charge. The defenses of mental disease or defect, entrapment and duress are known as affirmative defenses and must be proven by the defendant by a preponderance of the evidence in order to gain an acquittal. Other defenses must be disproved by the prosecution beyond a reasonable doubt in order to reject the defense and proceed with the trial.

**Beyond a Reasonable Doubt** is the level of proof required to convict someone of a crime. This does not mean beyond *all* doubt. Instead, it means that after comparing and contemplating all the evidence, the jurors are convinced to a "moral certainty" that the accused did the crime of which he or she is accused.

**A Preponderance of the Evidence** is the level of proof required to prevail in most *civil* cases. Additionally, defendants in criminal cases are required to prove affirmative defenses by a preponderance of the evidence. In criminal cases, preponderance constitutes enough evidence to persuade the judge or jury that the facts are in favor of the defendant. In simple terms, a preponderance of the evidence means a mere "tipping of the scales," and that the defendant's case has a little more weight than the prosecutor's.

**Infancy (P.L. Article 30):** The defense of **infancy** generally means that children under 16 cannot be convicted of crimes. Instead, they are taken to Family Court where proceedings are conducted to determine if they are juvenile delinquents. The chart below illustrates how age and infancy affect criminal liability. Briefly, it shows that children under seven years old cannot be charged either criminally or in juvenile delinquency proceedings. However, once they turn seven years old, children may be charged as **juvenile delinquents** when they commit most acts which, if committed by adults, would be crimes. Juveniles, age 13, 14 and 15, who commit certain serious



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## Introduction to the Penal Law

felonies, are classified as **juvenile offenders** (P.L. article 10, sub. 18). Once they reach their 16<sup>th</sup> birthday they are considered adults in the eyes of the criminal justice system. Offenses and terms relating to juveniles will be discussed in greater detail in a forthcoming chapter.

AGE:	COMMITTS:	CHARGED WITH:
A CHILD LESS THAN 7 YEARS OLD	A CRIME (A MISDEMEANOR OR A FELONY)	NO CHARGE: LACKS CRIMINAL RESPONSIBILITY
A CHILD 7 YEARS OLD TO 15 YEARS OLD	MOST CRIMES	JUVENILE DELINQUENCY
A PERSON 16 YEARS OLD OR OLDER	ANY CRIME	THE ACTUAL OFFENSE (i.e., ASSAULT 2ND DEGREE)

**Justification (P.L. Article 35).** The defense of *Justification* excuses the use of force in some limited situations (e.g., police officers overcoming resistance in the course of making arrests, citizens defending themselves from unlawful attack, etc.). You will learn about Justification in greater detail in a later section.

**Entrapment (P.L. 40.05)** is an affirmative defense in which defendants argue that they were **wrongly persuaded to commit their crimes** by other people, usually law enforcement officers. If such a defendant can convince the judge or jury that he would never have committed the crime had the police not planted the idea in his mind, he will be found not guilty of the charges against him. This is not as easy as it might sound. Entrapment requires a defendant to show that the police planted the idea of committing a crime in his mind rather than simply offered the opportunity to engage in illegal activity.

This defense will only be successful to defendants who can prove that they engaged in criminal conduct only after being actively induced, encouraged, or seduced by a public servant, or someone acting in cooperation with a public servant, who was seeking to obtain evidence for criminal prosecution (See Legal Division Bulletin Vol. 3, No. 1). Assume, for example, that an undercover police officer acting as a decoy is attempting to apprehend a pickpocket who had committed numerous crimes in the vicinity. He places five \$20 bills in his shirt pocket and pretends to fall asleep. Within



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## Introduction to the Penal Law

five minutes, a man approaches the officer, grabs the money from his pocket, and runs away. The suspect is caught and charged with Grand Larceny and Criminal Possession of Stolen Property. In this case, the defense of entrapment would not be applicable because the officer merely afforded the defendant an opportunity to commit the crime.

***Mental Disease/Defect (P.L. 40.15).*** Every person is presumed by law to be sane and therefore, liable for voluntary acts. A person who is insane, however, is not responsible for his or her acts. Insanity is therefore a defense to any criminal charge. According to the *New York Rule*, a person is not criminally responsible for conduct if, as a result of mental disease or defect, he or she **lacks the capacity to know or appreciate the nature and consequence of his or her conduct**, or that such conduct is against the law. Lack of criminal responsibility by reason of insanity is an affirmative defense that is difficult for defendants to prove. As with any affirmative defense, it is not up to you, as a police officer, to determine whether a person who has committed a crime suffers from a mental disease or defect. For this reason, you will take appropriate police action when responding to calls involving persons whom you think suffer from a mental disease or defect and leave any determination of this issue to the assistant district attorney or the courts.

***Statute of Limitations (Criminal Procedure Law 30.10).*** The statute of limitations is part of the Criminal Procedure Law rather than the Penal Law. However, we have included it here because it can be used as a defense in court. A statute of limitations is the government surrendering its right to prosecute an offender after a specified period of time; time limits vary according to the severity of the conduct. The old English common law principle was that a person could be prosecuted for a crime no matter how many months or years had passed since the crime was committed. This is no longer the case and statutes of limitations are in effect in New York, which **limit the time within which criminal prosecution may begin**. The provisions pertaining to the statutes of limitations are made applicable to all offenses other than class "A" felonies, and vary with the seriousness of the offense:

- ***Class A Felonies:*** prosecutions for Class "A" Felonies (e.g., Murder 1st Degree, Kidnapping 1st Degree, Arson 1st Degree, major drug offenses) may be commenced at any time after the offense, without limit.
- ***Other Felonies:*** a prosecution for all felonies other than Class "A" must be commenced within five (5) years after the commission of the crime.
- ***Misdemeanors:*** prosecutions for misdemeanors must be commenced within two (2) years after the commission of the crime.



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- **Petty Offenses:** prosecutions for petty offenses (e.g., Disorderly Conduct) must be commenced within one (1) year after the commission of the petty offense.

These time limitations may be extended under circumstances involving offenses relating to misconduct in public office (e.g., police officers). Generally, a statute of limitations begins to run from the time of the commission of the crime, or when the crime is complete, not from the date the crime is discovered. In continuing offenses – those like conspiracy or non-support, that are ongoing over a period of time – the statute generally begins to run from the occurrence of the most recent overt act.

There are certain circumstances that may “toll,” or stop the clock on, the statute of limitations. For example, if an offender conceals himself so that he cannot be prosecuted, the statute of limitations does not apply during the period of concealment. Another condition that may suspend the statute is the defendant's absence if, for example, the defendant jumps bail and hides in another state or a foreign country. Once an accusatory instrument is filed in court against a defendant, the statute of limitations ceases and the Criminal Procedure Law provisions relating to speedy trials begins. If the prosecution relies upon an exception to suspend the statute of limitations, they bear the burden of proof to show its application in the particular case.

Police officers must keep in mind that, as with other defenses, the defendant must raise the statute of limitations defense. If an officer has doubt as to whether an arrest should be effected because of some issue related to the statute of limitations (or for any other reason) he or she should confer with a supervisor to determine if a consultation with the Legal Bureau or District Attorney's Office is appropriate.

## PART TWO: SENTENCES

Part Two of the Penal Law addresses six subjects:

- Classification and Designation of Offenses
- Authorized Dispositions of Offenders
- Sentences of Probation, Conditional Discharge and Unconditional Discharge
- Sentences of Imprisonment
- Fines
- Sentences of Intermittent Imprisonment



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The most significant of these topics for you is the first one: *Classification and Designation of Offenses (Article 55)*, which defines and clarifies the terms felony, misdemeanor, and other offense categories. The other articles are of primary concern to court and correctional personnel.

### PART THREE: SPECIFIC OFFENSES

This is the portion of the Penal Law that defines specific New York State statutes such as Burglary, Arson, Robbery, and Assault. This portion of the Penal Law is of great importance to you, and you will find yourself consulting it regularly in order to determine the specific charges that apply to people you have arrested. Keep in mind that arrest situations frequently involve the commission of more than one offense.

The exercise below should be accomplished with reference to your copy of the Penal Law. Doing this exercise will help you understand and learn how to apply Part Three of the Penal Law.

You have arrested Charley for intentionally punching Frank in the face, causing substantial pain and a bloody nose. As the definitions above suggest, this is a "physical injury." It hurts and bleeds, but is not likely to cause the long-term problems that might make it a "serious physical injury."

While preparing the appropriate arrest forms at the station house, you need to determine the specific offense to lodge against Charley. Refer to the Index in the back of the Penal Law to look up the applicable category (in this case "Assault").

The Index shows that Assault is defined in Section 120.00. Proceed to this Section, and look for the specific variety of Assault that best describes the above offense.

You will find that Assault, 3<sup>rd</sup> degree (subdivision 1) best describes the offense. It states that: "A person is guilty of Assault in the third degree when: With intent to cause physical injury to another person, he causes such injury to such person or a third person."

As you can see in the bold print at the bottom of the offense, Assault in the third degree is a class "A" misdemeanor.





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### PART FOUR: ADMINISTRATIVE PROVISIONS

Part Four of the Penal Law covers laws relating to peddlers, firearms, fireworks, pornography equipment, and vehicles used in the transportation of gambling records. It also contains procedures regarding licensing, seizure, and forfeiture, and disposal of property.

### LEGAL CONCEPTS IN THE PENAL LAW

In addition to its specific provisions, the Penal Law includes some fundamental legal concepts and principles. To function effectively, you must become familiar with them.

- **Elements of an Offense.** As mentioned above, an offense is defined as conduct that is unlawful, and may range from illegal parking to murder. Behavior constituting an offense can be defined in a state statute, a local law, or an administrative rule or regulation. Generally, an offense involves either all or some of the following factors:
  1. **A written law** defining the offense; for example: The New York State Penal Law or the New York State Vehicle and Traffic Law.
  2. **An act** constituting the external physical part of a crime consisting of the offender's act.
  3. **A mental element**, which is the offender's state of mind toward the act.
  4. **A result** is the injury or the potential for injury produced by an act.
  5. **A causal relationship** between the unlawful act, the result of the act, and its underlying mental element. The conduct must be connected with the harm either wholly or in part.

The legal term for elements 2-4 of the above is known as ***Corpus Delecti***. Contrary to what you may have seen in some movies, this term does not describe the body of a murder victim: instead, it means the body, or elements, of the crime. Except in cases involving strict liability, *corpus delecti* refers to the factors that must generally be shown in order to prove that an offense has actually occurred. In order to obtain a conviction, the prosecutor must show that a defendant did something to violate a law (an act); that the defendant did it negligently, recklessly, knowingly, or intentionally (a mental element); and that the defendant's act produced a particular outcome (a result).



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To clarify the meaning of the elements of offenses described above, the Penal Law contains the following definitions.

- **An act** is defined in Section 15.00, subd. 1, as a bodily movement.
- **A voluntary act** is a bodily movement performed consciously as a result of effort or determination, and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it (Section 15.00, subd. 2).
- **An omission** is a failure to perform an act that is required by law (Section 15.00, subd. 3). A duty imposed by law means a duty imposed by a statute. For a violation of the Penal Law to exist, the requirement must be stated in the Penal Law. Other crimes (like the federal offense of failing to file a tax return) involve omissions of responsibilities found in those laws.
- **Conduct** is an act or omission and its accompanying mental state; such as intentionally stealing someone's property (see Section 15.00, subd. 4).
- **To act** means either to perform an act or fail to perform an act. (Section 15.00, subd. 5).
- **Culpable mental state**, also known as *Mens Rea*, may include one of the four conditions defined in the Penal Law. These include acting intentionally, knowingly, recklessly, or with criminal negligence. (Section 15.00, subd. 6).

### The Four Culpable Mental States

1. **Intentional:** A person acts intentionally when his **conscious objective is to cause a result** or to engage in conduct defined in the Penal Law (Section 15.05, subd. 1).

**EXAMPLE:** Jack is angry with Mary, and wants to kill her. He sees her on the street, runs her down with his car, and then backs over her to make sure that she is dead.

2. **Knowingly:** A person acts knowingly with respect to conduct when he is **aware that** his conduct is of such nature or **that such circumstance exists** (Section 15.05, subd. 2).



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**EXAMPLE:** Pete enters onto property that is clearly marked with "No Trespassing" signs. He is aware that he is entering the property without permission or authority. He is knowingly entering unlawfully and may be charged with Trespass.

3. **Reckless:** A person acts recklessly when he is **aware of and consciously disregards a substantial and unjustifiable risk** that a particular result will occur or that some particular circumstances exist. The risk must be of a type that any reasonable person would recognize in the same situation. Further, a person acts recklessly if his acts create such a risk, but he does not recognize it because he is voluntarily intoxicated (Section 15.05, subd. 3).

**EXAMPLE 1:** Disregarding signs that indicate a speed limit of 20 M.P.H., Mark drives his car at 60 M.P.H. through a school zone.

**EXAMPLE 2:** Chris is driving, intoxicated, on the shoulder of the road in 4 inches of snow. He loses control of his car, runs Mary over, and kills her while she is standing at the side of the road.

The State is required to establish that, in addition to violating the driving while intoxicated statute, the defendant was speeding, disobeyed a traffic signal, or committed some other Vehicle Traffic Law violation, or that intoxication caused the defendant to strike the victim with his vehicle.

4. **Criminal Negligence:** A person acts with criminal negligence when he **fails to perceive a substantial and unjustifiable risk** that a particular result will occur or that some particular circumstances exist. The risk must be of a type that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the same situation. Thus, a defendant acts criminally negligent if he or she takes a substantial, unjustified, foreseeable risk without recognizing how dangerous it is. (Section 15.05, subd. 4).

**EXAMPLE 1:** Taking children fishing on a canoe with no life preservers and the canoe tips over.



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**EXAMPLE 2:** Leaving a refrigerator out on the sidewalk for sanitation without removing the door.

Negligence is not the same as recklessness. **Negligence is failing to recognize a risk that should be apparent** to any reasonable person: it is failing to pay proper attention. Recklessness occurs when an individual recognizes the risk in his actions, but does it anyway.

### Motive and Intent

To do their jobs effectively, police officers do not need to know the offender's motive, but they must know and be able to articulate the probable cause that has led them to make arrests. Nevertheless motive and intent are important legal concepts that you are sure to hear in the course of testifying in court. **Motive** is the desire that prompts a person to do a criminal act. **Intent** is a person's determination or purpose to do a particular criminal act. **Motive is the reason a person wishes to do an act; intent is the determination to do it.** The motive may be a desire to injure or to benefit. A person may shoot another out of hatred, revenge, jealousy or greed.

Ordinarily, motive is not a necessary element of a crime, but intent is. A good or honorable motive does not mean that an act is not a crime – killing a loved one in response to his or her pleading to be put out of his or her misery, for example. Conversely, a bad motive will not make an act a crime unless it involves the elements described above. Furthermore, defendants are not acquitted simply because their motive for committing a crime cannot be discovered. Where the commission of a crime accompanied by the necessary culpable mental state is clearly proved, all the requirements of guilt have been established. The reason (motive) why defendants commit the crime, however, still serves as an important tool for prosecution because it helps jurors to understand why particular crimes have occurred.

### Strict Liability

There is a general requirement that the prosecutor must prove that an offender had a guilty mind: that he acted within one of the four mental states above. However, **the guilty mind is not a necessary element** for proving those crimes that are called **strict liability** crimes. Strict liability statutes exist in the regulatory area of public health, safety and welfare that forbid certain acts and omissions without regard to the defendant's state of mind. It does not matter what you were thinking when you ran a red light, for example: it matters only that you ran the light (or exceeded the speed limit, or operated a dirty and unhealthy restaurant, etc.).



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In this area of criminal law, the **mere commission or omission of an act** that is required by the statute **is all that is necessary to complete the offense**. The question of whether the defendant intended to commit a breach of the law or was conscious of his or her wrongdoing is not important to the question of guilt. Under such statutes, defendants have been held liable for their conduct in such cases as parking overtime in a restricted zone even though the person was attempting to get change for a meter.

An offense under P.L. 265.25 (Certain Wounds to be Reported - failure by a physician who is treating a bullet wound to report the wound to police) requires no specific intent or culpable mental state and is a crime of strict liability. It does not matter whether the physician intentionally failed to report or merely omitted to report, so long as they could have reported. (This is an example of an omission, i.e., failure to perform an act that one is physically capable of performing.)

The logic for making such acts violations of law is that it is in the best interest of society to place the burden upon people in unique social positions, such as police or doctors, to report possible criminal acts. In the case of strict liability offenses such as traffic violations, we do not care *why* a person ran a red light. We only care that he or she did it.

### Age of a Child Victim

In instances in which the age of the child is an element of the offense, **it is not a defense that the defendant did not know the child's age** to be the same as or greater than the age specified in the Penal statute; unless the Penal statute expressly provides that it is a defense. For example, one cannot have sex with an underage child, for example, and then argue that the child looked like an adult, or said that he or she was older than she actually was.

### Intoxication

Intoxication **is not a defense** to a criminal charge (Section 15.25). However, defendants are allowed, in the prosecution of an offense, to offer evidence of their intoxication whenever it is relevant to negate the mental state or other elements of the crime charged. In other words, a defendant who has killed someone cannot argue that he or she is innocent of any crime because he or she was so drunk that she did not realize what she was doing at the time. But he or she can argue that he or she should not be found guilty of intentional murder because, at the time of the killing, he or she was too drunk to be capable of forming any intent.



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### Criminal Liability for the Conduct of Another (Accessorial Conduct)

**Accessorial Conduct** occurs when a person, acting with the mental culpability required for commission of an offense, **asks, directs, urges, or intentionally aids another person to engage in an offense** (Section 20.00). Accessorial conduct might occur, for example, when a person convinces somebody else to murder one of his or her enemies, as in a “contract killing.” Other examples include an individual who merely drives the getaway car after other individuals steal money from a bank, or a cashier in a store who removes sensors from several items of clothing to facilitate another in stealing the clothes. Accessorial conduct is not a specific offense; rather it is a legal principle.

In prosecutions for such accessorial conduct, it is no defense that the person who actually did the act is not guilty of a crime because he or she lacked criminal responsibility by reasons of age or insanity; or did not know that the act was criminal; or for any other reason. Dad cannot talk ten-year-old “Junior” into shooting and killing mom, for example, and then argue that he is guilty of no crime because “Junior” has the defense of infancy. If dad had persuaded his 20-year-old daughter to kill mom, and she was acquitted (because a jury believed that she acted only under great duress), he would also be out of luck. It is no defense for a person accused of accessorial conduct that the person who actually did the deed was found not guilty of a crime.

It is also no defense that the person who was convinced to actually do the act belonged to a class of people who could not be convicted of criminal conduct for it. Bribe Receiving, for example, is an offense for which only public officials may be convicted. Any public official who asks a friend to pick up his or her bribes for him would have no defense in a prosecution merely because the friend was not also a public official.

### Anticipatory Offenses

The New York State Penal Law defines a special class of offenses known as Anticipatory Offenses, which are different from other offenses stated in the Penal Law. The anticipatory offenses of **Criminal Solicitation (P.L. Article 100)**, **Conspiracy (P.L. Article 105)**, **Attempt (P.L. Article 110)**, and **Criminal Facilitation (P.L. Article 115)** are offenses **committed in connection with the furtherance of another crime**. Usually, the more serious the crime involved, the more serious the anticipatory offense will be. Substantial evidence is necessary to prove these charges and the patrol officer must conduct a thorough investigation. You are more likely to encounter situations involving an *Attempt* to commit a crime, than *Criminal Solicitation*, *Conspiracy*, or *Criminal Facilitation*; therefore, the following paragraphs will be limited to a discussion of NYS Penal Law Article 110 (Attempt).



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### Attempt

Section 110.00 of the Penal Law states that one is guilty of an attempt to commit a crime when, "with intent to commit a crime, he **engages in conduct which tends to effect the commission of such crime.**" Case law has further defined this to mean that the act constitutes an attempt that comes very close to the completion of the offense.

"The act need not be the final one towards the completion of the offense (citation omitted), but it must carry the project forward within dangerous proximity to the criminal end to be attained." *People v. Bracey*, 392 N.Y.S. 2d 412

This means that the perpetrators of a crime must come very close to completing the crime before they can be charged with the attempt. For example, if a person intends to murder another person, merely planning the crime in his apartment is not close enough to charge him with the attempt. There must be some overt act. On the other hand, if the perpetrator is standing behind the intended victim and drawing his gun, this would be "dangerously near," and so an attempt could be charged.

There can be no conviction for an attempt of an offense less than a misdemeanor. One cannot *attempt* to commit Disorderly Conduct, for example: one is either disorderly or one is not. To have the necessary mental state to attempt to commit a crime, a person must *intend* to commit the crime. A person cannot attempt to be reckless or criminally negligent: How would it be possible to attempt to ignore, or fail to recognize a danger? Further, an attempt has no degrees. The punishment provided for an attempt to commit a crime varies with the seriousness of the crime attempted (Section 110.05).

A conviction for attempt reduces the classification of crime by one Class. Assault 1<sup>st</sup> Degree, for example, is a Class "C" felony. If someone *attempted*, but failed to commit this crime (e.g., by swinging a baseball bat at a person, but missing), the proper classification for his or her offense is Attempted Assault in the 1<sup>st</sup> Degree, a Class "D" felony, an offense one grade less than the charge that would have resulted from a successful assault. This is an important difference because the length of authorized sentences for Class "D" felonies is shorter than the sentences for Class "C" felonies (See P.L. 70.00). This system of downgrading does not apply to certain class "A-I" or to any class "A-II" felonies.

Penal Law Section 110.10 provides that a person may be convicted of the attempted commission of a crime even if it later turns out that the circumstances were not as he or she perceived at the time, or if it was factually impossible to commit the crime. Suppose, for example, an individual fired shots into a person in bed, intending to



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kill that person. If, at the autopsy, it is found that the person was not actually sleeping, but had already died *before* the shots were fired, the crime involved would be *attempted murder*. The offender tried to commit the murder, but, because of circumstances beyond the offender's knowledge and control, the act was impossible.

You should also be aware that attempts are actually included in the definitions of some offenses, so that there is no reduced punishment for trying unsuccessfully to complete these offenses. These include Menacing, Bribery, and Theft of Services. Menacing, basically, involves an attempt to frighten someone by threatening him or her. Anyone who tries to do this, but does not succeed in frightening the individual is still guilty of Menacing. Bribery involves soliciting or accepting or agreeing to accept money or some other benefit in exchange for abusing one's authority as a public servant. A corrupt officer who agreed to take a bribe from someone he believed to be a criminal would be guilty of Bribery even if it turned out that the criminal was an undercover officer from the Internal Affairs Bureau rather than somebody who actually intended to pay off the dirty officer.

When preparing Department forms, you must remember that an attempt to commit a crime is identified by the number "110" to indicate that Penal Law section 110 is a component of the charge. This number is placed in front of the numerical designation for the crime attempted. For example: "110/125.25" would be Attempted Murder 2nd Degree.





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### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW THE MATERIAL IN THIS CHAPTER?

There is no greater fear than the threat against a person's or loved one's physical well being. As police officers, we are the guardians of personal safety. To properly enforce crimes committed against persons we must understand the laws related to these acts. This chapter will discuss all aspects of crimes against persons, from the minor offense of harassment to the most serious crime of Murder. We will also outline specifically sensitive crimes, such as sexual offenses and Kidnapping.

### HARASSMENT

The right of free speech is not absolute. If the language or accompanying conduct threatens to **harass, annoy, or alarm** another person, these words and actions may constitute the crime of Harassment. This section will detail the necessary elements of Harassment and make the distinction between the felony, misdemeanor and violation.

#### Harassment 2<sup>nd</sup> Degree – Violation (P.L. 240.26)

A person has committed Harassment when, with **intent to harass, annoy or alarm another person by:**

**Physical Contact (sub. 1):** He or she strikes, shoves, kicks or otherwise subjects any person to physical contact, or attempts or threatens to do the same.

**Example:** Mr. Brown does not want a group of boys playing in front of his house. He approaches them and intending to alarm them, pushes one of the boys as he tells them to move away from his house. Mr. Brown could be properly charged with Harassment. If a physical injury resulted, then Mr. Brown would have been charged with Assault.

**Annoying by Following (sub. 2):** He or she follows a person in or about a public place.

**Example:** Jane, who has an argument with Mary, follows her into a department store and continues to follow her throughout the store. Jane annoys Mary by her action. Jane has committed an act of Harassment because she **intended** to annoy Mary and did so by following her in and about a public place.



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**Annoying Conduct Generally (sub. 3):** He or she engages in a course of conduct or **repeatedly** commits acts which alarm or **seriously annoy** other persons and which serve no legitimate purpose.

**Example:** John passes by a certain house every night and rattles the garbage cans in front of the house to the annoyance of the people who reside therein. He does this because he dislikes the residents. John has committed the violation of Harassment because he intentionally followed a course of conduct which seriously annoyed a person and which served no legitimate purpose. This particular subdivision is known as a "catch-all" since it applies to any conduct not specifically covered in the other subdivisions.

**Note: Regarding Subdivisions (2) and (3) Only:** These provisions do not apply to conduct which constitutes picketing or other labor-related activity governed by federal labor statutes.

### Verbal Harassment of a Police Officer

As a police officer you may become the subject of conduct that amounts to the violation of Harassment. If you are pushed, shoved, kicked or otherwise subjected to physical contact by a person who intends to annoy, alarm or harass you, he should be arrested. However, if the conduct of this person is simply verbal abuse directed toward you as a police officer, no arrest may be made.

**Verbal comments and insults are considered free speech. Unless these comments constitute a physical threat, they are protected by the first amendment to the U.S. Constitution.** Conduct by onlookers in the vicinity of a stop or an arrest (verbal comments, taking names and notes, taking photographs or videotaping) does not constitute Harassment. In other words, you are expected to be professional in handling street problems. This higher sensitivity level applies to verbal harassment only. If the perpetrator harasses the officer by repeatedly following or by physical contact then they would immediately be arrested.

### Harassment 1<sup>st</sup> Degree – Misdemeanor (P.L. 240.25)

A person has committed Harassment 1st Degree - Misdemeanor when, **with intent to harass, annoy, or alarm another person:**

1. Repeatedly Annoys by Following - He or she **repeatedly** follows such person in or about a public place or places;



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2. Repeatedly Engages in Annoying Conduct - He or she **repeatedly** engages in a course of conduct;
3. Repeatedly Commits Acts - He or she **repeatedly** commits acts, which place such person in **reasonable fear of physical injury**.

**Example:** Bill has been following his ex-girlfriend Karen for over a month. On this particular evening, Bill follows Karen down the block and threatens to punch her in the face.

**Note:** This crime requires a **repeated course of conduct**, which places a person in reasonable fear of physical injury. When the victim is placed in fear of immediate serious physical injury or death, then Menacing is the appropriate charge.

**Note:** This Penal Law section does not apply to conduct which constitutes picketing or other labor-related activity governed by federal labor statutes.

### **Aggravated Harassment – Misdemeanor 2<sup>nd</sup> Degree (P.L. 240.30)**

A person has committed Aggravated Harassment 2<sup>nd</sup> Degree when, with intent to harass, annoy, threaten or alarm another:

1. **Mail, Telephone, etc.** - He communicates or causes a communication to be produced by mechanical or electronic means or otherwise, with a person, anonymously or otherwise, by telephone, or by telegraph, mail or any other form of written communication in a manner likely to cause annoyance or alarm.

**Example:** John, intending to threaten Ann, sends her a letter in which he states that he is going to kill her. The letter scares Ann. John has committed Aggravated Harassment 2<sup>nd</sup> Degree.

**Example:** Bill hates Jerry and keeps calling Jerry's telephone number and then hanging up when Jerry answers the telephone. Bill has committed Aggravated Harassment.

**Note:** If the caller does not communicate in any way, they have still committed the offense. The crime merely requires making the call with the intent to harass, annoy or alarm.



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2. **Physical Contact** - He strikes, shoves, kicks or otherwise subjects any person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation, regardless of whether such belief or perception is correct.

**Example:** Joe, intending to harass Bill, pushes Bill and uses a racial slur against him.

3. **Previous Conviction** - He or she commits the crime of Harassment 1<sup>st</sup> Degree and has been **previously convicted of the crime of Harassment 1<sup>st</sup> Degree within the previous ten years.**

**Example:** Bill has been following his ex-girlfriend Karen for over a month. On this particular evening, Bill follows Karen down the block and threatens to punch her in the face. At the stationhouse, you discover Bill was **convicted** of this same crime five years ago.

### Aggravated Harassment 1<sup>ST</sup> Degree – Felony (P.L. 240.31)

A person has committed Aggravated Harassment 1<sup>st</sup> Degree - felony when, with intent to harass, annoy, threaten or alarm another person because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation, regardless of whether such belief or perception is correct, he or she:

1. Damages premises primarily used for religious purposes and the damage to the premises is over \$50.00.

**Example:** Joe, who doesn't like Catholics, throws a brick through the stained glass window of a church – intending to annoy the Pastor - causing \$350 damage.

or

2. Commits Aggravated Harassment 2<sup>nd</sup> Degree - misdemeanor by the **Physical contact** subdivision and either:
  - Has been previously convicted of Aggravated Harassment 2<sup>nd</sup> Degree - misdemeanor by physical contact at any time in the past;

or



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- Has been previously convicted of Aggravated Harassment 1<sup>st</sup> Degree - felony within the previous ten years.

**Note:** In both Harassment and Aggravated Harassment cases, you must be able to show the defendant's intent to harass, annoy, threaten or alarm another person. Proof of intent will ordinarily be shown by the suspect's actions and possibly the relationship with the victim. However, continued investigation should seek to obtain other evidence, including admissions and confessions.

**Note:** For more information about this topic, read Legal Bureau Bulletin Vol. 20, No. 1, "Harassment - Abusive or Obscene Language," *People v. Dietze* (1989).

### RECKLESS ENDANGERMENT AND MENACING

Reckless Endangerment and Menacing are crimes against persons that include the **threat or risk of injury** to a person, but no injury is incurred.

#### Reckless Endangerment – Misdemeanor (P.L. 120.20)

A person is charged with Reckless Endangerment, misdemeanor, when: "He recklessly engages in conduct, which creates a substantial risk of serious physical injury to another person."

A person acts "recklessly" when he is aware of and consciously disregards a substantial and unjustifiable risk. In this case, he disregards a substantial risk of serious physical injury to another person.

**Example:** John is shopping inside a crowded sporting goods store. He is swinging a baseball bat to determine if he wants to buy it. The store clerk tells him to stop because someone may get hurt. John continues to swing the bat. In this instance John may be charged with Reckless Endangerment - misdemeanor.

#### Reckless Endangerment – Felony (P.L. 120.25)

Reckless conduct showing "**a depraved indifference to human life**" and which "**creates a grave risk of death to another**" is a more serious form of Reckless Endangerment. This activity warrants a heightened penalty and therefore it is classified as a felony charge.



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**Example:** In order to "celebrate" a recent job promotion, Steve fires his pistol from a rooftop, down towards a sidewalk that is crowded with pedestrians.

### What Is "Depraved Indifference"?

A depraved indifference is the mental state that involves a level of recklessness from a person who has a grave and total detachment to the safety of others; it is a mental state that shows a ***complete and total disregard for human life***. Although reckless conduct involves the risk of any physical injury, when one acts under depraved indifference, the risk is almost exclusively of death.

### Menacing - Generally

"To menace" means to show an ***intention to place another person in reasonable fear of imminent harm or injury***. To be considered as a menace, it must include some sort of bodily or material menace, e.g., the shaking of a fist, or the displaying of a weapon, etc. Such menace is also called a "physical menace," which is a requirement for a Menacing charge.

**Culpable Mental State** – The statute requires that there is ***intent*** to place reasonable fear of a physical injury, a serious physical injury, or death, in the mind of the victim, without causing or attempting to cause such injuries.

**Injury** – No actual injury or the attempt of an injury, to the victim is required to charge the crime of Menacing.

**Example:** Dan threatens Valerie with a knife and states that he will stab her. Valerie takes the threat seriously, even though the knife is actually made of rubber. Although the knife cannot actually harm her, Valerie is still placed in reasonable fear of harm or injury.

**Note:** There was no actual risk of serious physical injury to Valerie. If there had been an actual risk, the crime would be the more serious offense of Reckless Endangerment. Such fear must be of an imminent or immediate injury. Thus, the displaying of a knife with a threat to stab a person is a threat of imminent injury; a threat to stab a person without displaying a knife is not.



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### Menacing - Misdemeanor (P.L. 120.14, 120.15)

1. Intentionally placing or attempting to place another person in fear of death, imminent serious physical injury or physical injury by **physical menace** (Menacing 3<sup>rd</sup> Degree).

**Note:** Since attempting to menace someone completes the offense, a person cannot be charged with "Attempted Menacing."

**Example:** John leaps in front of Mary and, with one leg extended toward her in a karate kick position, states, "Don't disrespect me". John may be charged with Menacing 3rd Degree - misdemeanor.

2. Intentionally places or attempts to place someone in fear of injury (physical injury, serious physical injury, or death) by displaying a deadly weapon, a dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm (Menacing 2<sup>nd</sup> Degree).

**Example:** Kevin pulls a gun from his waistband and states that he is going to "blow Steve's head off." The proper charge for Kevin would be Menacing 2nd Degree - misdemeanor.

3. Repeatedly follows a person over a period of time and intentionally places or attempts to place the person in reasonable fear of physical injury, serious physical injury, or death (Menacing 2<sup>nd</sup> Degree).

**Example:** Bill has been following his ex-girlfriend Karen for over a month. On this particular evening, Bill follows Karen down the block and threatens to gouge her eyes out. The main difference between Menacing 2nd Degree and Menacing 3rd Degree is that Menacing 2nd Degree requires either the display of a weapon or the commission of a series of acts designed to place a person in reasonable fear of an injury or death.

4. He or she commits the crime of Menacing in the 3rd Degree in violation of that part of a duly served order of protection, or such order which the defendant has actual knowledge of because he or she was present in court when such order was issued, or an order of protection was issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, which directed the respondent or defendant to stay away from the person or persons on whose behalf the order was issued.



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### ASSAULT (PENAL LAW ARTICLE 120.00)

Assault may best be described as the unlawful infliction of physical injury committed with a specific culpable mental state: intentionally, recklessly or with criminal negligence. As with most crimes in the Penal Law, Assault has a list of definitions of terms used in the statute. A complete understanding of these terms is necessary to understand the crime of Assault.

#### Definitions of Terms (P.L. Article 10)

**Physical Injury** - The impairment of a physical condition or substantial pain.

**Serious Physical Injury** - Physical injury which creates a substantial risk of death, or which, in fact, causes death or serious and protracted (long term) disfigurement, protracted impairment to health, or protracted loss or impairment of any bodily organ.

**Deadly Weapon** - Any loaded weapon from which a shot, readily capable of causing death or other serious injury may be fired, or a switchblade knife, gravity knife, billy, blackjack, metal knuckles, dagger, pilum ballistic knife, or metal knuckle knife.

**Dangerous Instrument** - Any instrument, article or substance, including a vehicle, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.

**Vehicle** - A motor vehicle, trailer, or semi-trailer (as defined in the Vehicle and Traffic Law), any snowmobile (as defined in the Parks and Recreation Law), any aircraft, or any vessel equipped for propulsion by mechanical means or by sail.

**Firearm** - a) any pistol or revolver; or b) a shotgun with one or more barrels less than eighteen (18) inches and any weapon made from a shotgun with an overall length of less than twenty six (26) inches; or c) a rifle having one or more barrels less than sixteen (16) inches and any weapon made from a rifle with an overall length of less than twenty six (26) inches.

The penal statutes describe several ways in which the offense of Assault may be committed. Assault is broken down into degrees in the Penal Law. Assault 3rd Degree is a misdemeanor. Assault 1st and 2nd Degrees are both felonies. It is important for us to be aware of the different degrees of Assault as this knowledge plays an integral role in determining such matters as the status of a juvenile or which procedures apply regarding a violent domestic dispute. In





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order to determine if the offense of Assault has been committed, someone must be physically injured. This physical injury must be coupled with one of the following mental states: intentionally, recklessly or criminal negligence.

### **There are Three (3) Factors to Consider in Determining the Degree of an Assault:**

1. Culpable mental state (state of mind);
2. Extent of the injury;
3. Use of a deadly weapon or dangerous instrument.

Any one of these factors, or a combination of them, will determine whether the assault is a felony or a misdemeanor.

### **Assault 3rd degree - Misdemeanor (P.L. 120.00)**

The lowest classification of Assault is Assault 3rd Degree - misdemeanor. The Penal Law outlines three (3) ways to commit Assault 3rd Degree - misdemeanor. As a practical matter, there are three additional ways to commit this crime, which are not written into the statute but are classified as Assault 3rd Degree - misdemeanor nonetheless. The three (3) statutory ways to commit Assault 3rd Degree - misdemeanor are:

1. With intent to cause physical injury to another person, he or she causes such injury to such person or to a third person.

**Example:** John, with the intent to cause physical injury, punches Joe, thereby causing a physical injury.

**Note:** In any intentional assault the intent to cause injury can be transferred from the person who was meant to receive the injury to the person who actually was injured. The fact that the original victim was not injured does not change the act to reckless or some other culpable mental state; it is an intentional act. This is called the doctrine of "Transferred Intent".

**Example:** Joe takes a punch at his wife, intending to injure her. He misses his wife, but strikes a neighbor, causing a physical injury. Once you show the required intent, (to intentionally cause an injury to a person), and you show that such an injury **has** occurred, you have an assault charge.



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2. A person recklessly causes physical injury to another person.

**Example:** Bill, who is late for work, is in his automobile trying to get to his office as quickly as possible. As he approaches the intersection of 20th Street and Third Avenue, the light against him turns red. Although he is aware of the risk involved, he ignores the light and strikes a pedestrian causing him to suffer a bruised leg. Bill should be charged with Assault 3rd Degree - misdemeanor because the three elements for this degree are present: a reckless state of mind, a dangerous instrument (an automobile), and a physical injury.

**Note:** Reckless Endangerment and assault are not mutually exclusive. Reckless endangerment is not a lesser-included offense contained within assault. A person who recklessly causes an injury to another person may also be charged with Reckless Endangerment.

3. With criminal negligence, a person causes physical injury to another person by means of a deadly weapon or a dangerous instrument.

**Note:** A criminally negligent act that causes a physical injury, or a serious physical injury, without the use of a dangerous instrument or deadly weapon is **not** a crime. It is a tortious (civil) act that would require a civil lawsuit for redress.

**There are three more instances in which conduct can be classified as Assault 3rd Degree - misdemeanor, even though they are not specifically mentioned in the Penal Law. These instances are an extension of what is written in the statutes. They include the following:**

4. A person recklessly causes serious physical injury to another person. The language in P.L. 120.00 subdivision (2) mentions a physical injury. A serious physical injury would, of course, satisfy this requirement. Therefore, a person who recklessly causes a serious physical injury to another without the use of a dangerous instrument or deadly weapon should be charged with Assault 3rd Degree - misdemeanor.
5. A person recklessly causes physical injury to another person with a dangerous instrument or deadly weapon. Again, the statute does not specifically address this situation. When reckless conduct causes a physical injury by means of a dangerous instrument or a deadly weapon the most appropriate charge is Assault 3rd Degree - misdemeanor.



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6. With criminal negligence, a person causes serious physical injury to another person by means of a deadly weapon or dangerous instrument. The Assault 3rd Degree - misdemeanor statute specifically mentions criminal negligent conduct that results in a physical injury by means of a deadly weapon or dangerous instrument. When the result is a serious physical injury and the means used is a dangerous instrument or deadly weapon, the Assault 3rd Degree - misdemeanor statute still applies.

**Note:** A Criminally Negligent act that causes a physical injury without the use of a dangerous instrument or deadly weapon is not a crime; it is a tortuous (civil) act that would require a civil lawsuit for redress.

### Assault 2nd Degree – Felony (P.L. 120.05)

Assault 2nd Degree - felony can be committed in any one of eleven (11) ways:

1. With **intent to cause serious physical injury** to another person, a person causes such injury to such person or third person. Whatever the means used, the causing of a serious physical injury involves a felony assault situation.

**Example:** Joe, who is angry with Fred, shoves him down a flight of stairs with the purpose of causing a serious physical injury. As a result, Fred breaks his leg.

2. With **intent to cause physical injury** to another person, a person causes such injury to another or a third person, **by means of a deadly weapon or dangerous instrument**. This subdivision requires a person to intentionally cause only a physical injury in order to be guilty of Assault 2nd Degree, but the person needs to use a deadly weapon or dangerous instrument.

**Example:** John shoots Bill with the intention of causing a physical injury and, indeed, causes such injury. John has committed Assault 2nd Degree - felony.

3. This subdivision involves **delaying or preventing** a peace officer, police officer, fireman, etc. from performing his or her lawful duty, and causing a physical injury to the police officer, peace officer, fireman, etc.



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**Example:** A fireman is putting out a fire in a building. Joe, wanting to see the fire continue burning, shoves the fireman and causes a physical injury.

4. A person **recklessly causes serious physical injury** to another person **by means of a deadly weapon or a dangerous instrument**.

**Example:** Frank goes to Shea Stadium and is seated in the upper mezzanine. During the game he drinks a large amount of beer. By the seventh inning, Frank is intoxicated. At that point, he decides that it would be fun to throw a full bottle of beer down to the lower level, which is filled with people. One of the bottles strikes a fan, causing a fractured skull and serious concussion. Frank has committed an Assault - felony. All three elements are present: a reckless state of mind, a dangerous instrument and a serious physical injury.

5. For a purpose other than lawful, medical or therapeutic treatment, a person intentionally causes stupor, unconsciousness, or other physical impairment or injury to another person by administering to another person, without such person's consent, a **drug, substance, or preparation** capable of producing the same. The provisions of this subdivision make it a crime to give dangerous or harmful drugs under certain circumstances. The substance must be given without the victim's consent, causing some damage or injury. Remember, physical injury includes damaging of physical condition or substantial pain.

**Example:** Bill gives Sid some knockout drops to make him temporarily unconscious. While Sid is in this state, Bill takes his wallet. Bill has committed Assault 2nd Degree, as well as, Grand Larceny.

6. In the course of and in furtherance of the commission or attempted commission of a **felony**, (other than a sex offense, which requires corroboration for conviction), or of immediate flight therefrom, a person or another participant, if there is one, causes physical injury to another person other than one of the participants.

**Example:** Joe robs the cashier in a store and, while leaving the store, knocks down an elderly woman, causing a sprained wrist (physical injury).



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7. Having been charged with or convicted of a crime and while confined in a **correctional facility**, pursuant to such charge or conviction, with intent to cause physical injury to another person, a person causes such injury to another or to a third person.

**Example:** Bill was arrested and convicted of Assault 3rd Degree - misdemeanor. He was sentenced to serve 60 days in Riker's Island Correctional Facility. While inside Riker's and intending to cause a physical injury, Bill punched Joe in the face, causing him to have a black and swollen eye (physical injury). Since Bill was confined to Riker's Island at the time of the incident, the proper charge would be Assault 2nd Degree - felony.

8. Being eighteen (18) years old or more and with intent to cause physical injury to a person **less than eleven** (11) years old, a person recklessly causes serious physical injury to such person.

**Example:** Dennis, who is six years old, is skateboarding in front of Mr. Wilson's house. Intending to cause Dennis a physical injury, Mr. Wilson, 35 years old, pushes Dennis off the skateboard, causing a serious physical injury by breaking his arm.

9. Being eighteen (18) years old or more and with intent to cause physical injury to a person **less than seven** (7) years old, a person causes such injury to another.

**Example:** Fran, who is 35 years old, is babysitting Jimmy, who is five (5) years old. Fran strikes Jimmy in the face for making a mess at dinner, causing a bruise.

10. Acting at a place the person knows, or reasonably should know, such person is on **school grounds**, and with intent to cause physical injury, he or she:

- a. Causes such injury to an employee of a school or public school district;

or

- b. Not being a student of such school or public school district causes a physical injury to another, and such other person is a student of such school who is attending or is present for educational purposes. "School grounds," as defined in P.L. 220.00, means (a) in or on or within any building, structure, athletic playing field,



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playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any area accessible to the public (sidewalks, streets, parking lots, parks, playgrounds, stores or restaurants) located within one thousand feet of the real property boundary line comprising any such school or any parked vehicle located within one thousand feet of the real property boundary line comprising of any school.

11. Intent to cause physical injury to a **train operator or station agent** employed by any transit agency, authority, or company (public or private); whose operation is authorized by New York State or any of its political subdivisions; he or she causes physical injury to such train operator, ticket inspector, conductor, bus operator, or station agent; while such employee is performing an assigned duty on, directly related to, the operation of a train or bus.

### **Assault 1st Degree - Felony (P.L. 120.10)**

Assault 1st Degree - felony can be committed in any of the following four (4) ways:

1. With intent to cause serious physical injury to another person, he or she causes such injury to such person or a third person by means of a deadly weapon or a dangerous instrument.

**Example:** Angry over a lost golf bet, Tony strikes Jeff on the head with a golf club, causing a fractured skull.

2. With intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, a person causes such injury to such person or to a third person. This subdivision requires intent to disfigure someone seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his/her body. The required mental condition is to intentionally cause this serious type of injury. It does not matter how the result is reached, e.g., acid throwing, shooting, cutting, etc.

**Example:** John, intending to permanently scar Mary's face, throws acid at her, causing permanent damage to the facial tissue. It does not matter what instrument or item he used to cause the injury, it is enough that he intended to and did cause such injury.



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3. Under circumstances evincing a depraved indifference to human life, a person recklessly engages in conduct, which creates a grave risk of death to another person, and thereby causes serious physical injury to another person. What is a "depraved indifference"? A depraved indifference is the mental state that shows a completely uncaring attitude toward human life, and presents a grave risk of death.

**Example:** A man discharges a firearm toward a crowd of people as a joke. One of the individuals in the crowd may be killed by this act. Clearly, anyone who shoots toward a crowd of people is acting with depraved indifference to others. If a member of the crowd is hit by a bullet and suffers a serious physical injury, then the proper charge would be Assault 1<sup>st</sup> Degree.

4. In the course of and in furtherance of the commission or attempted commission of a felony or of immediate flight there from, a person or another participant, if there is one, causes serious physical injury to another person (other than one of the participants).

**Example:** John walks into a store, displays a gun and robs the owner of \$50. After taking the money, John puts the gun in his pocket and rushes out of the store onto the street. In making his escape, he knocks Chris down, causing him to suffer a broken hip (serious physical injury). Robbery is, of course, always a felony. However, John's actions caused a serious physical injury to another person. Thus, John could be properly charged with Assault 1st Degree - felony.

### **Assault on a Peace Officer, Police Officer, Fireman or Emergency Medical Services Professional – Felony (P.L. 120.08)**

A person may be charged with Assault on a Peace Officer, Police Officer, Fireman or Emergency Medical Services Professional when, with intent to prevent a peace officer, police officer, a fireman, including a fireman acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such fireman, or an emergency medical service paramedic on emergency medical service technician from performing a lawful duty, he causes **serious physical injury** to such peace officer, police officer, fireman, paramedic or technician. This section of law is similar to the subdivision contained in Assault 2nd Degree - felony. However, the injury caused must be a **serious physical injury**. This section is a higher class of felony than Assault 2nd Degree - felony.



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**Example:** Norm is angry that EMS is administering first aid to Gary, whom he doesn't get along with, so Norm pushes the EMT over, causing the EMT to suffer a broken ankle.

### **Aggravated Assault Upon a Police Officer or a Peace Officer – Felony (P.L. 120.11)**

Aggravated Assault upon a Police Officer or Peace Officer is a felony and the required mental condition is **intentional**; the type of injury involved must be a **serious physical injury**. In addition, the police officer or peace officer must be performing his/her official duties and the injury must be caused by **means of a deadly weapon or dangerous instrument**.

This section of law was enacted to combat the major increase in injuries to law enforcement officers by use of **deadly weapons or dangerous instruments**. It should be noted that when a weapon or firearm is used during the commission of an assault, an additional charge from P.L. Article 265 (Firearms and Other Dangerous Weapons) also applies.

**Example:** An off-duty police officer on his way home from work, sees a Robbery taking place. He draws his revolver, takes cover and yells, "Police! Don't move!" The officer is shot by an unseen accomplice, causing a serious physical injury, by use of a firearm.

### **Gang Assault – Felony (P.L. 120.06, 120.07)**

A person can be charged with Gang Assault when, with intent to cause physical injury or serious physical injury to another person and when aided **by two or more persons** actually present, he causes **serious physical injury** to such person or to a third person. For this offense to be charged, three (3) elements must be present:

1. A minimum of three (3) persons;
2. Intent to cause at least a physical injury, **and**;
3. They cause a serious physical injury.

**Example:** Pete is upset with Joe. Pete gets two friends to help him teach Joe a lesson. Intending to "rough Joe up," Pete and his friend punch and kick Joe, causing a ruptured spleen.





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### HOMICIDE OFFENSES

The term "Homicide" is not a charge, but rather a description of a group of charges that involve conduct causing the death of a person or an unborn child, or fetus, with which the female is pregnant for more than twenty-four (24) weeks.

There are six (6) separate crimes that are considered "homicide offenses." All are felonies, and they include Murder, Manslaughter, Vehicular Manslaughter, Criminally Negligent Homicide, Abortion, and Self-Abortion. In this chapter, we will discuss three (3) homicide offenses in detail: Murder – 2<sup>nd</sup> Degree, Manslaughter and Criminally Negligent Homicide (Murder – 1<sup>st</sup> Degree will be briefly defined).

#### Definitions of Terms

**Homicide** - Conduct which causes the death of a person or an unborn child (non-person), with which a female has been pregnant for more than twenty-four weeks.

**Person** - When referring to the victim of a homicide, it means a human being who has been born and is alive.

**Non-person** - An unborn child (a fetus).

There are two degrees of Murder, first and second degree. Both are classified as A-I felonies. The primary difference between the two is that a conviction for Murder in the first degree could include the death penalty, and the defendant must be at least eighteen (18) years old when the crime was committed.

#### **Murder 1st degree – Felony (P.L. 125.27)**

A person commits Murder 1st Degree - felony when, being eighteen (18) years old or more, he or she intentionally causes the death of a person that he knows to be one of the following list of people, (while they are performing their official duties): (1) a police officer, (2) a court officer, (3) a parole officer, (4) a warrant officer, division of parole, (5) a probation officer, (6) a corrections officer, (7) a division of youth employee (any seven while performing their official duties), (8) a witness to a crime or their immediate family, or (9) a judge. A person is also charged with Murder 1st Degree if he or she does the following: (1) commits a murder while serving a life sentence, (2) commits a murder and was previously convicted of murder, (3) has committed or engaged in murder for hire, (4) has tortured someone to death, (5) has committed a serial murder, (6) has



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intentionally murdered while committing a Felony Murder offense, or (7) intentionally murders while committing an act of terrorism.

### **Murder 2nd degree – Felony (P.L. 125.25)**

There are five ways in which this crime can be committed. A person is charged with Murder 2nd Degree when:

1. He **intentionally** kills another person or a third person; **or**
2. Under circumstances evincing a **depraved indifference** to human life he recklessly engages in conduct which created a grave risk of death to another person and thereby causes the death of another person; **or**
3. He or she or an accomplice causes the death of a non-participant while attempting, fleeing from or committing **one of these ten (10) felonies**: Robbery, Burglary, Kidnapping, Arson, Rape 1st Degree, Criminal Sexual Act 1st Degree, Sexual Abuse 1st Degree, Aggravated Sexual Abuse, Escape 1st and 2nd Degrees; **or**
4. He or she intentionally causes or aids another person to commit **suicide** (Note: the charge is Murder 2nd degree, but there is an affirmative defense that would lower the charge to Manslaughter); **or**
5. Under circumstances evincing a **depraved indifference** to human life, and being eighteen (18) years old or more, a person recklessly engages in conduct which creates a grave risk of serious physical injury or death to another person who is **less than eleven** (11) years old and causes the death of such person.

### **Intentional Killing of Another Person**

A person is charged with intentional Murder 2nd Degree when, with intent to cause the death of another person, a person causes the death of that person or of a third person.

**Note:** If the person who is charged with Murder did so under the influence of extreme emotional disturbance, he or she **may** only be guilty of **Manslaughter**, however, he or she would be properly charged with Murder 2nd Degree by the police. The court decides the validity of an affirmative defense after the defendant - through his or her defense attorney - raises it.



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**Example:** During an argument with Ross, over a sports bet, Steve intentionally shoots and kills Ross. Because he intentionally killed another person, Steve will be charged with Murder. What if Steve's shot had killed Ross' wife, who was standing close by? Should Steve still be charged with Murder? Yes! According to the Penal Law, when a person acts intentionally to cause the death of another person, it is considered Murder if he/she causes the death of a third person; that is, someone other than the intended victim. This is referred to as ***transferred intent***.

### Depraved Indifference to Human Life

A person is charged with Murder 2nd Degree when, under circumstances evincing a depraved indifference to human life, he or she recklessly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

**Example:** In order to frighten Bill, John aims a pistol one (1) foot over Bill's head and fires it. John, however, kills Bill because of his poor marksmanship. In this instance, John would be guilty of Murder because he evinced a depraved indifference to human life and engaged in reckless conduct that caused another person's death.

### Felony Murder

The third way to commit Murder 2nd Degree is commonly referred to as the ***Felony Murder*** situation. Felony Murder occurs when there is a murder committed in connection with certain crimes, all of which have one thing in common: they are all **felonies**.

#### A Person is Guilty of the Felony Murder Subdivision When:

1. Acting alone or with one or more persons;
2. In the course of committing or attempting or immediate flight from Robbery, Burglary, Kidnapping, Arson, Rape 1st Degree, Criminal Sexual Act 1st Degree, Sexual Abuse 1st Degree, Escape 1st or 2nd Degree, Aggravated Sexual Abuse;
3. A person or another participant, if any, causes the death of a person other than one of the participants.



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**Note:** The term *participant* refers specifically to the offender and any accomplices. The victim of the felony is not considered to be a participant. This offense, therefore, is limited to the death of someone who is not a participant in the underlying felony, and all participants are held responsible even though only one participant may cause such death. Note also that the death may be caused either during the commission, or the attempted commission, of the felony or in immediate flight therefrom.

**Example:** Three men are in the course of committing armed robbery at a grocery store. The store manager is shot to death by one of the robbers. Who should be charged with Murder? All three of the men should be charged. They were committing a robbery and a participant in that crime caused the death of a person who was a non-participant. No mental state concerning the death need be shown, only that a death occurred.

### Intentionally Causes or Aids a Person to Commit Suicide

A person may be charged with Murder 2nd Degree in the fourth way when he intentionally causes or aids a person to commit suicide. It should be noted that if the defendant did not use duress or deception in either causing or aiding the suicide, the charge of Murder might be reduced to Manslaughter.

**Note:** It should be noted that whenever a person is charged with Murder 2nd Degree and facts show that the defendant acted under the influence of extreme emotional disturbance, the charge of Murder 2nd Degree may be reduced to Manslaughter, by the court, after the defendant raises the affirmative defense.

### Depraved Indifference Causes Death of Person Less than Eleven

A person may be charged with Murder 2nd Degree when, being eighteen (18) years old or older, a person acts with a depraved indifference to human life and recklessly creates a grave risk of serious physical injury or death to a person less than eleven (11) years old and causes that person's death. Although this subdivision sounds very similar to the second subdivision, it differs in three (3) ways:

1. The age of the defendant is specified (18 or older);
2. Conduct creates a grave risk of **Serious Physical Injury or Death**;
3. The victim's age is specified (10 or less).



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### Manslaughter – Felony (P.L. 125.15, 125.20)

Technically speaking, there are six (6) ways in which a person can commit Manslaughter. A person is charged with this crime when:

1. Intending to cause only serious physical injury, a person causes the death of another person or a third person while; or
2. A person recklessly causes the death of another person; or
3. A person commits upon a female an abortifacient act which causes her death, unless such abortifacient act is justifiable as per P.L. 125.05; or
4. Being 18 years old or older, with the intent to cause physical injury to a person less than 11 years old, a person recklessly engages in conduct which creates a grave risk of serious physical injury to such person and thereby causes the death of such person; or
5. Under certain circumstances, #3 can constitute either Manslaughter 1<sup>st</sup> Degree or Manslaughter 2<sup>nd</sup> degree; or
6. If a person who is charged with Murder did so under the influence of extreme emotional disturbance, he or she **may** only be guilty of **Manslaughter**, however, he or she would be properly charged with Murder 2nd Degree by the police. The court decides the validity of an affirmative defense after the defendant - through his or her defense attorney - raises it.

### Intent to Cause Serious Physical Injury - Causes Death

In the first way, a person is charged with Manslaughter when:

1. With intent to cause serious physical injury to another person;
2. A person causes the death of that person or a third person.

The intent to cause serious physical injury is an essential element of this type of Manslaughter. Suppose, for example, that Bud and George are involved in a barroom fight. Bud hits George over the head with a broken bottle, intending to injure him seriously. But, George bleeds to death. Bud only intended to seriously injure George, not to kill him. If Bud had intended to kill George, the charge would then be Murder. You should be aware that in most street



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situations, a police officer's initial charge would be Murder; then upon later investigation, witnesses' statements and Grand Jury testimony, etc., the District Attorney will probably reduce the Murder charge to Manslaughter.

### **Recklessly Cause the Death of Another Person**

The second way that Manslaughter is committed occurs when a person recklessly causes the death of another person. Remember, once again, that when a person acts "recklessly", he or she is aware of a substantial and unjustifiable risk, but consciously disregards that risk.

### **Abortional Act - Causes Death of Female**

Here, a person commits an abortional act upon a female pregnant for more than twenty-four weeks. It is this act which causes the female's death.

### **18 Or Older Intends Physical Injury - Recklessly Causes the Death of Person Less Than Eleven**

**Example:** Anna, 20 years old, is babysitting for Bill, 10 years old. Anna, angry because Bill won't obey her, intentionally burns Bill's arm with matches. His sleeve catches on fire and Bill is burned so badly he dies. Anna should be charged with Manslaughter.

### **Criminally Negligent Homicide – Felony (P.L. 125.10)**

A person is charged with Criminally Negligent Homicide when, with criminal negligence, he or she causes the death of another person. A person acts with criminal negligence when with respect to a result, he or she fails to be aware of a substantial and unjustifiable risk that such result will occur or that such circumstances exist. The risk must be such that the failure to be aware of it constitutes a great difference from the standard of care that a reasonable person would observe in the situation. Therefore, if a person, by his or her conduct, causes the death of another by negligently failing to be aware of the risk of death which might come about from his or her conduct, he or she is guilty of Criminally Negligent Homicide, even though such person did not intend to cause the death of another.

#### **Examples:**

1. Parents who fail to provide prompt medical care for a child, and the child dies.



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2. Not realizing the danger and not looking down, a man throws a roll of tar paper off a roof, striking and kills a pedestrian.

### SEX OFFENSES

Sex offenses are a very sensitive area of the law. As a police officer, you must be able to exhibit sound judgment and professional interpersonal skills in order to effectively address these crimes. An issue for the student officer to consider is that **all sex offenses, as defined in Article 130 of the Penal Law, are gender neutral. This means that either a man or a woman may be charged with a sex offense.** Therefore, if the elements of a particular offense are met, the individuals who perpetrate the offense must be charged with that crime. Before discussing the different sex offenses contained in the penal law, it is important to understand certain legal terms. The terms contained in the penal law have specific legal meaning. These terms may not necessarily be defined by their Standard English meaning. Therefore, to properly apply sex offense charges, these terms must be understood.

#### Definitions of Terms

**Sexual Conduct** means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual conduct.

**Sexual Intercourse** means any penetration, no matter how slight, of the penis into the vagina.

**Oral Sexual Conduct** means conduct between persons consisting of contact between the:

1. Mouth and penis;
2. Mouth and anus;
3. Mouth and vulva or vagina.

**Anal Sexual Conduct** means conduct between persons consisting of contact between the penis and anus.

**Sexual Contact** means any touching, grabbing, feeling or rubbing of sexual or other intimate body parts (e.g., inner thighs, buttocks, genitalia, breasts) of a person, not married to the one performing the act, for the purpose of pleasing the sexual desire of either party. It includes the touching of the actor by the victim as well as the touching of the victim by the actor, either directly or through the clothing.



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**Aggravated Sexual Contact** means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis or rectum of a child, thereby causing physical injury to such child.

**Definitions Involving Lack Of Consent** are those terms used to identify the circumstances in which a victim failed to give or was incapable of giving consent to engage in sexual conduct. In order to charge any sex offense you must have what the law refers to as "**lack of consent.**" Lack of consent can be shown by **any** of the following:

- A. **Mentally Disabled** - means a person suffers from a mental disease or defect which makes that person **unable to understand** the nature of his/her actions.
- B. **Mentally Incapacitated** - means a person is made **temporarily** unable to understand or control his or her actions due to the effects of a drug or alcoholic substance given to that person **without his or her consent**, or any other act done to that person without his or her consent.
- C. **Physically Helpless** - means a person is unconscious or for any other reason is physically unable to state his or her unwillingness to do an act.

**Note:** There is a similarity between mentally incapacitated and physically helpless regarding intoxication. However, there is a distinction that must be noted. When a person is **mentally incapacitated** they are incapable of controlling their action due to involuntary intoxication. But, if the person becomes unconscious through a consensual administration of drugs or alcohol they are considered **physically helpless**.

- D. **Forcible Compulsion** - means **physical force** which is capable of overpowering the victim, or a threat, **either stated or hinted**, that places a person in fear of instant death or physical injury to himself or another person, or in fear that he or another person will immediately be kidnapped.
- E. **Age** - any person, male or female, who is less than 17-years-old, is incapable of consenting to any act described in Article 130 (sex offenses). A person must be at least seventeen years old to **legally** engage in any sexual activity. When age is the only lack of consent, it is commonly referred to as a statutory offense.





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- F. **Office of Children and Family Services** - A person is also deemed incapable of consent for purposes of a sex offense if he or she is committed to the care of the office of children and family services in residential care, and the offender is an employee not married to the victim.
- G. **Health/Mental Health Care Provider** - A person is deemed incapable of consent for the offenses of Rape 3<sup>rd</sup> degree, Criminal Sexual Act 3<sup>rd</sup> degree, Aggravated Sexual Abuse 4<sup>th</sup> degree or Sexual Abuse 3<sup>rd</sup> degree when he or she is a patient of a health care/mental health care provider and the offense takes place during treatment or examination.

**Note:** If the conduct is performed for a valid medical or mental healthcare purpose, then it is not a violation.

### Rape – Felony (P.L. 130.25, 130.30, 130.35)

A person is charged with rape when he or she engages in **sexual intercourse** with another person who has **not given consent**. Rape is always a felony and may be committed in one of the following ten (10) ways:

1. A person uses **forcible compulsion** upon another person to engage in sexual intercourse; **or**
2. A person engages in sexual intercourse with another where lack of consent results from circumstances under which the victim clearly expressed that he or she did not consent, which would have been understood by a reasonable person in the actor's situation under all the circumstances (e.g., "date/acquaintance rape"); **or**
3. A person engages in sexual intercourse with another person who is **mentally disabled** (that is, the person cannot understand the nature of his/her actions because he or she is suffering from a permanent mental disorder); **or**
4. A person engages in sexual intercourse with another person who is **mentally incapacitated** (he or she cannot understand the nature of his/her actions because he or she has been drugged or given alcohol without his/her consent); **or**



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5. A person, 21 years old or over, who engages in sexual intercourse with another person who is less than seventeen (16 years old or less); **or**
6. A person, 18 years old or over (18, 19, or 20 years old), who engages in sexual intercourse with another person who is less than fifteen (14 years old or less); **or**
7. A person engages in sexual intercourse with another person who is **physically helpless**; **or**
8. A person, over 18 years of age, who engages in sexual intercourse with another person less than thirteen (12 years old or less); **or**
9. A person, 16 or 17 years of age, who engages in sexual intercourse with another person who is less than eleven (10 years old or less); **or**
10. A person engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some other factor than incapacity to consent (e.g., health/mental health care provider).

### **Criminal Sexual Act – Felony (P.L. 130.40, 130.45, 130.50)**

A person is charged with Criminal Sexual Act when he/she engages in oral sexual conduct and/or anal sexual conduct with another person who has not given consent. Criminal Sexual act is always a felony and as in Rape, Criminal Sexual Act may be committed in the same ten ways; with the exception that criminal sexual act requires oral sexual conduct or anal sexual conduct. That is, the lack of consent circumstances are the same to commit Criminal Sexual Act. The sexual conduct required, however, is oral sexual conduct or anal sexual conduct.

### **Sexual Misconduct – Misdemeanor (P.L. 130.20)**

A person can commit the crime of Sexual Misconduct in three (3) ways.

1. He or she engages in sexual intercourse with another person who is incapable of consent because of his or her age; **or**
2. He or she engages in oral sexual conduct with another who is incapable of consent because of his/her age; **or**
3. He or she engages in sexual conduct with an animal or a dead human body.



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Sexual Misconduct generally involves sexual acts that appear at first glance to be Rape or Criminal Sexual Act based solely upon age. However, the age requirements for Rape and Criminal Sexual Act are very specific. If the age between the actor and the victim does not meet those requirements, then Sexual Misconduct may be charged. Sexual Misconduct is always a misdemeanor. For example, a 20-year-old male engages in sexual intercourse with a 16-year-old female. To charge rape, the male must be at least 21 years of age and the female 16, 15 or 14 years of age. Since you cannot charge Rape, the crime of Sexual Misconduct would be the proper charge.

### SEXUAL ABUSE

A person may be charged with Sexual Abuse when he or she subjects another person to sexual contact (touching) without the other person's consent. The two categories of Sexual Abuse are misdemeanor and felony. Sexual Abuse (misdemeanor) is defined as follows:

#### **Sexual Abuse – Misdemeanor (P.L. 130.55, 130.60)**

Sexual Abuse - misdemeanor, may be charged in one of three (3) ways:

1. A person touches, feels, rubs, etc., the sexual parts of another person less than 17 years old (16, 15, 14, 13, 12, or 11 years old); **or**
2. A person touches, feels, rubs, etc., the sexual parts of another person who is incapable of consent because he or she is either mentally incapacitated or mentally disabled; **or**
3. A person touches, feels, rubs, etc., the sexual parts of another person who is unwilling or did not give permission.

#### **Sexual Abuse – Felony (P.L. 130.65)**

Sexual Abuse - felony, may be charged in one of the following three ways:

1. A person touches, feels, rubs, etc., the sexual parts of another person by **forcible compulsion; or**
2. A person touches, feels, rubs, etc., the sexual parts of another person when the victim is **physically helpless; or**



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3. A person touches, feels, rubs, etc., the sexual parts of another person when the victim is **less than 11-years-old** (10 years or less).

### **Aggravated Sexual Abuse – Felony (P.L. 130.66, 130.67, 130.70)**

A person may be charged with aggravated sexual abuse when he or she inserts either:

1. A foreign object (whether or not it causes a physical injury), **or**
2. A finger (causing a physical injury or serious physical injury); into the vagina, urethra, penis or rectum of another person, **and** it is:
  - a. By forcible compulsion; **or**
  - b. When the victim is physically helpless; **or**
  - c. When the victim is less than 11-years-old (10 years old or less); **or**
  - d. When the victim is incapable of consent by some reason **other than** being less than 17 years old (16 years old or less), (e.g., victim is a patient of a health care/mental health care provider); **or**
  - e. When the victim is incapable of consent because of being mentally disabled or mentally incapacitated.

#### **Notes:**

- A foreign object means any instrument or article which, when put in the vagina, penis, urethra or rectum is capable of causing physical injury or serious physical injury.
- Conduct performed for a valid medical purpose does not constitute an offense under this section.

### **Facilitating a Sex Offense with a Controlled Substance – Felony (P.L. 130.90)**

A person commits this offense when he or she knowingly and unlawfully possesses a controlled substance and administers the substance to a victim without his or her consent and with the intent to commit a felony sex offense as defined in Article 130.



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### KIDNAPPING, UNLAWFUL IMPRISONMENT, AND CUSTODIAL INTERFERENCE ARTICLE 135

As members of the service, we pledge to protect the lives and property of our fellow citizens and impartially enforce the law. This pledge is especially relevant when confronted with custody disputes. At the scene of a custody dispute, the police officer's primary responsibility is to keep the peace and impartially enforce the law. Thus, police officers must be aware of the various offenses as they relate to custody disputes, as well as their responsibility to report and investigate crimes against children.

#### Definitions of Terms

**Restrain** - To restrict a person's movements intentionally and unlawfully in such a way as to interfere substantially with his or her liberty by:

1. Moving him or her from one place to another; **or**
2. By confining him or her to either the place where the restriction started or the place to which he or she has been moved, without consent and with knowledge that the restriction is unlawful.
3. A person is considered moved or confined without consent when the confinement is accomplished by:
  - Physical force, intimidation, or deception; **or**
  - Any means whatsoever, including consent of the victim, if a child is less than sixteen years old, or an incompetent person and the parent, guardian or other person or institution having the lawful custody or control of him or her has not consented to the movement or confinement.

**Abduct** - To restrain a person with intent to prevent his or her escape by either:

1. Hiding or holding him/her in a place where he/she is not likely to be found;
- or**
2. Using or threatening to use deadly physical force.



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### **Kidnapping – Felony (P.L. 135.20, 135.25)**

Kidnapping is accomplished by abduction, which is a higher form of restraint. This action indicates an effort on the part of the offender to take control of another, and to intentionally remove a person so that he/she will not likely be found. The actions of the offender may also cause or create the risk of a serious physical injury or death to the victim. A Kidnapping is often committed along with some other crime such as Robbery, Assault, or a Larceny. In order to apprehend a person for this crime you must be able to recognize the elements involved. The purpose of the abduction does not matter. Therefore, a request for ransom is not necessary to charge kidnapping.

**Example:** Mark and Ann are out on a date. Mark forces Ann to engage in a sexual act with him, so he orders her at gunpoint into his car.

**Example:** Bill drives Ellen to a deserted cabin in the woods where she protests. Mark tells her that if she attempts to escape he will kill her.

**Example:** Jill unlawfully takes a baby from a hospital maternity ward and brings the baby to her home.

### **Unlawful Imprisonment - Misdemeanor and Felony (P.L. 135.05, P.L. 135.10)**

Unlawful Imprisonment is a crime that involves the term **restraint** and is a lesser crime than Kidnapping. It is committed when a person restrains another. If the circumstances expose the victim to a risk of serious physical injury, the degree of the unlawful imprisonment is elevated from a misdemeanor to a felony.

**Example:** Steve drives Debra to a beach area over her protests and parks the car. Debra insists that Steve take her home, but he refuses, in addition he will not let Debra out of the car. Steve is considered to have restrained Debra because he restricted her movement intentionally and unlawfully in such a way as to interfere substantially with her liberty by forcibly confining her in the vehicle.

### **Custodial Interference – Misdemeanor (P.L. 135.45)**

Custodial Interference - misdemeanor can be committed two ways. One applies to children under 16 years of age, while the other applies to incompetent persons of any age, or persons of any age who have been entrusted by authority of law to the custody of another person or institution.



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1. A person may be charged with Custodial Interference - misdemeanor (the first way) when he or she is a relative of a child less than 16 years of age and intending to hold such child permanently, or for a long period of time and knowing he or she has **no legal right to do so**, he or she takes or entices the child from his lawful custodian.

**Note:** This offense is aimed at the parent or other relative who takes a child under 16 intending to separate the child from one or both parents. For the purpose of this statute, a relative means parent, ancestor (i.e., grandparent, great-grandparent, etc.), brother, sister, uncle, or aunt.

2. A person may be charged with custodial interference - misdemeanor (the second way) knowing that he or she has no legal right to do so, he or she takes or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution.

**Note:** This section covers the situation where any person entices or liberates incompetents, juvenile delinquents, etc., from the institutions in which they are confined.

### **Custodial Interference – Felony (P.L. 135.50)**

Custodial Interference - felony is chargeable when:

1. The person taken or enticed is exposed to the **risk** that his or her safety will be endangered or that his or her health will be seriously affected; **or**
2. A person removes such person from the state with intent to remove them permanently.

**Example:** A divorced father, with no custodial rights, who takes his small child from his former wife's lawful custody for one week is guilty of custodial interference - misdemeanor. However, if he intentionally moves the child to another state (absent a time factor), he can be charged with the felony. Likewise, if he keeps the child in a hotel room at a time when the child is suffering from diabetic shock, he can be charged with the felony.



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### **CONCLUSION**

With the information learned in this chapter you will now be able to aggressively pursue violators of the law and properly charge these criminals, increasing the chance that these violent offenders will be incarcerated and unable to hurt other citizens. This will eventually diminish people's fears and ultimately create a safer community.





# POLICE STUDENT'S GUIDE

## Theft Offenses and Property Crimes

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO UNDERSTAND THE MATERIAL IN THIS CHAPTER?

We have pledged to protect the life, as well as the property, of every citizen. When a person's property is stolen or destroyed, the effect on that individual may be devastating. Although the monetary value of the property may seem small, the sentimental value can be significant. You must remember that, as a police officer, you will handle every situation with courtesy, professionalism, and respect, and with the help of the community we will aggressively take proactive steps to prevent these crimes.

On patrol, you will frequently respond to incidents related to property crimes. Such occurrences can range from a shoplifter to a stolen motor vehicle. You are required to understand the various laws and related procedures in order to effectively document, investigate, prevent, and enforce crimes against property.

This chapter of your Police Student's Guide will explain to you the various laws that pertain to the theft of personal or public property or services and the various ways that these crimes are committed. Additionally, this chapter will show you how the forcible theft of personal property also amounts to a violent crime against a person. Lastly, offenses against real property, or land, are addressed in the section on Trespass and Burglary, as well as the destruction of property by intentional or reckless means.

### LARCENY (PENAL LAW ARTICLE 155)

The crime of larceny consists of the **stealing** of another person's property. There are several ways to commit this act and several definitions for the term "property."

**Property:** The term "property" (Penal Law section 155.00, subd. 1) includes:

- Money;
- Personal property (e.g., a camera, a car);
- Real property (e.g., a home, an acre of land);
- A thing in action (e.g., accounts receivable, claims for damage);
- Evidence of debt or contract (e.g., a promissory note, a building contract);
- Any article, substance or thing of value of any kind, including gas, steam, water or electricity, which is provided for a fee;
- Computer data or a computer program;
- A credit card or debit card;



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- An “access device,” which means any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number or personal identification number that can be used to obtain telephone service;
- A “service,” which includes, but is not limited to: labor, professional service, a computer service, transportation service, the supply of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use and the supplying of commodities of a public utility such as gas, electricity, steam and water. A ticket or equivalent instrument, which allows one to receive a service, is not in itself a service but constitutes property.

**Note:** Public utilities (e.g. gas, electricity, steam, water) are considered property. However, the **supplying** of these services to premises from an outside source by wires, pipes, etc., is considered the **giving of a service** rather than the sale or delivery of property. Where the property consists of gas, steam, water or electricity, which is provided for a fee, the value shall be the value of the property stolen in any consecutive twelve-month period.

### Larceny Defined – NYS Penal Law 155.05

A person commits larceny when:

- With intent to deprive another of property, or
- With intent to appropriate the same to himself/herself or a third person,
- He or she wrongfully takes or he or she wrongfully obtains or he or she wrongfully withholds such property (for a period of time that the value of the property is diminished) from an owner.

**Note:** This definition is very broad and is meant to cover the various ways in which property may be stolen.

### Forms of Larceny

**1. Common-Law Larceny by Trespassory Taking** – This type of larceny is the most common form of larceny. It is the taking of property by a trespass, or by a directly wrongful act; that is, outright stealing without the consent of the owner or possessor. Taking is defined as getting hold of, to get possession of, to grasp, to gain control over, or to seize.



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**Example:** Kevin enters a candy store and puts a magazine under his jacket and a pack of gum in his pocket; then leaves the store without paying for the items. Kevin has committed larceny because he intentionally took goods offered for sale at a store with the intention of taking the same for his own use, without paying for them.

**2. Embezzlement** – A person commits larceny by “embezzlement” when he or she wrongfully appropriates to himself/herself or to another, property of another in his/her care or custody. An important aspect of embezzlement is the betrayal of a legal duty. In other words, a person who commits embezzlement wrongfully appropriates to himself/herself or another, property that has been legally entrusted to him/her.

**Example:** Mary is shopping for clothes in a department store where her roommate works. Mary picks out a shirt worth \$30. When she approaches her roommate at the payment counter, the roommate charges only \$20 for the outfit. By wrongfully appropriating to Mary the property of another in her care, the roommate has committed larceny.

**3. False Pretense** – A person “obtains property by false pretense” when: by any false token, pretense, or device, he or she obtains from another any property, with intent to defraud him/her or any other person.

**Example:** Alex buys a DVD player at a department store with a credit card he knows is forged. By false token and with intent to defraud, he has obtained the property of another.

**4. False Promise** – A person “obtains property by false promise” when: with a scheme to defraud, he or she obtains property of another by means of a representation, expressed or implied, that he/she, or a third person will engage in a particular conduct, and he or she does not intend to engage in such conduct or does not believe that the third person intends to engage in such conduct.

**Example:** Norman approaches Mr. Smith and offers to remodel his home for \$5,000. Mr. Smith signs a contract for a remodeling job on his home and gives Norman \$200 as a down payment. Norman takes the money and promises that the job will be done next week. Norman does not intend to keep his promise. In this way, Norman has obtained property by false promise.



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**5. Acquiring Property Lost, Mislaid or Delivered by Mistake –** A person commits larceny by “acquiring property lost, mislaid or delivered by mistake” when he or she comes into control of property of another that he or she knows to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the receiver, and intending to deprive the owner of the property, and he or she fails to take reasonable measures to give the property to a person entitled to it.

**Example:** Jane discovers a mislaid purse in the restroom of a department store. She picks up the purse and walks out of the store with it. Later, she examines the contents and discovers money as well as the owner's identification. She does not take any reasonable measures to return the purse to the rightful owner.

**6. Issuing a Bad Check –** A person has committed this subdivision when he or she has also committed the crime of “Issuing a Bad Check,” NYS Penal Law 190.05. This crime is completed when a person, or their representative, issues or passes a check knowing that there are insufficient funds to cover it, and they intend or believe the institution will refuse payment, and the institution refuses the payment.

**Example:** Louie writes a check to cover the cost of purchasing a coat; however, Louie is aware that he has insufficient funds to cover the purchase of the coat.

**7. Extortion –** A person obtains property by “extortion” when he or she causes another person to deliver such property to himself/herself or a third person by means of placing him/her in fear that, if the property is not delivered, he or she or another will engage in a particular conduct.

Extortion is the obtaining of another's property by the **wrongful use of fear**. The various threats that are used to instill fear to obtain another's property are as follows:

- Cause damage to property;
- Cause physical injury to some person in the future;
- Engage in other conduct constituting a crime;
- Accuse some person of a crime or cause criminal charges to be instituted against him/her;
- Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule;
- Cause a strike, boycott or other collective labor group action injurious to some person's business;



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- Testify or provide information or withhold testimony or information with respect to another's legal claim or defense;
- Use or abuse one's position as a public servant by performing some act within or related to one's official duties, or by failing or refusing to perform an official duty, in such manner as to harm some person;
- Inflict any other harm which would not benefit the actor, but which is calculated to harm another person materially with respect to his/her health, safety, business, career, financial condition, reputation or personal relationship.

**Note:** Extortion is not a NYS Penal Law offense. When larceny by extortion is committed, the correct charge is **Grand Larceny**.

### Petit Larceny – Misdemeanor (Penal Law 155.25)

Petit Larceny, misdemeanor, is defined as the stealing of property. This section is used when the value of the property stolen is **\$1,000.00 or less** and does not fall within any of the special felony categories.

### Grand Larceny – Felony (Penal Law 155.30, 155.35, 155.40, 155.42)

Grand Larceny, felony, can be committed in several ways. Grand Larceny, felony, occurs when a person steals property and when:

- The property is a **motor vehicle** (car, truck, bus, **but not a motorcycle**), with a value over \$100.00; or
- The property consists of a **religious item** with a value of \$100.00 or more which is kept for or used in connection with religious worship in a building or structure used as a place of religious worship; or
- The property consists of an **access device** which the person intends to use unlawfully to obtain telephone service; or
- The property consists of a **credit card or debit card**; or
- The property consists of a **gun** (firearm, rifle, or shotgun); or
- The property consists of a **public record**, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant; or
- The property is valued at an **amount over \$1000.00**; or
- The property, regardless of its value or nature, is taken by means of **extortion**; or
- The property consists of **secret scientific material**.
- The property, regardless of its value or nature, is **taken from the person** of another. (This includes "pick-pocketing" and "chain-snatching" where no injury is involved).



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**Note:** When a person attempts but does not complete this crime, **Attempted Grand Larceny** is charged. When larceny from a person is attempted, the crime of **Jostling** (misdemeanor) **may** also be charged. Jostling is defined as intentionally and unnecessarily placing one's hands in the proximity of a person's pocket or handbag; or crowding a person while another places their hands in the proximity of another person's pocket or handbag.

### Distinguishing Between Grand Larceny and Petit Larceny

As every experienced police officer knows, the difference between Grand Larceny and Petit Larceny must be determined by asking the following three (3) basic questions: What **type** of property was stolen?

1. What **type** of property was stolen? (Car, watch, U.S. currency, etc.)
2. What was the **value** of the property? (\$ value of property stolen)
3. What **method** did the thief use to steal the property? (Extortion, trespassory taking, from the person, etc.)

**Example:** A man approached a police officer and asked: "Can you help me? I've just been ripped off." The officer asked, "What exactly was stolen?" The man replied, "My laptop computer." The officer then asked, "How much was the computer worth?" The man responded "I paid \$1,600 for it." Finally, the officer asked "How was it stolen?" and the man said "I left the lap top computer in the trunk of my car last night, and this morning I discovered that the trunk was broken into and the computer was gone." In this case, the answer to the officer's second question has determined that a Grand Larceny has occurred, because the computer is valued at over \$1000.

**Note:** You must conduct as thorough an investigation as possible. Questions should be asked to clear up any confusion, to ascertain facts, and to aid in the apprehension of perpetrators.

### ROBBERY (PENAL LAW ARTICLE 160)

Robbery is a serious concern to both communities and police, due to the inherent danger of the crime and the **immediate threat or use of force** involved. You must remember to use extreme caution when responding to a Robbery in progress and that sometimes (if not the first responder) it may be wise to patrol the perimeter of the scene, especially train stations or parks, rather than go directly to the scene (the perpetrator may have already fled the scene and may



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be attempting to escape unnoticed). The following information describes the crime of Robbery.

### Robbery – Felony (Penal Law 160.05, 160.10, 160.15)

Simply stated, Robbery, ***always a felony***, is the ***forcible stealing*** of property from another person. Robbery is committed when, in the course of committing a larceny, a person attempts, uses, or threatens the ***immediate use of physical force upon another person*** in order to:

- Prevent or overcome resistance in the taking of the property; or
- Prevent or overcome resistance in the retention of the property; or
- Compel the owner to give the property, or another to assist in the taking of the property.

### Distinguishing Between Larceny and Robbery

Consider the following scenario:

If John puts his \$80 watch on a table and Joe steals it, the crime would be Petit Larceny, misdemeanor. However, if John had the watch in his possession, and Joe forced John to give it to him by saying, "give me the watch or I'll break your neck," the crime would be Robbery, felony. What is the important difference? The important difference is the ***use or threatened immediate use of force against a person***.

In both examples Joe obtained the property. In the first situation, Joe did not use or threaten the immediate use of force against John, so it was larceny. In the second example, Joe threatened the immediate use of force against John thereby making the act a Robbery.

**Note:** See Legal Bureau Bulletin Vol. 2, No. 5 for "*Guidelines to Differentiate between Robbery and Grand Larceny.*"

### Elements of Robbery

In Robbery, the force to the person cannot be threatened in the future. It must be in the present or immediate.

**Example:** Joe said, "Give me the watch or I'll break your neck next week," and John then gave Joe the watch. The crime would not be Robbery, but Grand Larceny (by extortion).



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In Robbery, the ***force must be to the person***. If the threat of force involved damage to property, immediate or future, the crime is Larceny, not Robbery.

**Example:** If Joe had said to John, "give me the watch or I'll burn your house down," it would be Grand Larceny by extortion, because the threat is not against a person.

**Note:** Knowing the degrees of Robbery is not as important as knowing the elements of a Robbery. The proper charge will be determined once the prisoner is brought to the precinct. The issue to keep in mind is that all Robberies, no matter what the degree, are felonies.

- In Robbery, a weapon is not required. A verbal threat is sufficient to constitute immediate force.
- An injury to the victim or non-participant is not required for a Robbery. If an injury does occur, additional charges may apply.
- Robbery is an intentional crime. Therefore, if the crime is not completed (the property not taken), ***Attempted Robbery*** is the appropriate charge.

**Note:** Keep in mind that only persons can be robbed. The statement "My house was just robbed" is legally incorrect; people are robbed, houses are burglarized.

### CRIMINAL POSSESSION OF STOLEN PROPERTY

(PENAL LAW 165.40, 165.45, 165.50, 165.52, 165.54, 165.55, 165.60, 165.65)

In the previous pages, the offenses of Petit Larceny, Grand Larceny, and Robbery have been discussed. Those offenses involve the taking of someone else's property. This crime examines the charge for possessing property that has been stolen.

#### Criminal Possession of Stolen Property – Generally

A person is guilty of the offense of Criminal Possession of Stolen Property (CPSP) when he or she knowingly possesses stolen property with the intent to:

1. Benefit himself or herself or a person other than an owner of the property; **or**





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2. Prevent the recovery of property by its owner.

**Note:** It is not necessary to prove that the person being charged with this offense actually **stole** the property. All that is necessary is that the person "knowingly **possesses** stolen property."

### Definition of "Knowingly"

A person knowingly possesses property when he or she:

- Knows (is aware of) that he or she possesses the property; **and**
- Knows (is aware of) the property is stolen.

### Criminal Possession of Stolen Property – Misdemeanor (Penal Law 165.40)

The misdemeanor charge of Criminal Possession of Stolen Property is based strictly on the dollar value of the property taken. It occurs when the value of the property is **\$1,000.00 or less**.

### Criminal Possession of Stolen Property – Felony (Penal Law 165.45, 165.50, 165.52, 165.54)

There are several ways that Criminal Possession of Stolen Property, felony, may be committed. Criminal Possession of Stolen Property, felony, is committed when a person is **in possession of stolen property and:**

- The property consists of a **motor vehicle other than a motorcycle** that has a value of \$100.01 or more. If the property is a motorcycle, the value is the same as any other piece of property (it must be over \$1,000.00 for the felony); **or**
- The property consists of a **religious item** of property having a value of \$100.00 or more kept for or used in connection with religious worship in any building or structure used as a place of religious worship; **or**
- The property consists of a **credit card, public benefit card, debit card;** **or**
- The property has a value of an **amount over \$1,000.00;** **or**



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- The property is in the possession of a **collateral loan (pawn) broker** or one who is in the business of buying, selling or otherwise dealing with property; **or**
- The property consists of one or more **firearms, rifles or shotguns**, as defined in Section 265.00 of the Penal Law (a gun).

### THEFT OF SERVICES (PENAL LAW ARTICLE 165.15)

#### Overview

While Larceny and Robbery involve the unlawful taking of property, Theft of Services involves the **unlawful obtaining of a service** (not property). A person can be guilty of Theft of Services in one of the following eleven ways:

1. Intentional **use of a stolen credit card or debit card** to obtain a service;
2. Avoiding payment for **restaurant, hotel or motel service** or similar hospitality type service;
3. Avoiding payment for **transportation services**;
4. Avoiding payment for **telecommunications services**;
5. Intentionally avoiding payment for **telephone services** by an access device;
6. Avoiding payment for **metered services**;
7. Knowing accepting or receiving the **use and benefit of services which should pass through a meter** but have been diverted or altered;
8. Intentional **tampering with public utility service** to receive these services without consent;
9. Intentionally avoid payment for **admission to a theatre or concert hall** or mechanical, ski-related lifting devices;
10. Wrongful use of **commercial labor, equipment or facilities**;
11. Intentional avoidance of payment for the use of a **computer or computer services**.

Although there are many other services that can be obtained illegally, you can only charge an individual with Theft of Services if it specifically relates to one of the eleven ways that are discussed in detail below. Generally, these offenses are misdemeanors except as noted.

**Note:** An attempt to commit Theft of Services completes the offense.



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### Theft of Services Defined – NYS Penal Law 165.15

**1. Intentional Use of a Stolen Credit Card or Debit Card.** With intent to defraud, a person obtains or attempts to obtain a service; gets or attempts to get the supplier of a service already given to receive payment by a credit card or debit card which he or she knows to be stolen.

**Note:** Any type of service satisfies the statute, as long as the method used to obtain the service is the stolen credit card or debit card.

**2. Avoiding Payment for Restaurant, Hotel, or Motel Services.** With intent to avoid payment for restaurant services; or for services given to him or her as a temporary guest at a hotel, motel, inn or similar place, a person avoids or attempts to avoid payment by failure or refusal to pay or by stealth (leaving or attempting to leave secretly and unnoticed); or any misrepresentation of fact which he or she knows to be false.

**Note:** A person who fails or refuses to pay for such services is presumed to have intended to avoid payment. However, refusing to pay for a legitimate reason (e.g., a fly in the soup) is a civil-not a criminal-matter.

**3. Avoiding Payment for Transportation Services.** With intent to obtain railroad, subway, bus, air, taxi, or any other public transportation service without payment of the lawful charge, a person obtains or attempts to obtain such service or avoids or attempts to avoid payment by force, intimidation, stealth, deception, or mechanical tampering, or by wrongful failure or refusal to pay.

**4. Avoiding Payment for Telecommunications Services.** With intent to avoid payment by himself or herself, or another person, for the lawful charge of a telecommunications (e.g., telephone, telegraph, etc.) service, including cable television service, a person obtains or attempts to obtain such service or avoids or attempts to avoid payment by him or herself or another person (e.g., telephone, telegraph, etc.) or the supplier:

- Whether by mechanical, electrical, acoustical, or other means; **or**
- By any misrepresentation of fact which he or she knows to be false; **or**
- By any other artifice, trick, deception, code or device; **or**
- By offering for sale a descrambling or decoding device for cable television.



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**Note:** Theft of cable television service having a value not in excess of \$100 is a **VIOLATION** for the first offense of this section. Theft of cable television service having a value over \$100, or a previous conviction of theft of cable television service, is a misdemeanor.

**5. Intentionally Avoiding Payment of a Telephone Service by an Access Device.** With intent to avoid payment by himself or herself, or another person, for the lawful charge of any telephone service he or she:

- Sells, offers for sale, or otherwise makes available, without consent, an existing, cancelled or revoked access device; **or**
- Uses without consent an existing, cancelled, or revoked access device; **or**
- Knowingly obtains any telecommunications service with fraudulent intent by use of an unauthorized, false or fictitious name, identification, telephone number, or access device.

**Note:** If the theft of telephone services is in excess of \$1,000 or if there is a previous conviction of subdivision "A," within five (5) years, the Theft of Services is a felony.

**6. Avoiding Payment for Metered Services.**

- With the intent to avoid payment by himself or another person for a future or currently provided service, in which the cost is measured by a meter or other mechanical device, **or**
- A person tampers with such device, or with other equipment related to the device; **or**
- Attempts in any manner to prevent the meter or device from doing its job without the consent of the supplier of the service

**Presumptions:**

- A person who tampers with such device or equipment is presumed to do so with the intent to avoid, or to enable another to avoid, payment for the service received.
- Proof that a meter or related equipment has been tampered with shall be presumptive evidence that the person who is being supplied with service has, with the intent to avoid payment for the service, created or caused to be created the tampering.



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**7. Wrongful Use and Benefit of a Service.** A person knowingly accepts or receives the use and benefit of a service (including gas, steam or electricity):

- a. Which should pass through a meter but has been diverted; **or**
- b. Which has been prevented from being correctly shown by a meter provided; **or**
- c. Which has been diverted from the pipes, wires or conductors of the supplier.

### **Presumption:**

- Proof that services have been intentionally diverted or have been intentionally prevented from being correctly registered in, or have been intentionally diverted from the pipes, wires or conductors of the suppliers, shall be presumptive evidence that the person who accepts or receives the use and benefit of such service has done so with knowledge that the condition existed.

### **8. Intentional Tampering With Public Utility Services**

- a. With the intent to obtain, without the consent of the supplier, gas, electricity, water, steam or telephone services, **or**
- b. A person tampers with any equipment designed to supply or prevent the supply of such service either to the community in general or to particular places.

**Note:** While tampering with a meter or disconnecting a meter is considered Theft of Services, once the meter has measured a service, the crime would then be a larceny offense.

**Example:** Robert took a long extension cord and plugged it into an outside outlet that was attached to his neighbor's garage. He then connected the extension cord to his refrigerator for an entire year. If the amount that his neighbor's electric bill increased was \$125, Robert would be charged with Petit Larceny (because of the dollar value).



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### 9. Intentional Avoidance of a Lawful Charge for Admission to a Theatre or Concert Hall or Mechanical Transportation Device Utilized in Assisting Skiers.

**Note:** Theft of Services under this subdivision is a violation for the first offense; after a conviction for this subdivision, a subsequent arrest for this offense will become a misdemeanor charge.

- a. With intent to avoid payment for the lawful charge for admission to any theatre or concert hall; **or**
- b. With intent to avoid payment for the lawful charge for admission to a chairlift, gondola, rope tow or similar mechanical transportation device used to assist skiers, a person obtains or attempts to obtain such admission without payment of the lawful charge.

### 10. Improper Use of Commercial Labor, Equipment or Facilities.

- a. With intent to get (for himself or a third person) a commercial or other major benefit by obtaining or having control over labor in the employ of another person; **or**
- b. Of business, commercial or industrial equipment or facilities of another person; **or**
- c. A person uses or diverts to the use of himself or a third person, any such labor, equipment or facilities, even though he knows he is not allowed to use it.

### 11. Intentional Avoidance of Payment for the Use of a Computer or Computer Services.

With intent to avoid payment by himself or another person of the lawful charge for the use of any computer or computer service which is provided for a charge or compensation, he uses, causes to be used or attempts to use a computer or computer service and avoids or attempts to avoid payment thereof.

**Note:** Article 156 of the NYS Penal Law defines acts that constitute "Offenses Involving Computers."

**Note:** If a service that does not fall into the above eleven (11) categories is *stolen* it is not Theft of Services and is most likely a civil matter.



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### TRESPASS, CRIMINAL TRESPASS AND BURGLARY (PENAL LAW ARTICLE 140)

New York State Penal Law Article 140 contains offenses describing unlawful entry upon another's property. In an attempt to reduce incidents of the crime of Burglary, it is important that the police take an active role in educating the public. The community-policing officer conducting crime prevention surveys on his or her beat can accomplish this. It should be recognized that combating burglary must be a group effort by the police and the community. We must work together to prevent burglaries before they occur.

#### Definitions of Terms:

**Premises** – includes a “building” and any real property.

**Building** – in addition to its ordinary meaning includes any structure, vehicle, or watercraft:

- Used for overnight lodging of persons; **or**
- Used by persons for carrying on business therein; **or**
- Used as an elementary or secondary school; **or**
- An enclosed motor truck, or enclosed motor truck trailer.

Where a building consists of two or more units, each unit is a separate building and part of the main building. In addition, the main building is another building by itself.

**Dwelling** – A dwelling is a building that is usually occupied by a person for overnight lodging.

**Enter or Remain Unlawfully** – a person enters or remains unlawfully in or upon a premise when he is not licensed or privileged to be there, and it includes such conduct as:

- Without regard to intent, enters and remains upon property after a lawful order not to remain has been personally communicated; **or**
- Entering property (not enclosed by a fence or other means to exclude people) where “No trespassing,” signs are posted in a visible manner; **or**
- Entering property when it is enclosed in a manner designed to exclude people; **or**



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- Gaining admittance to premises through intimidation, deception, or trick; **or**
- Entering and remaining in or about a school building without written permission, or without legitimate reason, which includes being responsible for the custody and or care of a pupil of the school, without legitimate business or purpose relating to the operation of the school.

### Trespass – Violation (Penal Law 140.05)

This offense is committed when a person **knowingly** enters or remains unlawfully in or upon premises. As a practical matter, it would apply to **unfenced land**, or an **open** and **abandoned** building in a complete state of disrepair.

**Example:** Joe, while hunting in upstate New York, decides to ignore the "No Trespassing" signs on Ed's land.

### Criminal Trespass – Misdemeanor (Penal Law 140.10, 140.15)

A person commits Criminal Trespass, misdemeanor:

1. When he knowingly enters or remains unlawfully in a **building** or upon **fenced real property** (real estate) or property enclosed in a manner designed to keep people out.
2. When a person knowingly enters or remains unlawfully in a building that is an **elementary or secondary school** or a children's overnight camp or summer day camp and such entry is:
  - a. In violation of clearly posted rules or regulations concerning entry; **or**
  - b. In violation of a personally communicated request to leave the premises from a principal, custodian, or other person in charge; **or**
  - c. Where building is used as a **public housing project**; **or**
  - d. Where rules or regulations are conspicuously posted governing the entry and use thereof: **or**
  - e. Where a request to leave the premise is personally communicated by a police officer or other person in charge.





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3. Where the property consists of a **right-of-way** or **yard** of a **railroad** or **rapid transit railroad** that has been designated and conspicuously posted as a no-trespass railroad zone, pursuant to section 83(b) of the Railroad Law, by the city or county in which such property is located.

### Examples of Criminal Trespass – Misdemeanor:

- A male climbs over a six-foot fence onto the property of someone else without permission of the owner.
- A person enters a building (where he does not live) by slipping in behind one of the residents who lives in the building.
- A person who does not have any children in a school enters the school building and wanders around the hallways. A sign clearly states that all unauthorized persons must keep out of the school.
- John, who continuously sleeps in a housing project hallway, has been arrested because he failed to leave the premise when requested to do so.

### Criminal Trespass – Felony (Penal Law 140.17)

1. A person commits Criminal Trespass, felony, when he knowingly enters or remains unlawfully in a **building**, and one or more of the following factors are present, he or she:

- a. Possesses or knows that another participant in the Criminal Trespass possesses an explosive or deadly weapon; **or**
- b. Possesses a firearm, rifle, or shotgun (as defined in NYS Penal Law Article 165) and has ammunition that is readily available and capable of being used in the weapon; **or**
- c. Knows that another participant in the Criminal Trespass possesses a firearm, rifle or shotgun, and has the ammunition readily available.

### Premises Open to the Public

A person may lawfully enter or remain in premises open to the public (i.e., department store open for business) notwithstanding his intent. However, being in the department store would become Criminal Trespass when the store manager or some other authorized person tells the individual to leave, and the person refuses to do so. Additionally, the privilege to enter the store can be revoked. If at any time the person who has had the privilege revoked reenters or



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remains in the store, he would be committing Criminal Trespass. You should also be aware that there are certain areas of a store or a business that are not open to the public (e.g., a sign on a particular door indicating "authorized personnel only"). Entering or remaining in these areas without authorization would also give rise to a charge of Criminal Trespass.

**Note:** See Legal Bureau Bulletin Vol. 1, No. 18 for more information on Criminal Trespass.

### **Burglary – Felony (Penal Law 140.20, 140.25, 140.30)**

When a trespass occurs in a **building** and the trespasser possesses an **intent to commit a crime (any crime)** in that building, a Burglary can be charged.

#### **What is Not a Building?**

Would you consider an abandoned building in a state of disrepair or a building in the early stages of construction, a building? What about a telephone booth? In New York, all of these have been held not to be buildings for purposes of the Burglary statute. Also, an abandoned building in a total state of disrepair would not be considered a building for the offense of Burglary, and likewise, is generally not one for the purpose of Criminal Trespass. However, an abandoned structure is considered a building for the purposes of Arson.

#### **What About the Crime Inside?**

The crime intended need not be a larceny, although most involve the theft of property. The intent to commit **any** crime in the building is enough to make a Criminal Trespass of a building into a Burglary.

**Example:** Dave climbs up a fire escape and goes through the open window of Linda's apartment. While inside, Dave destroys Linda's computer because she won't e-mail him anywhere.

In this example, Dave has entered and remained unlawfully with intent to commit the crime of **Criminal Mischief** (discussed in upcoming pages). It is important to note that in order to charge **Burglary** the intended offense must be a crime.

**Note:** When the suspect commits the other intended crime inside, he can be charged with two crimes; the Burglary plus the intended crime.



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**Example:** A burglar who enters an apartment to steal items of value; TV sets, cash or jewelry. When he steals the property, he has committed two crimes:

1. **Burglary** (he entered the apartment with the *intent* to commit a larceny therein).
2. **Larceny** of the TV set, felony or misdemeanor, depending upon the value of the set.

### Possession of Burglar's Tools – Misdemeanor (Penal Law 140.35)

This offense involves the possession of a tool, instrument, or article under circumstances showing *the intent to use* such tool, instrument, or article to commit or facilitate an offense involving:

- a. Forcible entry into premises; **or**
- b. Offenses involving larceny by physical taking; **or**
- c. Theft of Services relating to telephones or meters of any kind.

**Example:** Tools which would be designed or commonly used to break into premises or safes, or for facilitating the theft of autos or money from telephones coin boxes, or Theft of Services of gas or electricity by tampering with the meters, would all constitute burglar's tools.

**Question:** Do you think a credit card could be a burglar's tool?

**Answer:** Yes, since it could be used to slip a spring lock on a door.

Another example of a common item, which is used in burglaries, is a wooden toothpick; they are commonly used by burglars to prevent a person from unlocking his door while the burglar is inside.

The important thing to remember is that a burglar's tool must be possessed with the intent to use it for either the commission of ***larceny by physical taking***, for a ***forcible entry into premises***, for committing ***specific Theft of Services offenses*** (see P.L. 165.15, subs. 4, 5, and 6), or with the knowledge that someone else intends to use it to commit such an offense (or an accessory to the offense). Mere possession of a screwdriver, crowbar, claw hammer, etc., is not enough to justify the arrest of a suspect. Found by themselves, they are not burglar's tools. The circumstances under which burglar's tools are discovered will determine whether possession of such amounts to a crime.



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### CRIMINAL MISCHIEF (PENAL LAW ARTICLE 145)

As a police officer, much of your time will be spent addressing quality of life issues. One of the crimes that affect the community is Criminal Mischief. It will be your responsibility to develop innovative strategies to effectively control this problem. The police officer will not undertake this task alone. It is essential that the members of the community work in conjunction with the officer in order to achieve this common goal.

#### **Criminal Mischief – Misdemeanor (Penal Law 145.00)**

Criminal Mischief, misdemeanor, is committed when a person:

1. Intentionally damages property belonging to another and the amount of the damage is \$250.00 or less; **or**
2. Intentionally participating in the destruction of an abandoned building;  
**or**

**Note:** The building being destroyed must be at least a three (3) family house to be included in this section of the law.

3. Recklessly damages property of another in an amount exceeding \$250.00 (\$250.01 or more).

**Note:** If the value of the property which is recklessly damaged is \$250.00 or less, no offense has been committed. It is a civil matter.

#### **Criminal Mischief – Felony (Penal Law 145.10, 145.12)**

Criminal Mischief, felony, is committed when a person:

- a. Intentionally damages the property of another in an amount exceeding \$250 (\$250.01, or more);

**Example:** Lucy, who is mad at John, intentionally damages John's car with a sledgehammer causing more than \$300 in property damage. Lucy could be charged with Criminal Mischief, felony.

**OR**



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- b. Intentionally damages the property of another by means of an explosive.

**Example:** A disgruntled telecommunications employee, who is on strike, climbs up a telephone pole and attaches a stick of dynamite to the wires. After climbing down, he sets off the dynamite and causes \$200 worth of damage.

**Note:** There is no dollar amount required for this subdivision.

**Note:** If a person intentionally injures or kills a police animal while the animal is performing duty under the supervision of a police or peace officer, that person can be charged with ***Killing or Injuring a Police Animal*** (PL 195.06)- which is a class A misdemeanor - in addition to Criminal Mischief.

### ARSON (PENAL LAW 150.00)

Arson is a crime against property, but innocent lives may be put at risk. The person acting criminally with a flammable liquid is as dangerous as an individual carrying a loaded gun. Combating Arson is a difficult task because the arsonist may only be armed with chemicals that are commonly possessed by the average person. Additionally, the fire itself may destroy the physical evidence of the crime.

The crime of Arson is classified as either a felony or a misdemeanor. The felony involves the damaging of a ***building or motor vehicle*** by fire or explosion. The misdemeanor involves the damaging of any property by fire or explosion.

The uniformed officer is usually the first to respond to an arson scene. Accordingly, he or she will have the first responsibility to recognize, protect, and preserve the Arson crime scene. The facts and circumstances the officer observes at the scene may establish probable cause to make an arrest.

### Definitions of Terms

**Building** – in addition to its ordinary meaning, includes any structure, vehicle, or watercraft used for the overnight lodging of a person, or is used by persons for carrying on business therein, or is used as an elementary or secondary school; or when such vehicle is an enclosed motor truck, or enclosed motor truck trailer.



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For purposes of Arson, where a building consists of two or more units separately secured or occupied, each unit is **not** considered to be a separate building. In other words, for Arson, a building that has multiple dwellings counts as only one building. In contrast, if more than one unit is burglarized, then each unit would carry separate Burglary charges. Also, an abandoned building is considered a building under its ordinary meaning for the Arson offenses only.

A person may be charged with Arson, felony, even if he damages his own building or motor vehicle by fire or explosion. However, for Arson, misdemeanor, the property must be owned by another person and damaged without the consent of the owner.

**Motor Vehicle** – Includes every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, **except** (a) electrically-driven invalid chairs being operated or driven by an invalid; (b) vehicles which run only upon rails or tracks; and (c) snowmobiles as defined as defined in Article 47 of the Vehicle and Traffic Law.

**Damage Caused by Fire or Explosion** – In order to charge Arson, the fire or explosion need not be set in or against the building, or any other property. It is enough for a charge of Arson that a fire or explosion causes damage to property. Any amount of damage, even the slightest charring, is enough for a charge of Arson.

**Fire or Explosion to Property** – A fire or explosion that causes damage to property other than a motor vehicle, or real estate other than a building, would constitute Arson, misdemeanor. Damage by fire or explosion to property specifically consisting of a motor vehicle or building would constitute Arson, felony. If the Arson causes or results in the death of a person, the arsonist could be charged with murder in the 2<sup>nd</sup> degree, under the “felony murder rule.”

### **Arson – Felony (Penal Law 150.05 – 150.20)**

Arson, felony, may be committed two ways:

1. A person **recklessly damages** a building or a motor vehicle by **intentionally starting a fire** or causing an explosion.
2. A person **intentionally damages** a building or a motor vehicle by **intentionally starting a fire** or causing an explosion.



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**Note:** If, at the time the person sets the illegal fire or explosion, he knows, or the circumstances are such that it is probable that another person is in the building or motor vehicle, and that a non-participant is actually in the building or motor vehicle, he would be charged with a higher degree of Arson, felony.

**Note:** If the damage (by fire or explosion) was inflicted to the criminal's own building or motor vehicle, Arson, felony, may still be charged.

### Arson – Misdemeanor (Penal Law 150.01)

Arson, misdemeanor, is committed when a person **intentionally** damages property of another without consent of the owner by intentionally:

- a. Starting a **fire**; or
- b. Causing an **explosion**.

#### Notes:

- This property could be **any** property. This property could include a building or a motor vehicle, but for our purposes, we'll consider this property as anything **other than** a building or a motor vehicle.
- For Arson, misdemeanor, to be charged, the property must be of another and without consent of the owner to damage such property.

When a person commits a Criminal Mischief offense where he or she intentionally damages property (other than a building or a motor vehicle), and this damage is inflicted by intentionally starting a fire or causing an explosion, Arson misdemeanor and Criminal Mischief may both be charged. Specifically, for the Criminal Mischief charge, if the damage to property (other than a building or a motor vehicle) is sustained by fire, the amount of monetary loss will dictate whether to charge the misdemeanor (up to and including \$250.00 in damage) or the felony (over \$250.00 in damage). If the damage to property (other than a building or a motor vehicle) is sustained by causing an explosion, Criminal Mischief, felony and Arson, misdemeanor would be charged.



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### HOMEWORK

- 1) List and define the forms of larceny.
- 2) Compare and contrast:
  - a. Larceny and Robbery
  - b. Trespass and Burglary
  - c. Criminal Mischief and Arson
- 3) Define:
  - a. Building
  - b. Dwelling
- 4) How can a person *enter and remain unlawfully*?





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## Weapons

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT WEAPONS?

The major reason for you to know about weapons involves your primary responsibility to protect life. In New York City, and across the United States, people – including police officers – are injured or killed as a result of unlawful possession and use of weapons. Thus, it is critical that you learn about weapons, their capabilities, how to detect them, and how to protect yourself and others against them. You will learn much of this in the physical training and the firearms and tactics components of this curriculum.

The purpose of this chapter is somewhat different, however. This chapter is designed to help you to understand weapons laws and classification, and the procedures to follow when you come in contact with weapons, through arrests, seizures, and surrenders. Thus, this is not quite a *life or death* chapter in the same sense as your training in firearms, tactics, and self-defense, but it is extremely critical nonetheless. When police do not know how to recognize, classify, handle, and process weapons in their custody, criminals – *including murderers* – go free for reasons that have nothing to do with the question of whether they actually committed the crimes with which they have been charged. That is unacceptable: it puts dangerous people back onto the streets and violates our primary responsibility to protect life.

### WEAPON LAWS IN NEW YORK STATE

As you will discover, should you elect to purchase an off-duty pistol, the legislators of New York State and New York City have given us the nation's most comprehensive and restrictive weapons laws. Despite these laws and despite the great reductions in violent crime we recently have experienced, we still suffer from an unacceptable rate of weapons-related violence, particularly involving handguns. The major explanation for this is that, while it is extremely difficult to legally purchase handguns in New York State, it is very easy to buy handguns in other states with far less restrictive handgun laws, and to transport them here. Statistics show, year after year, that the great majority of handguns carried by criminals and used by criminals against our citizens – *more than 90 percent of the guns we seized* – originated in gun shops from Virginia, the Carolinas, Georgia, and Florida. These firearms were purchased there by people who presented minimal credentials and then transported them to New York, as part of a black market that too often taken the lives of innocent persons and our brother officers. Both New York and the District of Columbia – which also has extremely



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restrictive weapons laws – are victims of this illegal weapons traffic, and it is incumbent on you to know all you can about NYS weapon laws and the devices they regulate and ban.

### Deadly Weapons and Dangerous Instruments

The major weapons-related distinction drawn in our laws is between *deadly weapons* and *dangerous instruments*. This is explained in detail later in this chapter but for now, understand this basic difference:

**Deadly weapons** generally are devices that have no purpose other than to hurt or to kill people. You can think of such devices: metal knuckles, for example, have no other purpose than to break somebody's bones. Nobody who carries a switchblade knife does so to be ready to carve the Thanksgiving turkey. Nobody owns a blackjack – a ball of lead wrapped into a leather handle – to hammer nails. These are *thug's weapons*, designed only to hurt people. The law recognizes this, and makes it a crime merely to possess any of them. When people are caught in possession of one of these devices, it does not matter what they tell the judge about why they were carrying it. The law presumes, in effect, that they could only have been carrying it to hurt people, and that they therefore have committed a crime.

Unless one has a permit, a law enforcement officer's shield, or some other legal exemption, concealable firearms, like pistols, also are considered deadly weapons. These are devices that are designed to hurt people and, in New York, only law enforcement personnel and a few others who can show that they need them for purely legitimate defensive purposes, like cops and others involved in high-risk businesses, are permitted to own or carry them. Also in this category are machine guns.

**Dangerous instruments** typically are devices that *do* have legitimate purposes, so that it normally is legal to possess them. But it is a crime to possess or use them only under circumstances that indicate intent to use them to hurt, kill, threaten, or frighten others. Under normal circumstances, it is not a crime to possess a baseball bat, for example, because its usual purpose is to provide good, clean fun. Anybody who uses a bat to assault another person, however, would be charged not only with assault, but also with criminal possession of a weapon because he or she had used the bat under circumstances indicating intent to use it to hurt another person. In the same way, using an ordinary penknife to rob and/or stab someone would add a weapons possession charge to whatever one had done with it (e.g., robbery, assault, attempted murder, murder). Thus, the *dangerous instrument* category can include virtually any everyday object – screwdrivers, ice picks, bats, hammers,



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chains, wooden bars, jack handles, crowbars, axes – carried or used to commit a crime against other people.

### Current Law

In August of 1980, the New York State Legislature passed laws regarding the possession, sale, and use of firearms, as well as assaults on police officers involving firearms. This legislation increased penalties for the illegal possession of firearms mandating jail terms in some cases. The possession or use of a firearm during violent felonies calls for mandatory imprisonment upon conviction. Whenever a firearm is used or possessed during the commission of a crime, an additional charge from Article 265 of the Penal Law would also be appropriate.

In November 2000, the *Gun Reform Package* was signed into law. These laws sought to ban all assault weapons. As a result, possession of an assault weapon or a large capacity ammunition-feeding device amounts to a class "D" felony. By requiring purchaser background checks before sales at gun shows, this legislation also makes it more difficult to purchase a gun. It also requires the purchase of a gun-locking device with the purchase or transfer of all firearms, rifles, or shotguns.

Article 265 of the Penal Law addresses weapon offenses. Generally speaking, these offenses involve the illegal possession, use, sale, manufacture, or alteration of weapons. Difficulty may arise because of the various definitions of similar language. It is extremely important that you understand the listed definitions, so that you avoid errors in classification. (Note: In this chapter, Criminal Possession of a Weapon will occasionally be referred to as **CPW**.)

### Definitions of Terms

#### **Firearm:**

- a) any **pistol** or **revolver**, or
- b) a **shotgun** having one or more barrels **less than 18 inches** in length; or
- c) a **rifle** having one or more barrels **less than 16 inches** in length; or
- d) **any weapon made from a shotgun or rifle** whether by alteration, modification, or otherwise has an **overall length of less than 26 inches**;  
or
- e) an **assault weapon**. The term "firearm" does **not** include an antique firearm.

**Note:** This definition specifically excludes long guns like the rifles and shotguns traditionally used for hunting and other sports, and not readily concealed.



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**Loaded Firearm** - any firearm loaded with ammunition, or any firearm which is possessed by one who, at the same time, possesses a quantity of ammunition that may be used to discharge such firearm.

**Deadly Weapon** - any loaded weapon from which a shot, readily capable of producing death or other serious physical injury may be discharged, a switchblade knife, gravity knife, dagger, billy club, blackjack, metal knuckles, pilum ballistic knife, or metal knuckle knife.

**Note:** Recently, some flare guns have been found to be capable of firing shotgun cartridges, and such flare guns are to be considered firearms. This also means that the firearm must be loaded and capable of being fired. **Do not attempt to discharge or unload any weapon you are not qualified to handle.**

**Dangerous Instrument** - any instrument, article or substance, including a vehicle, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or other serious physical injury.

**Dangerous Weapon** – This category encompasses all prohibited weapons not specifically placed into any of the other listed categories (i.e., bomb, homemade weapons, etc.).

**Disguised Gun** - any weapon or device capable of being concealed on a person from which a shot can be discharged through the energy of an explosive and is designed and intended to appear to be something other than a gun (i.e. a pen gun).

**Firearm Silencer** - any instrument, attachment, etc., causing the firing of any gun to be silent or with intent to lessen or muffle the noise.

**Rifle** - any weapon designed or redesigned and intended to be fired from the shoulder, using a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

**Machine Gun** - any weapon which fires a number of shots or bullets rapidly or automatically with one continuous pull of the trigger. This definition also includes sub-machine guns.



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**Note:** Most people think of handguns as either *revolvers* or *automatics*. In fact, what we traditionally refer to as an *automatic* is actually *semi-automatic*. A true automatic, like a machine gun or submachine gun, fires continuously with a single pull of the trigger, so long as the trigger is held back. A semi-automatic fires only one shot per trigger pull, as per the definition below.

**Semiautomatic** - any repeating rifle, shotgun or pistol (regardless of barrel or overall length), which utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge, case, or spent shell, and chamber the next round and which requires a separate pull of the trigger to fire each cartridge or shell.

**Shotgun** - any weapon designed or redesigned and intended to be fired from the shoulder, using a fixed shotgun shell that fires through a smooth bore a number of ball-shot or a single projectile for each pull of the trigger.

**Switchblade Knife** - any knife which opens automatically by hand pressure that is applied to a button, spring or other device in the knife handle.

**Gravity Knife** - any knife which has a blade that releases from the handle or sheath by force of gravity, or centrifugal force, and locks in place when released. This does not include a butterfly knife or "Balisong" knife.

**Cane Sword** - a cane or swagger stick having concealed within it a blade that may be used as a sword or stiletto.

**Electronic Dart Gun** - any device designed primarily as a weapon, the purpose of which is to momentarily stun, knock out, or paralyze a person by passing an electrical shock to such person by means of a dart or projectile.

**Chuka Stick** - any device designed primarily as a weapon, consisting of two or more lengths of a rigid material jointed together by a thong, rope, or chain in such a manner as to allow free movement of a portion of the device while held in the hand and capable of being rotated in such a manner as to inflict serious injury upon a person by striking or choking. These devices are also known as nunchakas and centrifugal force sticks.

**Metal Knuckle Knife** - a weapon that, when closed, cannot function as a set of metal knuckles, nor as a knife and when open, can function as both.

**Electronic Stun Gun** - any device designed primarily as a weapon, the purpose of which is to stun, cause mental disorientation, render unconscious, or paralyze



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a person by passing a high voltage electrical shock to such person.

**Defaced Firearm, Rifle or Shotgun** - to remove, cover, alter, or destroy the manufacturer's serial number, or any other distinguishing number, or identification mark, for the purpose of concealment (i.e. not being able to trace the weapon to the original owner), or prevention of the detection of a crime or misrepresenting the identity of such firearm.

**Kung Fu Star** - also known as a "shirken"; it is a disc-shaped object with sharpened points on the circumference thereof, and is designed for use primarily as a weapon to be thrown.

**Pilum Ballistic Knife** - any knife that has a blade that can be projected from the handle by a button, lever, spring, or other device.

**Assault Weapon** - Usually a firearm with at least two special characteristics (flash suppresser, silencer, folding stock, grenade launcher, etc.). The complete definition is quite in depth and can be found in NYS Penal Law section 265.

**Large Capacity Feeding Device** - a magazine, belt, drum, feed strip, or similar device, manufactured after September 13, 1994, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition; provided, however, that such term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rim fire ammunition.

## POSSESSION

**Possession** – The term means: to have physical possession or otherwise exercise control over property. This includes **actual possession** as well as **constructive possession**.

**Constructive Possession** - To exercise control over property while not physically possessing it. Examples of constructive possession: a firearm is found in the glove compartment of an automobile in which the defendant was driving; a blackjack is discovered in a briefcase carried by the defendant; a deadly weapon is found in an apartment occupied solely by the defendant. The offense of criminal possession of a weapon is broken down into a four-degree framework, including both felony and misdemeanor sections. These sections may refer to a certain individual weapon by name, such as chuka stick, or an overall category of weapons such as dangerous weapons. It is, therefore, important that you understand the difference between various categories and the relationship of the



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individual kinds of weapons to those groupings.

### **"Mere Possession" and "Possession with Intent to Use" as they Apply to Criminal Possession of a Weapon Statutes:**

As previously noted, this section of the Penal Law has a four (4) degree structure. All degrees are broken down into various weapon violations delineated under two (2) categories:

1. Mere Possession of a Weapon
2. Possession of a Weapon with Intent to Use

***Mere Possession:*** As suggested at the beginning of this chapter, this applies to those person(s) who possess certain listed weapons, or categories of weapons. By simply possessing the described weapon, a person commits the crime of "Criminal Possession of a Weapon." There is no need to show that the person intended to use the weapon unlawfully (possessing a billy, a switchblade knife, or blackjack).

**Note:** Certain types of persons, such as police officers, peace officers, and persons in the military may possess weapons and not be in violation of article 265 of the Penal Law.

***Possession with Intent to Use:*** This category refers to certain weapons or types of weapons that a person possesses, but it would not be criminal unless the officer could show that the person possessed the weapon with the intent to use it unlawfully.

### **This unlawful use can be shown by one of the two ways:**

1. The circumstances in which the weapon was discovered or found
  - a. A person swings a golf club at another person with intent to cause a physical injury. The golf club, a legal instrument, now becomes a weapon.
2. The intent to use the weapon unlawfully is presumed by law.
  - a. The law presumes that any person in possession of a dangerous knife or a homemade weapon possesses such weapon with the intent to use it unlawfully against another.



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### CRIMINAL POSSESSION OF A WEAPON

#### **Criminal Possession of a Weapon in the 4th Degree - Misdemeanor (P.L. 265.01)**

**Subdivision 1** - No intent is required, so that the mere possession of the following weapons is a crime. A firearm, electronic dart gun, electronic stun gun, gravity knife, switchblade knife, pilum ballistic knife, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka sticks, sandbag, sand club, wrist-brace type slingshot or slungshot, shirken or kung fu star, or a metal knuckle knife.

**Note:** For subdivision 1, for the firearm, to charge CPW 4th Degree such firearm, if loaded, must be inside of home or place of business; if unloaded, such firearm may be anywhere.

**Note:** For subdivision 1, eight of the nine deadly weapons are included in this subdivision. The dagger is not included but is listed in subdivision 2.

**Subdivision 2** - Unlawful intent is required for certain weapons. With a dagger, a dangerous knife, a dirk, a razor, a stiletto, an imitation pistol, or a dangerous instrument it is required for an officer to show intent to use the weapon unlawfully against another.

**Note:** Under P.L. 265.15 Subdivision 4, intent is **presumed** for a dagger (dirk, stiletto), or a dangerous knife. However, intent is not presumed and must be established through other facts for a razor, an imitation pistol, or a dangerous instrument.

**Subdivision 3** - Possession of a shotgun, rifle or firearm upon an educational premise without authorized permission.

**Subdivision 4** - Possession of a rifle or shotgun and has been convicted of **ANY** felony or serious offense.

**Subdivision 5** – A non-U.S. citizen possesses a dangerous or deadly weapon.

**Subdivision 6** - Person certified not suitable to possess a rifle or shotgun and refuses to yield possession of weapons to police.

**Subdivision 7** - Possesses explosive bullets.

**Subdivision 8** - Possesses armor-piercing ammunition with unlawful intent.  
**Criminal Possession of a Weapon in the 3rd Degree – Felony**





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### (P.L. 265.02)

**Subdivision 1** - Commits subdivisions 1, 2, 3, or 5, of CPW in the 4th Degree (the misdemeanor) **and** has a prior conviction of any crime.

**Subdivision 2** - Possesses any explosive substance, firearm silencer, machine gun, or any other firearm or weapon simulating a machine gun and which is adaptable for such use.

**Subdivision 3** - Possesses a defaced machine-gun, shotgun, firearm, rifle for the purposes of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, rifle or shotgun.

**Subdivision 4** - Possesses a loaded firearm, outside of home or place of business.

**Subdivision 5** - Possesses twenty (20) or more firearms, or possesses a firearm and has a prior conviction of a felony or a penal law class (A) misdemeanor within five (5) years. The firearms or firearm need not be loaded.

**Subdivision 6** - Knowingly possesses any disguised gun.

**Subdivision 7** - Possesses an assault weapon.

**Subdivision 8** - Possesses a large capacity ammunition-feeding device.

**Note:** To charge CPW 3rd degree - felony, the machine gun, disguised gun, or assault weapon possessed, need not be loaded.

### **Criminal Possession of a Weapon in the 2nd Degree – Felony (P.L. 265.03)**

With **intent to use** unlawfully against another, he or she:

**Subdivision 1** - Possesses a machine gun.

**Subdivision 2** - Possesses a loaded firearm.

**Subdivision 3** - Possesses a disguised gun.



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**Note:** The machine gun or disguised gun need not be loaded. Therefore *intent to use* can be established by the firing of such weapons and other actions such as the pointing of the listed weapons at an individual with the intent to place them in reasonable fear of a physical injury, serious physical injury, or death (Menacing) Additionally, intent can be established by the suspect's intent to use the weapon to forcibly obtain property from another person (Robbery).

### **Criminal Possession of a Dangerous Weapon in the 1st Degree - felony (P.L. 265.04)**

Possess **any explosive substance** with the **intent to use** it unlawfully against a person or property of another.

### **CPW: FELONY VS MISDEMEANOR**

The following is a reference chart for specific weapons and/or circumstances and may be used to assist you in classifying a weapon offense.

### **Criminal Possession of a Weapon – Misdemeanor (mere possession)**

- Billy (Bludgeon)
- Blackjack
- Sand bag (Sand club)
- Switchblade knife
- Gravity Knife
- Metal Knuckles
- Cane Sword
- Unloaded Firearm (Loaded Firearm inside home or business)
- Chuka Stick
- Dart Gun
- Explosive Bullets
- Wrist-brace type slingshot or Slungshot
- Pilum ballistic knife
- Shirken or Kung Fu star
- Electronic stun gun
- Metal Knuckle Knife

### **Criminal Possession of a Weapon – Misdemeanor (possession with intent to use unlawfully):**



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The law **presumes** that anybody who possesses any of the following does so with intent to use them unlawfully:

- Dagger (Dirk, Stiletto)
- Dangerous knife ("catch all" for other dangerous knives not specifically included in the statute).
- Any other weapon or instrument adapted or designed to be used primarily as a weapon (homemade weapon).

Hence, **mere possession** of any of the above weapons is a misdemeanor.

### Possession plus Unlawful Intent

Mere possession of the following four weapons **is not** enough to charge criminal possession of a weapon 4th degree. The intent to use them unlawfully is not presumed and must be established by other facts or circumstances. You can recall them by keeping in mind the acronym **RAID**:

- **R**azor
- **A**rmor-piecing ammunition
- **I**mitation pistol
- **D**angerous instrument

**Note:** Mere possession of an imitation pistol, or any ammunition without a license, is a violation of the NYC Administrative Code. Mere possession of a razor by certain persons is also a violation of the NYC Administrative Code. Persons found to be in violation of the NYC Administrative Code are subject to a summons or arrest (depending on the circumstances). See the chart later in the chapter for more information on violations of the NYC Administrative Code.

### Criminal Possession of a Weapon – Felony

It is a felony for a person to possess any of the following:

- Silencer
- Machine gun
- Assault weapon
- Loaded firearm outside of a persons home or business or anywhere with an intent to use unlawfully
- Large capacity ammunition feeding device
- Defaced/ disguised firearm, machine gun, rifle, shotgun



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- Any prior conviction of a crime
- Twenty or more unlawfully possessed firearms
- Explosive

### PRESUMPTIONS

A presumption in law allows a police officer to infer certain elements of an offense without the burden of providing proof. The officer is not mandated to use these presumptions, and should exercise common sense when applying them. Regarding weapons, presumptions assist police officers in areas of possession, unlawful intent and defacement of firearms.

Presumptions related to weapons possession are defined in P.L. 265.15. They include the following:

**Machine Gun:** When a machine gun is found in **any** dwelling, structure or vehicle, it is presumed to be possessed by **all persons** occupying the place where it is found.

**Stolen Vehicles:** Whenever any weapon listed in Sections 265.01 through 265.05 are found in a stolen vehicle, it is presumed to be possessed by **all persons** in the vehicle at the time the weapon is found.

**Automobiles:** The presence in an automobile, other than a stolen vehicle or a public omnibus, of any firearm, large capacity ammunition feeding device defaced firearm, defaced rifle or shotgun, defaced large capacity ammunition feeding device, firearm silencer, explosive or incendiary bomb, bombshell, gravity knife, switchblade knife, pilum ballistic knife, dagger, dirk, stiletto, billy, blackjack, metal knuckles, metal knuckle knife, chuka stick, sand bag, sandclub or slungshot is presumptive evidence of its possession by **all persons** occupying such automobile at the time such weapon, instrument or appliance is found, **except** under the following circumstances:

- If such weapon, instrument or appliance is found **upon the person** of one of the occupants therein; **or**
- If such weapon, instrument or appliance is found in an automobile which is being operated **for hire** by a duly licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver; **or**



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- If the weapon found is a pistol or revolver and one of the occupants, who is not present under duress, has in his possession a **valid license** to have and carry it while it is concealed.

### Presumptions of Unlawful Intent

**Explosive Substance:** A person who possesses an explosive substance is presumed to possess it with intent to use it unlawfully against the person or property of another.

**Deadly Weapons:** A person who possesses a dirk, dagger, stiletto, dangerous knife, or any weapon designed or adapted primarily for use as a weapon is also presumed to have intent to use it unlawfully against another.

### Presumptions of Intent to Sell

The possession of 5 or more firearms by any person is presumptive evidence that such person possessed the firearms with the intent to sell them. Such a person may be charged with Criminal Sale of a Firearm- Felony (P.L. 265.11).

### Presumption of Defacement

Any person who possesses a defaced machine gun, firearm, rifle or shotgun is presumed to have done the defacing. Such a person may be charged with Criminal Possession of a Weapon - Felony.

## WEAPON POSSESSION BY JUVENILES

### Unlawful Possession of Weapons by Persons under Sixteen - Misdemeanor (P.L. 265.05)

It is unlawful for any person under the age of sixteen to possess the following:

- Any air gun, spring gun, or other instrument or weapon in which the propelling force is a spring or air, **or**
- Any weapon in or upon which any loaded or blank cartridges may be used, **or**
- Any loaded or blank cartridges or ammunition therefore, **or**



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- Any dangerous knife.

Juveniles in possession of any of the weapons listed above should be arrested and charged with **Juvenile Delinquency**. An exception to this would be if the possession of a rifle, shotgun, or ammunition is by the holder of a hunting license or permit (which is issued pursuant to Article II of the Environmental Conservation Law) **and** the weapon is used legally.

### **Unlawful Possession of a Weapon upon School Grounds - Violation (P.L. 265.06)**

It is unlawful for any person age sixteen (16) or older to knowingly possess any **air-gun**, spring-gun or other instrument or weapon in which the propelling force is a spring, air, piston or co2 cartridge in or upon a building or grounds, used for educational purposes, of any school, college or university, without the written authorization of such educational institution.

**Example:** BB gun, paintball gun, etc.

**Note:** NYC Administrative Code also makes it a violation for **anyone** to possess an air-gun **anywhere** within NYC. (A.C. 10-131[b])

## **OTHER OFFENSES RELATING TO PUBLIC SAFETY**

### **Unlawful Wearing of a Body Vest - Felony (P.L. 270.20)**

A person may be charged with this section of the law when:

1. Acting alone or with others;
2. Person(s) commit any violent felony offense while possessing a firearm, rifle, or shotgun; **and**
3. Wears a body vest (bullet-resistant soft body armor).



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**Example:** Leo committed an armed bank robbery. After being apprehended by the police, he is found to be wearing a bulletproof vest. An additional charge of unlawful wearing of a body vest would be appropriate.

### **Unlawfully Possessing or Selling Noxious Material - Misdemeanor** (P.L. 270.05)

**Self-defense spray device:** A pocket sized spray device that contains and releases a chemical or organic substance which is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air or any like device containing tear gas, pepper or similar disabling agent.

**Noxious material:** Any container which contains any drug or other substance capable of generating offensive, noxious or suffocating fumes, gases or vapors, or capable of immobilizing a person.

**Unlawfully possessing or selling noxious material:** A person can be charged with this in one of two ways:

1. A person possesses such material under circumstances evincing intent to use it to or cause it to be used to inflict physical injury upon or cause annoyance to a person, or to damage property of another, or to disturb the public peace.

**Note:** Possession of noxious material is presumptive evidence of intent to use it or cause it to be used in violation of this section.

2. A person sells a self-defense spray device and such sale was not authorized in accordance with the provisions of paragraph fifteen (15) of subdivision (a) of section 265.20.

The following have been **exempted** from prosecution for weapons offenses (P.L. Article 265) and/or the noxious material offense (P.L. 270.05):

1. Persons who possess a self-defense spray device for the protection of person or property, **and**
2. Use of such self-defense spray device under circumstances that would justify the use of physical force pursuant to Article 35 of the Penal Law.

**Example:** A person who possesses or uses a self-defense spray device



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under circumstances evincing intent to possess or use it for self-defense purposes only, may not be criminally charged. However, a person who possesses or uses a self-defense spray device in the commission of a crime or under circumstances that would not be justified under Article 35 of the Penal Law may be criminally charged as circumstances warrant.

The following persons may not possess or use a self-defense spray device under any circumstance:

1. Persons who are less than eighteen (18) years of age, **or**
2. Persons who have been previously convicted in New York State of a felony or an assault (P.L. Article 120), **or**
3. Persons who have been convicted of a crime outside New York State which, if committed in New York State, would constitute a felony or an assault crime.

Retail sale of self-defense spray devices may be made **only** by the following entities:

1. Dealers in firearms licensed pursuant to P.L. 400.00.
2. Pharmacists licensed pursuant to Article 137 of the Education Law.

**Note:** The provisions of Administrative Code Section 10-131, subdivision (e), governing permits for tear gas are **pre-empted** by this section and may **not** be enforced.

### Fireworks Sale and Possession

The definition of "firework" is extensively detailed in the NYS Penal Law and contains the common terms, such as; firecracker, Roman candle, sparkler, explosive toy cannon, bombs, explosive devices, etc.

#### ***Unlawfully Dealing with Fireworks – Misdemeanor (PL 270.00- 2a)***

It is unlawful for anyone to sell, offer or expose for sale, or furnish another person with fireworks without a permit.

#### ***Unlawfully Dealing with Fireworks – Violation (PL 270.00- 2b)***





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It is unlawful for anyone to possess, use, or explode any fireworks without a permit.

**Note:** possession of fifty dollars (or more) worth of fireworks is presumed that such person possesses those fireworks with intent to sell them (PL 270.00 2c).

### ADMINISTRATIVE CODE SECTIONS PERTAINING TO WEAPONS

#### Discharge of Small-Arms in City - Misdemeanor (10-131, Subdivision c)

It is unlawful for any person to fire or discharge any gun, pistol, rifle, fowling-piece (bird gun) or other firearm in the city, provided that the provisions hereof shall not apply to premises designated by the Commissioner.

#### Possession or Sale of an Imitation Pistol (10-131, Subdivision g)

It is unlawful to possess, sell, offer for sale, use, or attempt to use, an imitation pistol or revolver which substantially duplicates an actual pistol or revolver unless it is a color other than black, blue, silver, or aluminum, and provided that the barrel is closed with the same material of which the toy or imitation pistol or revolver is made for a distance of not less than one half inch from the front end of the barrel. In addition, the name or trademark of the manufacturer must be stamped on an imitation pistol.

**Note:** This section does not apply to imitation pistols sold or delivered outside New York City or those used in the production of television, theatrical or motion picture presentations.

#### Rifles and Shotguns: Carrying and Possession – Misdemeanor (10-131, Subdivision h)

- It is unlawful for any person to carry or possess a loaded rifle or shotgun in public within the city limits.
- It is unlawful for any person to carry or possess an unloaded rifle or shotgun in public within the city limits unless such rifle or shotgun is completely enclosed or contained in a non-transparent carrying case.

**Note:** A misdemeanor is the appropriate charge for a person in possession of a rifle or shotgun under circumstances not amounting



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to the penal law weapons statute (265.01 Subdivision 4). A summons or arrest is authorized as per Patrol Guide. (See P.G. 212-85.)

A person who possesses a rifle or a shotgun in New York City must have a permit. However, a person who does not live in New York City and is passing through New York City does not need a permit for 72 hours provided the rifle or shotgun is unloaded and in a closed case or in an automobile trunk.

The Penal Law allows certain persons to possess rifles and shotguns without a permit and not be in violation of the law. Police officers, peace officers and owners of antique rifles or shotguns are among this group of persons.

### **Actions to be taken by members of the service observing a possible rifle or shotgun violation:**

The most critical factor in such cases is your own safety. Follow carefully the principles taught to you in your tactical training, and do not expose yourself to any unnecessary risk. Whenever possible, challenge armed people only after you have asked for and received the presence of other officers on the scene. Confront armed people from positions of cover or concealment from which, should things go wrong, you will enjoy all the advantages. Once you have stabilized such scenes:

1. Question the possessor to see if he or she has a permit or can possess it without a permit.
2. If not, tell the owner that the weapon must be surrendered.
3. Take the person to the station house; voucher the weapon at the station house, and give the person a receipt for it.
4. Arrest, issue summons, or prepare a juvenile report as the facts warrant.

### **Knives: Unauthorized Carrying or Displaying - Violation (10-133):**

1. A person who carries or possesses, in any public place, street or park, any knife with a blade length of four or more inches is violating this law.
2. A person who, in a public place, street or park, wears outside of his/her clothing or carries in open view, any knife with an exposed



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or unexposed blade unless such person is actually using such a knife lawfully. Such knife has a lawful purpose if it is:

- a. Displayed or carried to or from hunting, fishing, camping, hiking, picnicking, or any employment, trade or occupation customarily requiring the use of such knife.
- b. Displayed or carried by a member of theatrical group, drill team, parade or practice which customarily requires the carrying of such knife.
- c. Being transported directly to or from place of purchase, sharpening or repair and packaged so as not to allow easy access.
- d. Displayed or carried by an enrolled member of the Boy or Girl Scouts, or similar society, and the knife is necessary to participate in the society's activities.

### **Prohibited Sale of Certain Types of Knives - Violation (10-134)**

Local Law 24 of 1984 prohibited the sale of certain types of knives. Any person who sells or offers for sale, within the confines of New York City, any folding knife with a blade length of four (4) or more inches, which locks in an open position and cannot be closed without activating a release mechanism, is guilty of violating section 10-133 of the Administrative Code. Violators should be issued a personal service summons, which is returnable to Criminal Court.

**Note:** Exempt from this law are merchants who ship the above described knives in bulk to a point outside New York City.

### **The Laser Pointer Law - Misdemeanor (10-134)**

- Section 10-134.2 (b) states that it is unlawful for any person to give, sell, or offer to sell a laser pointer to a person eighteen years of age or younger.
- Section 10-134.2 (c) states that it is unlawful for the sellers of laser pointers to place them on open display in a manner that makes them accessible to the public without the assistance of the seller or his/her employee. In addition, the sellers cannot even advertise the sale of laser pointers unless the seller has first posted a note stating that the selling of laser pointers to persons under nineteen years old is a misdemeanor.



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- Open displays are also permitted when the devices are packaged to be larger than 41 square inches.
- Section 10-134.2 (d) states that it is unlawful for persons less than 21 years old to possess laser pointers on "school premises," which is defined as the building or inside of any vehicle used to transport students. This section also holds that it is unlawful for any person eighteen years or younger to possess a laser pointer in a public place. It is also unlawful for any person of any age to direct light that is emitted from a laser pointer in or through a public place. While violation of the other subdivisions is a misdemeanor, any person who violates this subdivision shall be guilty of a violation for the first offense and a misdemeanor for all subsequent offenses. Keep in mind that those individuals that possess a laser pointer for a valid reason (such as for a valid school or employment related purpose) and **use it lawfully** would not be charged with any violation.
  - It is unlawful for any person to direct light from a laser pointer at a uniformed police officer, uniformed security guard, uniformed school safety officer, uniformed traffic agent, uniformed emergency medical service or ambulance worker, or other uniformed city, state, or federal peace officer, investigator or emergency service worker or at the marked vehicle of any such person.

### EXEMPTIONS

The provisions of the weapons statute regarding possession do not apply to the following:

- Police officers and Peace officers of New York State.
- A Police officer or sworn Peace officer of another state, while conducting official business within New York State.

**Note:** P.L. 265.20, Subdivision 16 (b), states that, although auxiliary police officers are **not** included in the above groups of persons, they may possess a "police baton." They are required to be trained in its use including, but not limited to, the defensive use of the baton and the legal use of deadly physical force within the meaning of P.L. Article 35. For a complete listing of individuals excused, see P.L. 265.20.

### Weapons Licensing



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Penal Law Section 400.00, subdivision 8, states that every licensee while carrying a pistol or revolver shall have on his/her person a license to carry the weapon. Every person licensed to possess either a pistol or a revolver in a particular premises, shall have the license for the weapon on such premises. Upon demand, the license shall be exhibited for inspection to any peace officer acting pursuant to his special duties. Failure of a licensee to exhibit or display his license shall be presumptive evidence that he is **not** duly licensed.

Penal Law Section 400.00, subdivision 10, deals with the expiration, certification, and renewal of licenses. These licenses are normally issued for a three-year period.

Licensed firearm holders will not be charged with offenses listed in Section 265.00 if they have violated a subdivision of Section 400.00. For example, a licensee with an on-premises permit would not be charged with a violation of Section 265 if he was discovered carrying the firearm on the street; or a person carrying a firearm whose permit has expired if that expiration date is within one year. The proper charge in both cases would be Section 400.17, which is a class A Misdemeanor. Section 265 would apply only if the licensee possesses the firearm with the intent to use it unlawfully against another person.

Penal Law Section 400.00, subdivision 1, now states that applicants for pistol licenses must now be twenty-one years of age or older, **unless** they have been honorably discharged from the United States Army, Navy, Marine Corps, or Coast Guard **or** the National Guard of the State of New York.



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### ITEMS PROHIBITED TO POSSESS IN NEW YORK CITY

ADMINISTRATIVE CODE CHARGE	DESCRIPTION OF VIOLATION	CLASSIFICATION OF CHARGE
10-131 (b)	Unlawful possession of an air pistol/rifle	Violation
10-131 (g)	Unlawful possession of an imitation pistol (black, blue, silver or grey in color)	Violation
10-131 (h1)	Unlawful possession of a loaded rifle or shotgun in public	Misdemeanor
10-131 (h2)	Unlawful possession of an unloaded rifle or shotgun in public view	Violation
10-303	Possession of a rifle or shotgun without a permit	Misdemeanor
10-304 (a)	Possession of an unregistered rifle or shotgun	Misdemeanor
10-306 (d)	Unlawful possession of rifle or shotgun ammunition or ammunition feeding device	Misdemeanor
10-131 (i3)	Unlawful possession of pistol or revolver ammunition	Misdemeanor
10-131 (i6)	Unlawful possession of ammunition feeding device	Misdemeanor
10-133 (b)	Unlawful possession of a knife 4 inches or	Violation



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	more	
10-133 (c)	Possession of any knife in public view	Violation
10-134.1 (e)	-Unlawful possession of a boxcutter by person under 22 on school grounds -Unlawful possession of a boxcutter by person under 21 in public	Misdemeanor
10-134.2 (d)	-Unlawful possession of a laser pointer by person under 21 on school grounds - Unlawful possession of a laser pointer by person under 19 in public - Unlawful use of laser pointer in public (no age)	Violation
10-134.2 (e)	Unlawfully directing laser pointer light at uniformed government worker or marked vehicle	Misdemeanor
10-147	Unlawful possession of handcuffs	Violation
10-103 (a)	Unlawful possession of police scanner	Misdemeanor

### PATROL GUIDE PROCEDURE RELATED TO INVOICING FIREARMS

The New York City Police Laboratory is mandated to remain accredited by the New York State Commission on Forensic Science. To ensure that the Department conforms to the Commission's accreditation standards, ***Patrol Guide procedure 218-23, "Processing Firearm and Ballistics Evidence"*** has been amended. This will also ensure that all firearms and firearm-related evidence coming into possession of the Department is properly marked, packaged, sealed, and invoiced in order to properly secure and maintain a continuous chain of custody.

#### Definitions

**Firearm** - The Department's definition of a firearm includes:

- a. Any rifle, shotgun, pistol, revolver, derringer, machine gun, etc., with or without a rifled bore.
- b. Any starter's pistol, zip gun, air gun, CO2 hand/long gun, etc.
- c. Any type of homemade, modified, converted, etc., weapon.
- d. Any type of simulated firearm such as a toy gun, imitation pistol, etc.

**Cartridge** - Live ammunition. A cartridge consists of a bullet (projectile), and a shell casing together as one (1) unit. Cartridge(s) will be distinguished based upon the location from which the cartridge was recovered:



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- Cartridge removed from the **chamber** of a firearm.
- Remaining cartridge(s) removed from a firearm other than the cartridge removed from the chamber (i.e., removed from **magazine** or removed from **cylinder**).
- Cartridge(s) **not** removed from a firearm but seized in connection with the recovery of a firearm from a person, object, or location **and** there is no need to establish a crime scene.

**Example:** cartridge(s) seized from a person's clothing in connection with an arrest where a firearm is recovered; **or**, cartridge(s) seized from a home during an investigation where a firearm is recovered and there is no need to establish a crime scene because all of the perpetrators are identified.

- Cartridge(s) not removed from a firearm but recovered from a **crime scene** where a firearm may or may not have been recovered.

**Example:** cartridge(s) found lying in the street after a shooting; or, cartridge(s) found lying on the floor in an apartment or automobile after a robbery.

**Fired Bullet** - That part of a cartridge which has been fired through the barrel of a firearm (usually lead, metal-jacketed lead or coated lead). A fired bullet may break into pieces of lead, coated lead, metal jacketing, metal jacketing attached to lead, etc.

**Shell Casing** - Metal casing part of the cartridge remaining in or ejecting from a firearm after the fired bullet leaves the firearm's barrel.

### Properly "Marking" Firearms and Firearm-Related Evidence

Members of the service will utilize a scribe or other sharp writing instrument to scratch their **initials** and a **unique consecutive number** on each firearm and each item of firearm-related evidence.

**Example:** The following is recovered at a crime scene: 1 fired bullet, 3 shell casings, a semiautomatic pistol with 1 cartridge in the chamber, and 4 cartridges in the magazine. This evidence should be marked as follows:

Firearm numbered –"1"  
Magazine numbered –"2"  
Cartridge in the chamber numbered –"3"





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Cartridges in the magazine would be numbered "4" through "7"  
Fired bullet would be numbered 8 and the 3 shell casings would be numbered "9" through "11".

**Note:** It does not matter what particular number a firearm or item of firearm-related evidence is assigned provided the same number is not used more than once.

### Properly "Sealing" A Container

In order to properly seal a container (other than NYPD Plastic Security Envelope), a member of the service must fasten the container securely with **masking tape** in a manner to prevent loss/contamination of the evidence and to ensure that if the container is opened there would be obvious damage to the container and/or masking tape and sign name legibly across the border between the masking tape and the container.

**Note:** An NYPD Plastic Security Envelope has adhesive on the envelope flap and does not have to be fastened with masking tape; however, the officer's name must be legibly signed across the border between the flap and the envelope.

### Step-by-Step Procedure

Whenever a firearm as defined above, and/or firearm-related evidence comes into the possession of a member of the service, in addition to other required actions:

1. ***Do not touch, move or disturb any firearm and/or firearm-related evidence that may become part of a crime scene except when absolutely necessary, e.g., large crowd gathering, rendering aid to a victim, etc.***
2. ***Unload cartridge(s) from cylinder, chamber, and/or magazine of a firearm.***
  - a. To prevent possible destruction of fingerprints or other forensic evidence, do not handle unnecessarily.
  - b. If a firearm is unfamiliar or it appears to be difficult to unload, safeguard in original condition and notify desk officer.
3. ***Mark, package and seal the cartridge removed from the chamber of the firearm.***
  - a. Mark the ***bullet portion*** of the ***cartridge***; do not mark the metal shell casing portion. Do not mark the cartridge if it is too small or deformed.



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- b. Package and seal in a container/envelope. Write initials, unique consecutive number and "**Cartridge Removed from Chamber**" on the container and include the serial number of the firearm/lead seal.
4. **Mark, package and seal ALL cartridges removed from the firearm other than the cartridge removed from the chamber.**
  - a. Mark the **bullet portion** of the **cartridge(s)**; do not mark the metal shell casing portion. If the cartridge is too small to mark or deformed, package each cartridge that cannot be marked in a separate container/envelope, seal it, write initials and unique consecutive number on the container and package in conformance with step 4b.
  - b. Package and seal all cartridges removed from the firearm other than the cartridge removed from the chamber in **one** evidence container/envelope. Write "**Cartridge(s) Removed from Firearm**" on container and include the serial number of the firearm/lead seal.
5. **Mark, package and seal ALL cartridge(s) NOT removed from a firearm but seized in connection with the recovery of a firearm from a person and/or location AND there is no need to establish a crime scene.**
  - a. Mark the **bullet portion** of the **cartridge(s)**; do not mark the metal shell casing portion. If the cartridge is too small to mark or deformed, package each cartridge that cannot be marked in a separate container/envelope, seal it, write initials and unique consecutive number on the container and package in conformance with step 5b or 5c, as applicable.
  - b. **Do not** package cartridges removed from a person in the same container/envelope as cartridges removed from a location. All cartridges removed from the **same person** will be packaged in one (1) container/envelope and cartridges removed from different persons will be packaged in separate containers/envelopes. Write the name and date of birth of the person from whose clothing the cartridge(s) were recovered and the words "**Cartridge(s) Removed from Clothing**" on each separate container and include the serial number of the firearm/lead seal.
  - c. **Do not** package cartridges removed from a location in the same container/envelope as cartridges removed from a person. All cartridges that were seized from the **same location** will be packaged in one (1) container/envelope and cartridges removed from different locations will be packaged in separate containers/envelopes. Identify the location from



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which the cartridge(s) were recovered on each separate container and include the serial number of the firearm/lead seal.

**Note:** If one (1) or more boxes containing cartridges are seized in connection with the recovery of a firearm and there is no need to establish a crime scene, package the entire box or boxes in an appropriate container and seal. Write initials and unique consecutive number on the outside of the container. It is not necessary to individually mark the bullet portion of each cartridge in the box.

6. **Mark, package and seal ALL cartridges that were NOT removed from a firearm BUT were recovered from a crime scene where a firearm may or may not have been recovered.**
  - a. Mark the **bullet portion** of all of the **cartridges**. Do not mark or place any scratches on the metal shell casing portion of the cartridges. If a cartridge is too small to mark or deformed, write initials and unique consecutive number on the container/envelope in which the cartridge is packaged.
  - b. Package and seal each individual cartridge in a separate container/envelope. **Never** place two (2) or more individual cartridges in the same container/envelope.
  
7. **Mark, package and seal ALL fired bullets recovered from a crime scene.**
  - a. Mark the **bottom/base** of all of the **fired bullets**. **Do not** mark or place any scratches on or near the sides of the fired bullets. If a fired bullet is too small to mark or deformed, write initials and unique consecutive number on the container/envelope in which the fired bullet is packaged.
  - b. Package and seal each individual fired bullet in a separate container/envelope. **Never** place two (2) or more individual fired bullets in the same container/envelope.
  
8. **Mark, package and seal ALL shell casing(s) recovered from a crime scene.**
  - a. Mark the **inside of** all of the **shell casings**. **DO NOT** mark or place any scratches on the exterior or bottom of the shell casings. If a shell casing is too small to mark or deformed, write initials and unique consecutive number on the container/envelope in which the shell casing is packaged.
  - b. Package and seal each individual shell casing in a separate container/envelope. **Never** place two (2) or more individual shell casings in the same container/envelope.



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9. **Mark initials and unique consecutive number on recovered firearm(s).**
  - a. Affix a separate lead seal on each firearm without a distinguishable serial number.
10. **Mark initials and unique consecutive number on magazine removed from firearm.**
11. **Mark initials and unique consecutive number on ALL silencers seized.**
12. **Mark initials and unique consecutive number on ALL other types of firearm-related evidence that is not affixed to a firearm.**
13. **Prepare PROPERTY CLERK'S INVOICE WORKSHEET for recovered firearm(s) and firearm-related evidence.**
14. **Place firearm and all other firearm-related evidence that is listed on the same WORKSHEET into one (1) Plastic Security Envelope and properly seal in presence of desk officer.**
  - a. If firearm and firearm-related evidence will not fit into one (1) Plastic Security Envelope:
    - i. Place the firearm and all other firearm-related evidence that are invoiced on the same worksheet into the one (1) appropriate sized bag/container. If possible, do not use more than one (1) bag/container. Properly seal the bag/container.
    - ii. Write command and invoice number on the outside of the bag/container. If more than one (1) bag/container is used, write command, invoice number and corresponding item numbers on the outside of EACH bag/container. Mark each bag/container as "Bag 1 of \_\_\_\_\_," "Bag 2 of \_\_\_\_\_," etc.

**Note:** If firearms and/or other firearm-related evidence being invoiced are so numerous that more than one (1) invoice must be used, do not place evidence listed on two (2) different invoices into the same Plastic Security Envelope or the same bag/container.
15. **When a firearm with a distinguishable serial number is seized, query NYSFIN/NCIC by utilizing the FINEST system.**



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16. ***Do not cancel alarm for firearms(s).***
  - a. Recovering command will not cancel alarm for firearms. ***Cancellation will be made only by stolen property inquiry section.***
17. ***Prepare an On Line Complaint System (OLCS) computer generated copy of the COMPLAINT REPORT (PD313-152) from the precinct of recovery. This applies for all firearms as described in the "Definitions," e.g., zip, air/CO2, imitation, etc.***
18. ***Prepare REQUEST FOR LABORATORY EXAMINATION if firearm(s) and/or firearm-related evidence must be examined by the Firearms Analysis Section, Office of the Chief Medical Examiner (OCME) Forensic Biology Unit, or any other unit or agency.***
19. ***Deliver firearm(s) and firearm-related evidence to the desk officer, command of occurrence.***

### Properly Listing Items On The Property Clerk Invoice (PCI)

The firearm and related property that is invoiced on a PCI must be listed in a specific order. This order is outlined below:

1. List the ***firearm*** as item # 1 on line 1 of the worksheet.
2. List the ***magazine removed from the firearm***, if any, as the next item on the worksheet.
3. List the ***cartridge removed from the chamber*** of the firearm as the next item on the worksheet. Describe the evidence as ***"cartridge removed from the chamber of the firearm."***
4. List all of the ***other cartridge(s) removed from the firearm***, other than the cartridge removed from the chamber, as only one (1) item on the next line of the worksheet, irrespective of the number of cartridges. Under "Quantity," list the total number of cartridge(s) removed from the firearm other than the cartridge removed from the chamber. Describe the evidence ***as "cartridge(s) removed from the firearm."***
5. A ***Silencer***, whether or not affixed to a firearm, will be listed separately as the next item of the Worksheet. If more than one (1) silencer is recovered, each silencer will be listed as a separate item on the Worksheet and will be separately described. State on the Worksheet whether the silencer was affixed to the firearm and if not, identify the person or location from where it was recovered.



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6. Each **firearm accessory** that is **affixed to the firearm** (scope, laser, sling, etc.) or, that is **not affixed** to the firearm **but is necessary to make the firearm operable**, will be listed separately as the next item(s) on the Worksheet and will be separately described.
7. List any **additional firearm(s), associated magazine(s), cartridge(s), silencer(s), appropriate accessories**, etc., as the next item(s) of the Worksheet in accordance with the procedures and sequence contained in Steps 1 through 6, as applicable.
8. List all **cartridges not removed from the firearm** but seized in connection with the recovery of a firearm **from a particular person** and there is **no need to establish a crime scene** as only one (1) item on the next line of the Worksheet, irrespective of the total number of cartridges recovered from that person. Under "Quantity," list the total number of cartridge(s) not removed from the firearm but seized from a particular person. Describe as **"cartridge(s) not removed from the firearm"** and identify the person.
  - a. **Note:** If cartridges were seized from more than one (1) person, list the cartridges seized from different persons on separate lines on the Worksheet and identify that person. Use **only one line** of the Worksheet for each specific person from whom the cartridges were seized, **irrespective of the total number of cartridges that were seized from that person.**
9. List all **cartridges not removed from a firearm** but seized in connection with the recovery of a firearm **from a particular location** and there is **no need to establish a crime scene** as only one (1) item on the next line of the Worksheet, irrespective of the total number of cartridges recovered from a particular location. Under "Quantity," list the total number of cartridge(s) not removed from the firearm but seized from a particular location. Describe as **"cartridge(s) not removed from the firearm"** and identify the location, e.g., briefcase, closet, trunk of auto, etc.
  - a. **Note:** If cartridges were seized from more than one (1) location, list the cartridges seized from different locations on separate lines of the Worksheet and describe the location. Use **only one line** of the Worksheet for each specific location from where cartridges were seized, **irrespective of the total number of cartridges that were seized from that particular location.**
10. List all **shell casings recovered from a crime scene** as only one (1) item on the next line of the Worksheet, irrespective of the total number of shell casings



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recovered. Under "Quantity," list the total number of shell casings. Describe the evidence as "***shell casings recovered from crime scene.***"

11. List all ***fired bullets recovered from a crime scene*** as only one (1) item on the next line of the Worksheet, irrespective of the total number of fired bullets recovered. Under "Quantity," list the total number of fired bullets. Describe the evidence as "***fired bullets recovered from crime scene.***"
12. Voucher all ***cartridges not removed from a firearm that are recovered from a crime scene*** where a firearm may or may not have been recovered as only one (1) item on the next line of the Worksheet, irrespective of the total number of cartridges recovered. Under "Quantity," list the total number of cartridges. Describe the evidence as "***cartridges recovered from crime scene.***"
  - a. **Note:** Firearm accessories, e.g., holster, sling, gun case, etc., that are not affixed to the firearm and are not needed to make the firearm operable, will not be listed on the same invoice as the firearm(s) and firearm-related evidence. Instead, the accessory(s) will be listed on a ***separate worksheet*** and will be delivered direct to the Property Clerk Division. If there is more than one (1) accessory, invoice all of the accessories separately on one (1) Invoice, if possible.

### FIREARMS INVOICED FOR SAFEKEEPING

Certain firearms coming into possession of members of the service which are categorized for "Safekeeping" should be listed on one (1) invoice and must be delivered ***direct*** to the Property Clerk Division.

Firearms within this category are:

- Property of retired, resigned, dismissed, suspended, sick or hospitalized uniformed members of the service.
- Lawfully possessed property of a deceased person.
- Obtained from a licensed dealer when license is revoked, suspended or expired.
- Lawfully possessed and removed by court order, order of protection, etc.
- Obtained from permit holder during renewal, expiration or cancellation of permit.

If any of the above described firearms were obtained under circumstances that indicate a valid reason for examination, ***only*** the firearms that require examination will be forwarded to the Firearms Analysis Section. All of the firearms that require



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examination will be listed on one (1) invoice, if possible. The reason for the examination will be specifically explained on the "request for laboratory examination."

Do not invoice firearms categorized for safekeeping that are being delivered to the Firearms Analysis Section on the same invoice as the firearms that are being delivered direct to the Property Clerk Division.

### BIOLOGICAL EVIDENCE

If firearms and/or firearms-related evidence also have bloodstains, DNA, serology, saliva, body fluids, tissue, or any other biological evidence thereon, they will be processed according to the following guidelines:

- Do not package biological evidence if it is wet; it must be air-dried before it is packaged.
- Do not package biological evidence requiring examination/analysis in a plastic security envelope or any other type of plastic bag/container. Package and properly seal **each** individual item of biological evidence requiring examination/analysis in a **separate** paper bag/container. Affix an orange Biohazard label to each paper bag/container.
- Write **command** and **invoice number** on the outside of each bag/container. If more than one (1) bag/container is used, also write corresponding item number on the outside of each bag/container and mark each bag/container as "Bag 1 of \_\_," "Bag 2 of \_\_," etc.
- Do not mark firearms and/or firearm-related evidence if to do so would contaminate, alter, damage, etc, the biological evidence thereon. Instead, write initials, unique consecutive number, command and invoice number on the outside of each paper bag/container. If more than one (1) bag/container is used, also write corresponding item number on the outside of each bag/container and mark each bag/container as "Bag 1 of \_\_," "Bag 2 of \_\_," etc.

The Office of Chief Medical Examiner (OCME) Forensic Biology Unit will perform all biological evidence examinations/analyses. Therefore, firearms and/or firearm-related evidence requiring biological evidence examination/analysis will be invoiced on a **separate invoice** from any other evidence that will not be examined by the OCME Forensic Biology Unit and will be processed as follows:

- All of the firearms and/or firearm-related evidence that require biological evidence examination will be listed on one (1) invoice, if possible. Specifically





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explain the reason for the examination on the "Request for Laboratory Examination."

- List **each** individual firearm and/or firearm-related evidence as a separate item on the invoice and specifically describe.
- Deliver property and invoice to Desk Officer.



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### HOMEWORK

- 1) Explain the difference between “mere possession” and “possession with intent to use” as they apply to Criminal Possession of a Weapon statutes.
- 2) List the weapons that would constitute the crime of Criminal Possession of a Weapon, Felony.
- 3) List and explain the weapons possession presumptions as they pertain to:
  - a. Stolen vehicles
  - b. Vehicles (not stolen)
  - c. Vehicles for hire
  - d. Machine guns
  - e. Possession with intent to sell
- 4) Explain the procedure for **marking** firearms and firearm-related evidence. Including the procedure for marking shell casings, fired bullets, cartridges, and accessories.
- 5) Explain the procedure for **invoicing** firearms and cartridges recovered in connection with the recovery of a firearm (listing the proper order of invoicing property).



# POLICE STUDENT'S GUIDE

## Drug Offenses

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT DRUG OFFENSES?

Drug abuse and drug-related crime are major problems plaguing communities throughout New York City. The sale and use of illegal controlled substances are directly and/or indirectly responsible for a great percentage of the violent crimes, as well as property crimes that are committed in our communities. Crimes that may not at first appear to be drug-related can often be traced to drugs. Addicts commit violent offenses like robbery, larceny, burglary, assault, and even homicide to secure money for their habits. Sellers commit violent felonies to ensure that business is not interrupted. While New York search and seizure laws place limits on our authority to frisk or search individuals for drugs, patrol officers can combat the problem by keen observation and by ***being aware***.

*Being aware* of the specific offenses discussed in this chapter will help us to identify and apprehend offenders and charge them accordingly. *Being aware* of search and seizure laws will help us enforce drug laws without infringing upon citizens' fourth amendment rights. *Being aware* that seemingly harmless items, like baking soda, tin foil, or scales, can be indicators of drug distribution. *Being aware* of the proper procedures for invoicing illegal drugs, so as to not corrupt evidence for trial. And, always, *being aware* that we must work as one with the community in our effort to rid the city of the scourge of drug abuse.

### DRUG LAWS

New York State Penal Law Article 220 (Controlled Substances Offenses) and Article 221 (Marijuana Offenses) delineate the various illicit drugs and other harmful substances listed in the Public Health Law Sections 3302/3306, which are unlawful to possess or sell. In general, substances are treated as unlawful if they:

1. Have a high potential for abuse; ***or***
2. Have no medical or healing value; ***or***
3. Are considered unsafe.



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## Drug Offenses

### DEFINITIONS

- **Controlled Substance** - any substance listed in Schedule I, II, III, IV, or V of Section 3306 of the Public Health Law. Generally, these include drugs such as: cocaine, heroin, and ecstasy, but **not marijuana**.
- **Marijuana** - all parts of the cannabis plant, whether growing or not, seeds thereof, resin extracted and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It **does not** include the mature stalks of the plant, fibers produced from the stalks, oil or cakes made from the seeds or any other mixture or preparation of the mature stalks.
- **Concentrated Cannabis (*hashish, or "hash"*)**
  - a. The separated resin, whether crude or purified, obtained from a plant of the genus cannabis; **or**
  - b. A material, preparation, mixture, compound or other substance that contains more than 2.5 percent by weight of tetrahydrocannabinol.

### CONTROLLED SUBSTANCES – GENERAL

Article 220 of the Penal Law "Controlled Substance Offenses" contains 54 subdivisions. These mention specific drugs and amounts, as well as categories of controlled substances. You will **not** be required to memorize the names of each controlled substance or the amounts that comprise various offenses. Instead, you should recognize the basic pattern in this statute:

- Possession of a small amount of a controlled substance (e.g., a glassine envelope of heroin; two vials of crack cocaine) is usually a misdemeanor. Absent evidence that one intends to sell such small amounts, the general logic of the law is that they are possessed for personal use rather than out of a profit motivation.
- Conversely, the exception to this general rule is that: possessing even a small amount of controlled substance for the purpose of selling it, would be a felony.
- Possession of a very large amount (a suitcase full, a truckload, or a kilo [i.e. 2.2 pounds]) would also be a felony. The logic here is that the only reason to possess such large amounts is sell them.



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## Drug Offenses

### **Criminal Possession of a Controlled Substance – misdemeanor (P.L. 220.03)**

A person is charged with criminal possession of a controlled substance (misdemeanor) when he knowingly and unlawfully possesses a controlled substance (a small amount).

### **Criminal Possession of a Controlled Substance – felony (P.L. 220.06 - 220.21)**

A person is charged with criminal possession of a controlled substance – felony, when he knowingly and unlawfully possesses a large amount of a controlled substance **or any amount with intent to sell**.

## **SALE OF A CONTROLLED SUBSTANCE**

Laws controlling drug sales also contain definitions with which you must be well acquainted. These include:

- **Sell** - means to sell, exchange, give, or dispose of to another, or offer, or agree to do the same.

We typically think of selling as an exchange involving money, but this is not the case where drugs are concerned. If a person merely **gives**, or even **offers to give**, another person a controlled substance, he or she could be charged with criminal sale of a controlled substance. Remember, the sale of a controlled substance is **always a felony** regardless of the amount. Here's an example -- *Bill gives his friend Henry a vial of "crack" cocaine. A police officer sees this. The charge in this situation is criminal **sale** of a controlled substance - felony.*

### **Criminal Sale of a Controlled Substance – felony (P.L. 220.31 -220.43)**

A person is guilty of criminal sale of a controlled substance, the felony, when he knowingly and unlawfully sells **any amount** of a controlled substance.

**Note:** Marijuana is **not** a controlled substance and is not included in this section (P.L. Article 220.00); marijuana offenses are included under P.L. Article 221.00.



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### MISCELLANEOUS CONTROLLED SUBSTANCES OFFENSES

#### **Criminal Possession of a Hypodermic Instrument - misdemeanor (P.L. 220.45)**

This offense is committed when a person knowingly and unlawfully **possesses or sells** a hypodermic syringe or hypodermic needle. Note that the sale of a hypodermic needle constitutes a charge of possession under this statute.

**Example:** Bill sells a hypodermic syringe to John. Both Bill and John are guilty of criminal possession of a hypodermic instrument.

**Note:** A recent change in the N.Y.S. Public Health Law (Chapter 56, Part G) allows a licensed pharmacist, health care facility, or health care practitioner to sell or furnish up to ten hypodermic needles or syringes to a person who is 18 years old or older without a prescription. However, the law does not allow that person to sell or provide needles to another person. ***Under this new law, persons in possession of hypodermic needles or syringes should not be charged with criminal possession of a hypodermic instrument unless there are other charges, such as criminal possession of a controlled substance. Thus, if an individual who is arrested for possessing drugs is searched and found also to possess a syringe, he or she should be charged with criminal possession of hypodermic instruments.***

#### **Criminal Injection of a Narcotic Drug – felony (P.L. 220.46)**

Criminal injection of a narcotic drug – felony, is committed when a person knowingly and unlawfully possesses a narcotic drug and he intentionally injects, by means of a hypodermic syringe or hypodermic needle, all or any portion of that drug into the body of **another person with the latter's consent**. In this crime, the consent of the other person is required. If done without consent, the charge is assault felony.

**Example:** Joe, a novice narcotic drug user, asks Jim to give him the injection, because he doesn't know how. Jim agrees and injects the narcotic drug into Joe. In addition to possession of a controlled substance charge, Jim would be charged with criminal injection of a narcotic drug.

#### **Criminally Using Drug Paraphernalia - misdemeanor or felony (P.L. 220.50 and 220.55)**

To commit the offense of criminally using drug paraphernalia in the 2<sup>nd</sup> degree - misdemeanor a person must possess or sell:



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1. Diluents, dilutants, or adulterants, which are adapted for the dilution of narcotic drugs or stimulants.
2. Gelatin capsules, glassine envelopes, or any other material suitable for the packaging of individual quantities of narcotic drugs or stimulants.
3. Scales and balances used or designed for the purpose of weighing or measuring controlled substances.

**Note:** To commit Criminally Using Drug Paraphernalia - the felony, a person commits Criminally Using Drug Paraphernalia in the second degree (misdemeanor), and he has previously been convicted of that specific offense.

**Note:** These substances and/or paraphernalia must be possessed under circumstances evincing *intent* to use the same for the purpose of mixing, compounding, packaging or dispensing any narcotic drug or stimulant.

### NEEDLE / SYRINGE KEEPER

Unfortunately, contact with drug offenders and paraphernalia is not without risks. To protect officers from one such hazard, the Department employs *needle/syringe keepers*, which should be employed as described in P.G. 218-24. In brief, these devices assist in the proper and safe storage of syringes:

#### Features:

- A unique container designed to aid in protecting officers from accidental punctures by contaminated sharps.
- Holds a single syringe without altering evidence.
- Bayonet lock for a positive seal.
- Shatter proof.
- Transparent for viewing without opening
- Compact 4 ½ " - can be carried in pocket *prior* to use.
- Individual poly bagged.
- Label for identification.
- Easily recognizable BIOHAZARD symbol.



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## Drug Offenses

### OFFENSES INVOLVING MARIJUANA

In June of 1977, the *Marijuana Reform Act* was signed into law. The intent of the law is to reduce the stigma of convictions for possession of small amounts of marijuana for private use in a non-public place by taking it out of the **controlled substance** category. It has not been legalized nor has it been decriminalized. The possession and sale of marijuana is still a criminal offense.

Before the Marijuana Reform Act of 1977, marijuana – like such **hard drugs** as heroin and cocaine – was defined as **a controlled substance** under Penal Law Article 220 (Controlled Substance Offenses). Today, however, marijuana is still considered unlawful to possess and sell. Therefore, laws regarding the possession and sale of marijuana have been placed in a new article, Article 221 of the Penal Law.

#### Unlawful Possession of Marijuana – violation (P.L. 221.05)

A person is guilty of unlawful possession of marijuana, the violation, when he or she possesses up to and including 25 grams of marijuana, approximately up to and including 7/8 of an ounce [**approximately up to and including 129 cigarettes**] in a:

1. Public place, when concealed; **or**
2. Private place.

**Note:** Section 240.00 of the Penal Law defines a **public place** as highways, transportation facilities, schools, hallways, lobbies and, in general, a place to which the public has access to.

#### Enforcement Procedure for Unlawful Possession of Marijuana – violation

1. If a properly identified person is to be charged with a **violation** under this section, and **no other charges are involved**, serve a **personal service summons** as per P.G. 209-01 and 209-09 (after completion of a warrant check), and invoice any evidence per P.G. 218-24.
2. If the person **does not qualify** for a personal service summons and an arrest is made, such arrest may be processed for a **DESK APPEARANCE TICKET** as per P.G. 208-27.





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## Drug Offenses

**Note:** Department guidelines state that normal **DESK APPEARANCE TICKET INVESTIGATION** verifications **do not apply** in this case. The **only** disqualifying factors are:

- a. You are unable to ascertain the defendant's identify or resident address; *or*
  - b. You reasonably suspect that identification or address given by defendant is not accurate; *or*
  - c. You reasonably suspect that defendant does not reside within the state.
3. If the person does not qualify for a **DESK APPEARANCE TICKET**, the desk officer will require posting of \$100.00 pre-arraignment bail.

### **Criminal Possession of Marijuana - misdemeanor (P.L. 221.10 & 221.15)**

A person is guilty of criminal possession of marijuana, the misdemeanor, when he or she knowingly and unlawfully possesses marijuana:

1. In **any amount, in a public place** – burning, or otherwise in public view,
2. He or she possesses **anywhere** (public or private place) more than 25 grams and approximately up to and including 227 grams, which includes anything more than 7/8 of an ounce, up to and including eight ounces of marijuana (**approximately 130 to 704 cigarettes**).

### **Criminal Possession of Marijuana - felony (P.L. 221.20 through 221.30)**

A person is guilty of criminal possession of marijuana, the felony, when he knowingly and unlawfully possesses more than eight ounces of marijuana (approximately more than 227 grams or **approximately 705 cigarettes or more**).

### **Criminal Sale of Marijuana – misdemeanor (P.L. 221.35, 221.40)**

A person is guilty of criminal sale of marijuana, the misdemeanor, when he or she sells up to and including 25 grams of marijuana (approximately up to and including **7/8 of an ounce** or **approximately up to and including 129 cigarettes**).



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## Drug Offenses

### **Criminal Sale of Marijuana - felony (P.L. 221.45 through 221.55)**

A person is guilty of criminal sale of marijuana – felony, when he knowingly and unlawfully sells:

1. More than 25 grams (approximately more than 7/8 of an ounce of marijuana or approximately 130 cigarettes or more); **or**
2. Any amount of marijuana to a person under 18 years of age.

**Note:** As it does where other drugs are concerned, the term **sell** used in the marijuana law includes **giving** or **agreeing to give** marijuana to another person.

### **POSSESSION OF MARIJUANA AND JUVENILES**

A person under the age of sixteen who violates the provisions of unlawful possession of marijuana (the violation) could be classified as a person in need of supervision (**PINS**). Therefore, applicable sections of the Patrol Guide dealing with "persons in need of supervision" should be observed. A person at least seven but less than 16 years old who commits the violation will be the subject of a Juvenile Report. In such cases, the marijuana will be vouchered as per P.G. 218-24 (see end of chapter).

### **PRESUMPTIONS RELATED TO POSSESSION**

The penal law includes **two** presumptions concerning the possession of a controlled substance.

**Presumption One** is that the presence of a controlled substance in a vehicle justifies the presumption that **all** persons in the vehicle at the time knowingly possess the drug.

The law is not without common sense, so there are **three** exceptions to this presumption. Suppose, for example, that Charley is a cab driver who picks up Joe, a fare, whom Charley has never before seen. As the taxi proceeds on its way up Third Avenue, Joe lights up a crack pipe. Shocked, Charley yells at him to stop-but not before Officer Smith, who is on patrol, happens to look into the cab window and sees Joe with what clearly appears to be a crack pipe. Should **presumption one** apply to Charley in this case? Should he be arrested because he was in a vehicle in which Joe smoked crack? That really wouldn't be right, would it?



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## Drug Offenses

Here's another one. Alice is driving her husband, Ralph, to the local bowling alley. On the way there, Alice runs a red light and is stopped by Officer Jones. As Alice searches through her bag for her driver's license, Officer Jones notices that she takes out a pill container bearing a pharmacist's label and the inscription, "Prozac – two per day, as indicated." It may be legal for Alice to possess this controlled substance, because she has a prescription for it – but now we have Ralph, who has no right to possess this drug, caught in a vehicle in which it was found. Should *presumption one* apply to Ralph in this case? Should he be arrested because he was in a vehicle in which there was a drug he could not legally possess? That also would not be fair, would it?

Here's a third one. Buddy and his pals have gone out for a night on the town in Buddy's new car. Buddy gets drunk, but will not allow anyone else to drive. On the way home, Officer Peters spots Buddy's car weaving, pulls it over, determines that Buddy is driving while intoxicated, and arrests him. In the course of searching Buddy pursuant to this arrest, Officer Peters and her partner find that Buddy is concealing an envelope of cocaine in his trouser pocket. All of Buddy's pals are shocked, and profess to have known nothing of this. Should *presumption one* apply to them? Should they be arrested because they and the cocaine in Buddy's pocket were in a vehicle at the same time?

These three examples illustrate the exceptions to *presumption one*. The exceptions are:

**Concealed:** The controlled substance is ***concealed upon one of the occupants***;

**Authorized:** Any person voluntarily and willingly in the auto is ***authorized to possess the substance***, and the substance is in the original container. This exception, obviously, applies only to substances, like prescription drugs, that may be lawfully possessed under certain circumstances.

**Taxi:** The person is the operator of a taxi or other vehicle for hire, and is in lawful pursuit of his business. **Example:** a taxi driver.



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## Drug Offenses

**Presumption Two** applies only to narcotic drugs or preparations, marijuana, or PCP ("Angel Dust"). It presumes that **every person in close proximity to the controlled substance** possesses these drugs when they are found:

- In open view in a room, in other than a public place; **and**
- Under circumstances showing intent to mix, compound or package or otherwise prepare for sale.

Again, there are exceptions to this presumption. It does not apply when:

- One person is authorized to possess the substance and the substance is in the same container as when the person received it, and is not under duress, **or**
- One of the individuals has the substance upon his or her person, whether or not it is concealed.

**Example:** Two police officers respond to an apartment to handle a noise complaint. They knock on the door and when it is opened, they observe what appears to be a narcotic drug and packaging material on a chair near the doorway. There are ten people in the room. The police officers should charge all ten people in the room with criminal possession of a controlled substance.

### NARCOTICS IDENTIFICATION

Police officers cannot effectively enforce narcotics laws without knowing what to look for. The following information should assist in this process:

- **Heroin:** This is a morphine derivative, usually seen as a white powder. Depending on the country of origin, however, it may vary in color, from yellow to brown. It is known by many names by users and pushers as "*horse, h, seat, junk, snow, stuff, harry, big H, joy, or powder.*"

**Physical Symptoms:** Stupor or drowsiness, needle marks on body (generally on arms), watery eyes, loss of appetite, bloodstains on shirt sleeve, running nose.



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**Look For:** Small wax paper packets (about the size of a razor blade) stamped with an identifying symbol or word. Referred to as "*slabs, decks, and bundles*" (depending on quantity).

- **Marijuana:** Generally found in the form of a hand-rolled thin cigars or cigarettes, and called by users "*pot, grass, tea, gage, reefers, locoweed, jumbo, gold, red, ganja, weed, Mary Jane, and blunt.*"

**Physical Symptoms:** Sleepiness, wandering mind, enlarged eye pupils, lack of coordination, craving for sweets, increased appetite, and uncontrollable laughter.

**Look For:** Strong odor of burnt leaves, small seeds in pocket lining, cigarette or cigar paper, and discolored fingers.

- **Amphetamines:** Pills of varying colors or capsules. Known by various names: "*bennies, dexies, co-pilots, wake-ups, lid poppers, hearts, and pep pills.*" Methamphetamines are known as "*speed and dynamite.*"

**Physical Symptoms:** Aggressive behavior, giggling, silliness, rapid speech, confused thinking, no appetite, extreme fatigue, dry mouth, shakiness.

**Look For:** Jars of pills of varying colors, or capsules, chain smoking.

- **Barbiturates:** Pills of varying colors or capsules. Known as "*barbs, blue devils, candy, yellow jackets, bennies, peanuts, blue heavens, goof balls, and downs.*"

**Physical Symptoms:** Drowsiness, stupor, dullness, slurred speech, drunken appearance, vomiting.

**Look For:** Pills or capsules of varying colors.

- **LSD, DMT, and STP:** In liquid form; known as "*acid, sugar, big D, cubes, trips.*" The drug is also referred to as the "businessman's high."

**Physical Symptoms:** Severe hallucinations, feelings of detachment, incoherent speech, cold hands and feet, vomiting, laughing and crying.



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- **PCP:** In liquid, tablets, and powder form. May be dusted on mint, parsley or marijuana leaves. The drug is also referred to as "*angel dust, dust, peace pill, and hog.*"

**Look For:** Odor of ether, or acetone (nail polish remover).

- **Crack:** Light brown, beige or white crystalline rocks often-packaged in small vials or small zip-lock plastic bags. This drug is also known as "*rock, slab, and gravel.*"

**Physical Symptoms:** Dilated pupils, elevated pulse and blood pressure, elevated body temperature, anxiety, body tremors, euphoria, excitation, hallucinations, increased alertness, restlessness, sweating.

- **Cocaine:** white powder substance (purer forms appear yellow). Usually packaged in clear plastic bags. Also known as "*blow, coke, and nose candy.*" (Used to make crack)
- **Ecstasy:** small pills of various shapes and colors. This drug has grown increasingly popular among the youth in the city. They are primarily orally ingested before going to a bar or club. Also known as "E" or the name of the pill (i.e. Lexus, Champs, Blue Diamond).

**Physical Symptoms:** Dilated pupils, excessively outgoing, hyper, and dehydrated.

- **KHAT:** a green leaf shrub grown in Kenya and illegally trafficked into the U.S. through Somalia, Africa. Similar in appearance to basil and often stored in banana leaves to retain their potency. Ingested by chewing the leaves or boiled in tea.

**Look For:** the smell of rotten vegetation.

**Physical Symptoms:** sense of euphoria, very talkative, and wide awake. User may appear paranoid and delusional, and may hallucinate.



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## Drug Offenses

### STORING CONTROLLED SUBSTANCES OR MARIJUANA

The procedure for invoicing any controlled substance or marijuana requires that the items be marked with the officer's initials and then consecutively numbered. If, for example, Officer Katherine Roberts seized 100 glassine envelopes, they would all be initialed and then sequentially labeled as "K.R. 1 of 100," "K.R. 2 of 100," etc., until "K.R. 100 of 100," (the last glassine envelope) was reached. After this, the items must be packaged.

In general, such items should be placed into a **Narcotics Evidence Envelope** and **then** placed into a **Plastic Security Envelope**. All captions on each envelope must be complete. **Both** envelopes must be completely sealed, signed, and dated by the invoicing officer in the presence of the verifying supervisor. Staples should not be used to seal the Narcotics Evidence Envelope. The serial numbers of **both** envelopes should be recorded in the remarks section

of the invoice. The captions on the Narcotics Evidence Envelope should be visible through the rear of the Plastic Security Envelope.

However, there are two situations that you may encounter when processing such items, that would either prevent you from using a security lock-type envelope or require you to use a plastic security envelope, in addition to a security lock-type envelope. These are as follows:

1. The item being packaged is too large to fit into a security lock-type envelope. In this case, you should securely wrap the item in a package, secure it with tape, and properly identify it.
2. In certain instances, a controlled substance that contains **phencyclidine (Angel Dust)** will be placed into a Plastic Security Envelope and sealed prior to being placed into a Narcotics Evidence Envelope. This is necessary because Angel Dust can be absorbed into the skin through a narcotic envelope, but not through a Plastic Security Envelope.

The Police Laboratory asks that you **do not use tape** to seal individual items of controlled substance evidence. For example, if you have a number of crack vials, marijuana cigarettes, or envelopes (glassine envelopes, etc.), it is not necessary to tape all the vials or packages together. They should be placed loose into the Narcotics Evidence Envelope (always in the presence of the desk officer), secure it (**do not staple**) and write your name, shield, command and date across the back flap before placing it into the Plastic Security Envelope.



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## Drug Offenses

When storing property, certain procedures from the Patrol Guide must be followed to insure that the chain of custody is maintained. Therefore, narcotics, controlled substances, and marijuana must be stored at the command of arrest/occurrence until they are removed to the laboratory and subsequently transported to the Property Clerk's Office for safekeeping. This is also true of any evidence that requires a laboratory examination.

You should be aware of the instances when controlled substances or marijuana are to be stored in the command's controlled substance locker.

- Controlled substances or marijuana are **stored in the command** when the weight is **less than eight ounces** and **fits in the controlled substance locker**.
- Conversely, if the controlled substance or marijuana weighs **eight ounces or more, or is too large** to fit into the controlled substance locker, or it is **the controlled substance KHAT**, it will be **delivered directly to the lab**.

**Note:** KHAT dissipates quickly if not properly handled, making prosecution for possession/sale difficult. KHAT should be transported in a cool environment to protect the integrity of the evidence.

### CLANDESTINE DRUG LABS

Clandestine drug laboratories are miniature chemical labs that produce illegal drugs. These labs are usually found in rented garages, basement apartments, and rented multi-dwelling homes where the landlord is absent. These drug laboratories pose serious health hazards to law enforcement personnel. A typical site contains both toxic and volatile chemicals and materials. This exposes those who seize, process, and dispose of these laboratories to unknown dangers. These labs present a variety of physical, chemical and toxicological dangers.

Either brief or extended exposure to hazardous materials can have serious health consequences, depending on the type of chemical and the body's reaction to it. In order to mask the presence of the lab, the operator foregoes proper ventilation and other safety measures, and confines the area with few access routes and poor lighting. There also exists the possibility of assault by attack dogs. Booby traps also are being used with increased frequency. There is also the potential for explosions and fire caused by burning cigarettes, sparks from electrical switches, electrical equipment, and damaged or mishandled gas





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cylinders. Before entering a suspected or known drug location – and as a matter of general practice – you should be cautious of certain signs common to these clandestine laboratories. Signs of possible clandestine laboratories include:

- The sight of chemical drums outside the location or in the backyard;
- Unusual chemical odors (the smell of bitter almonds), heavily fortified locations;
- Heavy pedestrian and vehicular traffic during odd hours;
- Persons leaving the location only long enough to have a “smoke.”

### SEARCH OF PRISONERS

When searching prisoners, police officers should always be **cautious and thorough**. Always **be cautious** of needles or other sharp objects when frisking/searching individuals. When possible, the officer should ask the person if he/she has any sharp objects in their possession. To avoid missing small objects secreted on a person, searches should always **be thorough**. Every pocket should be turned inside out and all cuffs (pants, sleeves, and collar) should be rolled down. Pay particular attention to areas that criminals commonly use to store drugs (i.e. the small change pocket on jeans, inside socks, inside shoes/sneakers/boots, inside waistband).

### LEGAL ISSUES

NYS courts have established several rules that govern our police procedures in narcotics cases. Failure to follow these rules will lead to dismissal of the case and, possibly, to a civil suit against the police officer and the Department.

***These rules are as follows:***

1. **Probable cause** for a drug sale arrest can be established in several ways. These include, but are not limited to:
  - a. An officer observes money passed in exchanged for a glassine envelope.



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- b. Furtive or evasive behavior on the part of the participants, coupled with the passing of a glassine envelope.
  - c. The exchange of a glassine envelope in a narcotics prone location and the officer concerned can present evidence in court demonstrating the area is truly narcotics prone.
  - d. An officer who is **trained** and **experienced** in narcotics enforcement observes the passing of glassine envelopes.
2. In a Stop, Question and Frisk situation, when an officer **feels** what he believes to be drugs, the officer **may not search** that area for the drugs. The **plain view doctrine** does not include any **plain touch** provision.
3. The **plain view observation of packaging** that is immediately apparent to the police officer as drug packaging establishes probable cause. The officer does not need to see the actual drug packaged therein. Thus, if a certain "brand" of heroin or marijuana packaged with a label has become commonplace in a neighborhood, an officer who spots such packages is generally considered to have probable cause to believe they contain drugs.
4. When a police officer has probable cause to believe that an automobile contains drugs, the officer can search any part of that automobile he or she believes could contain the drugs.



# POLICE STUDENT'S GUIDE

## Drug Offenses

### MANDATORY PATROL GUIDE AND SUPPLEMENTAL READING

The following are Patrol Guide procedures that must be added to this chapter – ***Drug Offenses***. These procedures must be read in conjunction with this chapter. Questions for the 3<sup>rd</sup> Trimester Exam may come from these procedures:

- P.G. 218-24 “Processing Controlled Substances or Marijuana Contraband Stored At Stationhouse.”
- P.G. 218-25 “Processing Controlled Substances or Marijuana Contraband Not Stored At Stationhouse.”
- Interim Order 40 of 2000
- Interim Order 37 of 2003
- Interim Order 9 of 2004
- NYS Penal Law sections 220 and 221



# POLICE STUDENT'S GUIDE

## Drug Offenses

### HOMEWORK

- 1) Define "**sell**" as it pertains to the sale of controlled substances/marijuana.
- 2) List and explain the drug possession **presumptions** (and the exceptions to the presumptions) as they pertain to:
  - a. Controlled substance found in a vehicle
  - b. Drugs found in plain view in a private home under circumstances evincing an intent to sell
- 3) Explain the difference between:
  - a. Criminal Possession of a Controlled Substance, **misdemeanor & felony**
  - b. **Unlawful Possession** of Marijuana and **Criminal Possession** of Marijuana
  - c. Criminal Sale of Marijuana, **misdemeanor & felony**
- 4) Explain the **procedure** for invoicing controlled substance or marijuana (to be stored in the station house).
- 5) Explain four (4) ways in which **probable cause** can be established in narcotics cases.



# POLICE STUDENT'S GUIDE

## Integrity Crimes and Liability Issues

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT INTEGRITY AND LIABILITY?

The most important reason for knowing the contents of this chapter is that the worst thing that can happen to any organization is for the public to believe that it lacks integrity. When this occurs in policing, it is impossible to do the police job effectively especially since the people who need the police most – the poor and victimized – also are the first to realize that integrity is missing. When people trust us, they view us as partners, and are willing to share secrets and information with us in order to better their communities. When our actions cause the belief that we put personal gain ahead of public interest, they turn elsewhere for help and our effectiveness is lost. Therefore, it is critical not only that we have integrity, but that we do nothing to create the *impression* that we lack integrity.

A second reason for studying this chapter is that it helps define right and wrong for us, for other public servants, and for members of the public who may try to corrupt us and other officials. This information will serve as a guide to your own behavior, and will also be useful when you encounter circumstances in which others have engaged in behavior that shows a lack of integrity.

A third reason for studying this chapter is its discussion of liability. *Liability*, in this context, is exposure to civil suits based on your police-related conduct. Both you and the City of New York are potentially liable for misconduct every time you take action, or refrain from taking action.

Liability is a scary subject for some police officers, who seem to believe that everything they own is up for grabs every time they do anything at work. This is a grossly exaggerated belief, caused mostly by lack of knowledge. The best way to avoid exposing yourself and the City to liability is to do your job properly and in good faith. Keep in mind, before you take action, that you may be required to explain why you did what you did. This still may not prevent someone from suing you. Unfortunately, this is a litigious society and suit involving the police are not uncommon. However, you are *very unlikely* to lose any case in which your explanation shows the necessity and reasonableness of what you did. Even if you do lose a suit under these circumstances, it is likely that the City will assume the costs of any judgment against you.



# POLICE STUDENT'S GUIDE

## Integrity Crimes and Liability Issues

### NYPD Values

The New York City Police Department Values Statement is as follows:

***In partnership with the community, we pledge to:***

- I. Protect the lives and property of our fellow citizens and impartially enforce the law.***
- II. Fight crime both by preventing it and by aggressively pursuing violators of the law.***
- III. Maintain a higher standard of integrity than is generally expected of others because so much is expected of us.***
- IV. Value human life, respect the dignity of each individual and render our services with courtesy and civility.***

As police officers, we must serve equally all members of the community in which we work, not showing preference to any particular person or group and not acting in an unauthorized manner. Since we are in an occupation where we have great power over others (e.g. issuing summonses, making arrests), there are times when we will be offered items such as money by others who seek to gain our favor. This Department takes a very strong stand on issues of integrity, and will try to remove any member whose actions tarnish our reputation. In addition to this, it is important for you to know how to criminally charge those individuals who offer unauthorized benefits to public servants.

### The Law

This chapter discusses the Penal Law offenses that deal with issues of integrity, including Bribery, Bribe Receiving, and Official Misconduct. Following this is a section that deals with Department policy on the acceptance of gifts by police officers and the procedures we must follow in this matter. The mere perception by the public that an officer is somehow getting something that he or she is not entitled to hurts the entire Department, because it breaks down the community's trust in us.

### Civil Liability

The chapter's last subject, civil liability, is most important in this litigious society. Police officers can be sued whenever they take police action, even when they have done nothing wrong. This is why officers need to have a superior understanding of the procedures that need to be followed in order to be indemnified by the City of New York. Lawsuits may be brought for many reasons, in either a state or a federal court. In almost every case the lawsuit is against both the police officer and the City of New York. As long as an officer has acted correctly, he or she will be *indemnified*, which means



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that the City will provide free lawyers (the Corporation Counsel) to represent him/her, and will also pay any damages in Civil Court decisions. The procedures for this are very specific and are repeated in *Legal Bureau Bulletin Volume 17, Number 2*, which is included in your packet of Legal Bulletins.

### DEFINITIONS OF TERMS

Before discussing the law, it is useful to define the terms in it:

**Benefit (PL § 10.00 subd. 17)** - Any gain or advantage to the beneficiary (person receiving the benefit) and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary. It is not necessarily limited to money.

**Public Servant (PL § 10.00 subd. 15)**

1. Any public officer or employee of the State of New York or of any political subdivision thereof or of any governmental agency within the State; or
2. Any person exercising the functions of any public officer or employee. The term "public servant" includes a person who has been elected, hired or appointed as a public servant in New York State, and includes a person who has been elected or designated to become a public servant and who has not yet taken that position. Examples of public servants include: mayor, police officers, city marshals, city health inspectors, district attorneys, assistant district attorneys, public school teachers, traffic enforcement agents, doctors or nurses employed by a municipal hospital.

**Note:** Only employees of New York State or its subdivisions are *public servants* according to the N.Y.S. Penal Law definition. Federal employees, such as mail carriers, FBI agents, DEA agents, and the like are not included in this definition. Instead, they are covered under federal law. Employees of other states or employees of counties, or cities of other states, would be covered under the laws of those states.

*Bribery of a public servant is a very serious crime and is always a felony.* This section of law contains three (3) basic elements:

1. There must be a "benefit."
2. A "public servant" is involved.
3. There must be an agreement or understanding to influence the public servant's present or future conduct as it relates to the public servant's official duties.



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### A TRAGIC BUT TRUE CASE

*A police officer became aware that a junk dealer in the Bronx was dealing in stolen cars. The cars were stripped of all usable parts, and then the car was flattened and sold as scrap metal. The expensive parts were shipped to a dealer in North Carolina for resale. The officer entered a trailer on the junk dealer's grounds and told the manager that he would overlook the illegal operation if he was paid \$5,000. The manager called the owner of the junkyard and at a later meeting the money was delivered to the officer.*

*The owner, the manager of the junkyard, and the officer were all convicted of felonies and were put in jail for long periods of time. In addition, the police officer lost all of his pension rights.*

*The severity of this punishment shows how seriously society regards the bribery of a police officer. **Police officers should not accept any benefit under any circumstances, with the exception of situations authorized by the Board of Ethics.***

*An arrest of the briber is important to preserve the integrity of the Department and to deter others from the same offense. It is so important that it may be rewarded by commendation and promotional consideration. One act of bribe receiving brings disgrace upon all Police Department employees and their families. It is important that you report any offer of a bribe immediately. The law holds the briber and the bribe taker equally guilty.*

The law considers it a crime when a public servant's opinion, judgment, action, decision, or exercise of discretion is affected or changed by the offer of some benefit.

Any offer of a benefit that is supposed to influence you not to perform properly or not to enforce the law must be reported by you as per Patrol Guide Sections 207-21, 207-22, 208-34, and 208-35, as amended.





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### BRIBERY - FELONY

(P.L. 200.00, 200.03, 200.04)

In the crime of bribery, the bribe giver (briber) offers or gives a benefit in an attempt to influence a public servant's present or future conduct, thereby bypassing the orderly processes of the government. The briber, in effect, attempts to "buy" preferential status or treatment from the government. The integrity and professionalism of a New York City police officer is not for sale.

An important fact to remember as you read the following definition and examples of bribery is that there is no such crime as *attempted bribery*. This is so because *bribery occurs when an offer is made*: the law does not require that the benefit actually be handed over to the public servant.

A person is guilty of Bribery when:

1. He or she confers or offers or agrees to confer;
2. Any benefit upon a public servant;
3. Upon an agreement or understanding;
4. That such public servant's vote, opinion, judgment, action, decision or exercise of discretion, as a public servant will be thereby influenced.

The benefit used in this offense does not have to go directly to the public servant. It includes a benefit to a **third person** or to any person or thing in whose welfare the beneficiary is interested.

**Example:** Mr. Brown offers Mr. Smith, an Assistant District Attorney, a discount on a new automobile if he refuses to prosecute him. The benefit offered in this case is "a discount on a car."

**Note:** The benefit never has to change hands. As long as there is an agreement or understanding, the attempt of bribery or a related offense constitutes the offense.

**Note:** The penalty for the offense of Bribery increases when the conduct involves either benefits valued in excess of \$10,000 or class A felonies involving controlled substances (P.L. §220).



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### BRIBE RECEIVING - FELONY

(P.L. 200.10, 200.11, 200.12)

With the crime of bribe receiving, the public servant solicits or accepts a benefit to influence the public servant's present or future conduct. Public confidence in the police must be built on the knowledge that the Department protects the rights of its citizens impartially and professionally. Since the police are viewed as defenders of law and order, discovery of criminal activity within the Department brings about a strong and long lasting backlash of public sentiment.

A person is guilty of Bribe Receiving when:

1. A public servant;
2. Solicits (asks for), accepts, or agrees to accept any benefit from another person;
3. Upon an agreement or understanding;
4. That the public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant, will thereby be influenced.

#### Notes:

1. It is important to realize that a public servant can commit bribe receiving by either initiating the crime, by asking for a benefit (money or some gift or service) or by agreeing to accept or accepting a benefit. Therefore, the public servant can be seen as either a "bribe asker" or "bribe taker."
2. Sometimes a police officer may take a bribe by agreeing to accept a benefit with no intention of doing anything for the benefit of the bribe giver; remember, **the mere acceptance of the offer constitutes bribe receiving.**
3. A third person acting with the same intent as the public servant can also be charged with bribe receiving through accessorial conduct when that third person accepts or agrees to accept the benefit on behalf of the public servant.
4. It does not matter whether the agreement to influence the public servant's action is legal and proper or is unlawful and bad. Once an agreement or understanding is reached by both parties that a benefit will influence the public servant's action, the offenses of bribery (for the bribe giver) and bribe receiving (for the public servant/bribe taker) are complete whether or not the public servant keeps his part of the bargain.



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**Example:** A police officer observes Mr. Darin break into a store and apprehends him. The officer asks Mr. Darin for \$100 to avoid being arrested. If Mr. Darin agrees, the offenses of bribe receiving on the officer's part and bribery on the civilian's part are completed. It is not important if the officer or civilian fails to keep his part of the deal. Once there is an agreement or understanding between them, the offense of bribe receiving has been completed.

**Note:** As in bribery, the seriousness of this crime increases when the incident involves either benefits valued in excess of ten thousand dollars or class A felonies involving controlled substances (P.L. §220).

**Note:** If you are offered a bribe, notify the desk officer/supervisor as soon as possible.

### OFFICIAL MISCONDUCT - MISDEMEANOR

(P.L. 195.00)

Official misconduct is a "catch-all" charge whenever a public servant commits an act, which is an unauthorized exercise of his official function or an omission to act when there is a lawful responsibility to do so. Simply stated, if you see a public servant commit a **bad act** (act of commission or omission), and that **bad act** is related to that public servant's official function, then the appropriate charge is official misconduct. As you have already learned, public servants who solicit, accept, or agree to accept any benefit to influence their present or future conduct may be charged with bribe receiving, but in addition an appropriate charge would be official misconduct.

More specifically, Official Misconduct is committed by a **public servant** with the intent to obtain a benefit or deprive another person of a benefit:

1. A public servant commits an act (act of commission) relating to the public servant's office knowing it is an unauthorized exercise of his official functions; **OR**
2. A public servant **knowingly** does not perform a duty which the public servant has a lawful responsibility to perform (act of omission).

#### Examples:

1. A police officer intentionally searches a person unlawfully for the purpose of arresting him. The unlawful search would be considered an act of commission.
2. A police officer fails to make an arrest when he has observed a crime committed, even though the officer knows he should make the arrest (an act of omission).



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Under subdivision #1, the act must relate to the public servant's office in that it constitutes an unauthorized exercise of his or her official function.

Subdivision #2 refers to public servants who **knowingly** do not perform an official duty imposed on them by law or which is clearly part of their job. The failure to act must be more than a lack of good judgment. It must be a *knowing* failure, not simply a mistake.

The conduct in subdivisions 1 and 2 of the Official Misconduct statute is not criminal unless it is coupled with **intent to obtain a benefit or deprive a person of a benefit**. The term "benefit" also includes any gain or advantage to a third person. In this crime, even though the intent may be to obtain a benefit, there need be no active solicitation, acceptance or agreement by the public servant.

**Example:** P.O. Norton is walking his steady beat when he observes John, a known drug dealer, and another man exchange U.S. currency for two vials of crack. P.O. Norton has a party to attend that night and does not wish to make an arrest and spend hours in court. P.O. Norton approaches the two men, takes the two vials of crack, throws the crack down the sewer and continues walking his beat. P.O. Norton was under a duty to arrest the suspects and voucher the drugs properly, but instead breached his duty. P.O. Norton would be guilty of official misconduct - misdemeanor.

### REWARDING OFFICIAL MISCONDUCT - FELONY

(P.L. 200.20, 200.22)

This crime is committed by **anyone** who knowingly confers, or offers or agrees to confer, any benefit upon public servants for having violated their duty as public servants. This crime is one in which the public servant violates their duty (a past bad act) and has received no offer or benefit nor had they agreed to a benefit prior to their act.

**Note:** The seriousness of Rewarding Official Misconduct increases when it involves a class A felony in §220 (controlled substances) of the penal law.

**Example:** In the example of official misconduct, P.O. Norton failed to take appropriate police action. The next day the drug dealer, John, walks up to P.O. Norton and states, "Thanks for not arresting me yesterday," while he slips a \$50 bill into P.O. Norton's hand. John may be charged with rewarding official misconduct. John Maloney gave

the \$50 bill to P.O. Norton for having violated his police duties, namely not making the arrest and not vouchering the recovered drugs properly.



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### RECEIVING REWARD FOR OFFICIAL MISCONDUCT - FELONY

(P.L. 200.25, 200.27)

This crime is committed by **public servants** when they solicit, accept or agree to accept any benefit from other persons for having violated their duty as public servants. This crime also requires that the public servants have already violated their duty (a past bad act) and that up to the time of such violation there was no solicitation or agreement to give a benefit for their action.

**Note:** The seriousness of the crime of Rewarding Official Misconduct increases when it involves a class "A" felony in §220 (controlled substances) of the penal law.

**Example:** Referring to the example of official misconduct and rewarding official misconduct, if P.O. Norton accepts the money offered by John the drug dealer, P.O. Norton may be charged with receiving reward for official misconduct. P.O. Norton accepted the money for having violated his police duties, namely not making the arrest and not vouchering the recovered drugs properly.

### GIVING UNLAWFUL GRATUITIES - MISDEMEANOR

(P.L. 200.30)

This crime is committed when a **person** knowingly gives or attempts to give, or offers any benefit to public servants who have done their job properly (a past good act) and for which they were not entitled to extra compensation. It could be considered giving a "tip" to the public servant.

**Example:** Mr. Jones offers \$100 to firemen who put out a fire in his home. He could be charged with Giving Unlawful Gratuities in this case. He voluntarily offered a benefit in return for a job well done.

### RECEIVING UNLAWFUL GRATUITIES - MISDEMEANOR

(P.L. 200.35)

This crime occurs when **public servants** actively solicit, or accept, or agree to accept any benefit for having performed their duty properly (a past good act).

**Example:** A police officer heroically saves a child's life. He then accepts a benefit offered to him by the child's grateful father. The police officer could be charged with receiving unlawful gratuities and the father could be charged with giving unlawful gratuities.



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The important thing to remember about the crimes of giving and receiving unlawful gratuities is that unlike bribery and official misconduct, there is no prior wrongful act required of the public servant. In essence, these crimes involve *tips* for jobs well done – and tips cannot be part of a public servant's income.



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## Integrity Crimes and Liability Issues

### QUESTIONS:

1. Identify the benefit offered in this situation:

Ms. Burns says she will give Police Officer Friday \$25 if he does not give her a summons for speeding.

2. Which of the following persons would not be considered a public servant?
- a. A lawyer in private practice
  - b. An Assistant District Attorney
  - c. A New York City Criminal Court Judge
  - d. A doctor working for the New York City Health and Hospitals Corporation

3. TRUE or FALSE -- A person is considered to be a public servant only if he is holding an elected position.

Explain:

4. Officer Smith has arrested Joe. Prior to the trial, Joe's attorney tells Officer Smith that he will give him money not to testify about certain details of the arrest. Officer Smith agrees to accept the money. Has the officer committed a crime?

\_\_\_\_\_YES

\_\_\_\_\_NO

Explain:

5. Mr. Brown is the owner of a drug store. Every year he gives the officers who patrol the area of his store a small sum of money for the good job they have done. What crime, if any, has been committed?

6. Ms. Smith has pleaded guilty to a crime. She then gives the prosecutor money to recommend a suspended sentence. Could Ms. Smith be charged with Bribery?

\_\_\_\_\_YES

\_\_\_\_\_NO

Explain:



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7. If the prosecutor in Question #6 agrees to accept the money for his recommendation of a suspended sentence, could he be charged with Bribe Receiving?

\_\_\_\_\_YES

\_\_\_\_\_NO

Explain:

8. Officer Bryant stops Mr. Edwards for a motor vehicle violation. Bryant tells the motorist that he will ignore the violation if Mr. Edwards gives her \$20. Can Officer Bryant be charged with Bribe Receiving?

\_\_\_\_\_YES

\_\_\_\_\_NO

Explain:

9. A judge tells a district attorney that he will give him money if he handles a case in a certain manner. With what crime should the judge be charged?

\_\_\_\_\_ BRIBERY

\_\_\_\_\_ BRIBE RECEIVING

Explain:

10. Police Officer Jones observes Mr. Parker pass a red light. Upon informing Mr. Parker of his violation, Officer Jones indicates that for a favor of some kind she will forget the whole thing. Mr. Parker agrees. Has Bribery occurred?

\_\_\_\_\_YES

\_\_\_\_\_NO

Explain:

11. What about Police Officer Jones, who started the whole thing with Mr. Parker? Has Jones committed a crime?

\_\_\_\_\_YES

\_\_\_\_\_NO

Explain:





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12. If Mr. Parker, in Question #10, had started this matter by offering \$10 to forget the whole mess and Officer Jones immediately placed him under arrest, what would be the correct charge?
- BRIBERY – FELONY
  - OFFICIAL MISCONDUCT – MISDEMEANOR
  - ATTEMPTED BRIBERY - FELONY
  - BRIBE RECEIVING - FELONY
13. While Officer Harrington is on patrol he observes Nick "The Needle" selling one ounce of heroin to little Jimmy. Officer Harrington approaches and places Nick under arrest for Criminal Sale of a Controlled Substance 2nd Degree, an A-1 felony. During the trip to the station house Nick offers Officer Harrington \$100,000 to forget the whole thing. Officer Harrington, who is in debt, agrees. What crimes have been committed?
- ONLY BRIBERY - FELONY
  - ONLY BRIBE RECEIVING - FELONY
  - BRIBERY - FELONY, AND RECEIVING REWARD FOR OFFICIAL MISCONDUCT – FELONY
  - BRIBERY - FELONY, AND BRIBE RECEIVING - FELONY
14. Police Officer McNair is very friendly with the people on her post. In fact, she has prevented many robbery attempts at the Adams' grocery store. To show his honest appreciation, Mr. Adams gives Officer McNair an envelope containing \$25 as a Christmas gift. What, if any, crime would Mr. Adams be guilty of?
- NO CRIME
  - BRIBERY - FELONY
  - GIVING UNLAWFUL GRATUITIES – MISDEMEANOR
  - OFFICIAL MISCONDUCT - MISDEMEANOR



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15. If in the above question Officer McNair looked into the envelope and saw the \$25 and understood the reason for it and then pocketed it, could she be charged with any crime?

\_\_\_\_\_ YES

\_\_\_\_\_ NO

Explain:

16. Is Officer McNair guilty because she did something wrong in order to get a reward?

\_\_\_\_\_ YES

\_\_\_\_\_ NO

Explain:

17. If Mr. Gonzales merely offered the \$25 to Officer McNair without actually giving her the money, would that be enough to constitute the crime?

\_\_\_\_\_ YES

\_\_\_\_\_ NO

Explain:

18. If Officer McNair asked for the \$25 and Mr. Gonzales refused payment, would either one be guilty of a crime?

\_\_\_\_\_ YES

\_\_\_\_\_ NO

Explain:



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## Integrity Crimes and Liability Issues

### GIFTS AND OTHER COMPENSATION GUIDELINES

Police officers that are assigned to particular neighborhood beats or sectors on a regular basis are expected to have considerable interaction with members of the community. This daily interaction may lead to an increase in situations where gifts or other types of compensation are offered to them by grateful citizens. When confronted with a situation in which a gift or other compensation is involved, members of the service must be guided by Board of Ethics rulings.

In an effort to clarify pertinent guidelines and disseminate necessary information concerning recent law revisions, the Board of Ethics presents this compilation to which members of the service may refer to for guidance in this area. It should be noted that this is by no means a complete or exhaustive compilation regarding gifts or gratuities. Any further questions concerning the acceptance of gifts or other ethical questions may be referred to the Legal Bureau at 1 (646) 610-5400. Questions that go beyond the scope of the Police Department may be referred to the New York City Conflicts of Interest Board. The Board will provide definitions and guidance regarding the ethical provisions of the New York City Charter.

#### General Guidelines

Chapter 68 of the New York City Charter governs the ethical propriety of gift acceptance. In most instances, members of the service may not accept gifts from the public. However, each case must be decided on its own merits by evaluating the totality of the circumstances surrounding the gift.

Three factors must always be examined when considering the ethical propriety of accepting a gift:

1. The value of the gift;
2. The intent of the donor; and
3. The intent of the recipient.

#### The Value of a Gift

Members of the service may not accept valuable gifts such as expensive watches, money or savings bonds given in appreciation of police service unless the Board of Ethics approves such acceptance. A member of the service who accepts gifts or favors for performing official duties is subject to the imposition of penalties which include a fine and/or suspension or removal from office. Additionally, it should be noted that it is a class "A" misdemeanor under Section 200.35 of the Penal Law for public servants to solicit, accept or agree to accept any special benefit for having engaged in official conduct which they were required or authorized to perform. However, it is



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neither unethical nor illegal for a member of the service to accept a gift which is of little value such as an inexpensive plaque, a pen and pencil set, or a favor distributed to all those attending a function. See Ethics Ruling Nos. 1, 2, & 8.

### THE INTENT OF THE DONOR

If a donor's conduct or demeanor indicates that he may expect special treatment from members of the service as a result of his gift, it may not be accepted regardless of its value. Additionally, if another person could get the impression that the donor was influencing official conduct, the gift must be declined. A gift from a person or entity with whom the employee deals with in their official capacity may never be accepted even if the gift is not given for police service. The **appearance** of corruption has the same negative effect on the Department's image as does **actual** corruption. See Ethics Ruling Nos. 11, 26, & 31.

### THE INTENT OF THE RECIPIENT

The intent of members of the service who receive gifts may be scrutinized by the Department:

- If the gifts are valuable; or
- If they accept inexpensive gifts on a routine basis; or
- If they accept a gift from someone with whom they have official contact, regardless of its value. See Ethics Ruling Nos. 9, 27, & 33.

Where the gift is inexpensive, the members of the Department should be guided by P.G. 203-13 and 203-14 regarding financial restrictions, and by their commanding officer as per P.G. 203-16, before accepting or declining the gift. In instances where unique or expensive gifts are tendered to a member as part of an official ceremony, or where refusal would create an embarrassment to the donor, the gift should be accepted by the member in a manner that indicates that the acceptance is on behalf of the Department. See Ethics Ruling No. 14. Additionally, if return of a prohibited gift is not practical, the Chief of Inspectional Services should be contacted to determine disposition of the gift.

In addition to being offered gifts at educational and social functions, it is not unusual for members of the public to offer police officers a cup of coffee or a danish during the course of their duties. This type of offer is acknowledged and accepted in our society as a social courtesy. In certain instances, refusal may be insulting. Accordingly, under certain circumstances the acceptance of a cup of coffee or small meal would not be improper or unethical. For example, where an officer is detained in a



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private home on a sick call or awaiting the arrival of the Medical Examiner, a cup of coffee offered as a token of sociability or courtesy may be accepted. This does not apply in cases where police officers must leave their assigned posts or linger unnecessarily merely to be sociable.

Restaurants that offer free cups of coffee or meals, and newspaper vendors who offer free newspapers *cannot* be considered in the same light as persons who display their sense of hospitality in their own homes. In most instances, any "free" offer from a commercial establishment usually comes with the expectation that special consideration will be given by the police officer in return. Even in those few instances where the offer is genuinely free of such expectations, the public at large negatively perceives the appearance of such expectations. In any instance where the appearance to a member of the public may be improper, such behavior is prohibited. Thus, a police officer may not accept any free or discounted item from any merchant where the same is not given to the public at large.

Section 14-136 of the New York City Administrative Code regulates rewards given to members of the service. This section provides that members of the service who receive rewards or presents for meritorious services rendered in the due discharge of their duties must notify the Police Commissioner. The Commissioner may either order the members to retain all or part of the reward or may dispose of it for the benefit of the Police Pension Fund. Failure to notify the Commissioner is considered cause for termination from the Department.

Recent revisions to the New York City Charter have created additional limitations on acceptance of gifts by public servants. Section 2604 (b) (3) of the Charter states:

No member of the board of estimates or the council or other salaried officer or employee of the city or any city agency...shall accept any valuable gift, whether in the form of service, loan, thing or promise, or in any other form, from any person, firm, corporation or other entity which to his knowledge is interested directly or indirectly in any manner whatsoever in any such business dealings.

The phrase *business dealings with the City* is defined as any transaction with the City involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit and any performance of or litigation with respect to the foregoing. "Business dealings with the City" do not include any transaction involving a public servant's residence or any ministerial matter.



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If a member of the service receives gifts that are customary on family or social occasions, which would otherwise violate Sections 2604 (b) (3), the member must be sure that:

1. It can be shown under all the relevant circumstances that it is the family or personal relationship rather than the business dealings that is the controlling factor; and
2. The public servant's receipt of the gift would not result in or create the appearance of: (i) using his or her office for private gain; (ii) giving preferential treatment to any person or entity; (iii) losing independence or impartiality; or (iv) accepting gifts or favors for performing official duties.

If a gift is a reward or is presented for police service rendered in the discharge of official duty, the member's commanding officer will prepare a report, on typed letterhead to the Police Commissioner for review and a final determination regarding acceptance of the gift.

If a gift is offered by a person or firm which is engaged or intends to engage in business with the City of New York, the member's commanding officer will review the City Charter to ensure that there is no conflict of interest, request a ruling by the Board of Ethics if necessary, and notify the member concerned regarding the propriety of accepting the gift.

If any member receives two or more gifts, regardless of value or source, within a calendar year, the member's commanding officer must prepare a report on typed letterhead to the Chief of Internal Affairs Bureau.

### DEPARTMENT BOARD OF ETHICS GUIDELINES

#### General Guideline No. 2

**Subject:** Soliciting discounts from stores or entering places of entertainment such as theaters and ballparks free of charge by members of the service.

**Guideline:** It is unethical, without exception, for members of the Department to solicit or accept any discount on merchandise or service, or to solicit or accept entry without fee to a place of entertainment such as a theater or ball park, based solely on his/her being members of the Department.



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It should be noted that there is a distinction between attending community sponsored affairs or "Policemen's and Firemen's Day" at the ballpark and routinely using a shield for free admission. In the former cases, members of the service attend in an official capacity to improve community relations or they attend as police officers to be honored by a baseball team and the public. In the latter case members of the Department use their official position as an instrument to gain special favors for themselves. This practice is demeaning to police service and unethical.

### General Guideline No. 6

**Subject:** Gifts given to members of the service.

**Guideline:** When considering the ethical propriety of accepting a gift there are several aspects of the gift-giving situation which must be examined:

1. What is the value of the gift?
2. What is the intent of the donor?
3. What is the intent of the recipient?

Valuable gifts such as expensive watches, money, savings bonds, etc., should not be accepted at any time by members of the Department if they are given in appreciation or recognition of police service, unless reviewed by the Board of Ethics and approved by the Police Commissioner. The acceptance of gifts which are of little value such as inexpensive plaques, pen and pencil sets or favors distributed to all those attending a function, is not considered unethical.

The intent of the donors and their expectations regarding the nature of their relationship with recipient members of the Department is an important consideration. If the donors' conduct or demeanor indicate that they may expect special treatment from members of the Department as a result of their gifts, they may not be accepted regardless of their value. Regarding the donor's intent, members of the Department must be prudent in deciding whether to accept or decline a gift. If, for example, the intentions of the donor clearly do not involve influencing the member's official conduct, but the danger exists that another person could get this impression, the gift must be declined. The appearance of corruption has very much the same negative effect on the Department's image as does actual corruption.

The intent of the recipient of the gift is the next consideration. Your intentions would not be questioned, for example, if while attending a large public dinner you accepted an inexpensive gift given to all present. Your behavior could be suspect, however, if a valuable gift were given to you; or if over a period of time, inexpensive gifts were routinely given to you; or if any gift, regardless of its value, were given to you by someone with whom you have official contact.



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Where the gift is an inexpensive gift as indicated above, the members of the Department should use their own judgment in accepting or declining said gift. Where the gift is of a unique nature or carries a value above and beyond that of an inexpensive gift, the member should not accept the gift without a priority ruling by the Board of Ethics and, where warranted, approval of the Police Commissioner. In instances where expensive or unique gifts are tendered to a member as part of an official ceremony, or where refusal would create an embarrassment to the donor, the gift should be accepted by the member in such a manner as to denote that the acceptance of such is on behalf of the Department. Guidance of the Board of Ethics should then be sought to determine the disposition of the gift. In all cases where prior knowledge exists on an intended presentation by any person or organization to a member of the service, prior determination by the Board should be sought. Where warranted, approval of the Police Commissioner is also necessary.

The holiday season is no exception to these rules. In fact, members of the Department must be especially careful to avoid accepting or appearing to solicit gifts during the months of November and December.

Members of the Department must use good judgment in accepting gifts in all instances. Where doubt exists, the gifts should not be accepted without a prior ruling of the Board of Ethics.

### **General Guideline No. 8**

**Subject:** The acceptance of a cup of coffee.

**Guideline:** It is recognized, and accepted, in our society that the offer of a cup of coffee to a person in our home is a manifestation of social courtesy. Refusal may, under certain instances, be taken as an insult by the host or hostess. In considering this matter, the Board of Ethics has sought to evaluate the value of the acceptance of such hospitality and the damage to community relations by refusing the offer.

It is therefore, acknowledged, that in certain instances, refusal to accept the offer may engender a gap in communications between the police officer and members of the community. Thus, under such circumstances the acceptance of a cup of coffee would not be improper or unethical.

Where an officer is legitimately detained for a period of time in a private home on official police business and the host or hostess offers the police officer a cup of coffee or a small meal, the officer may accept as a matter of courtesy. Naturally, this does not apply in cases where police officers must leave their assigned posts or linger unnecessarily merely to be sociable. Nor does it apply with respect to public areas.





# POLICE STUDENT'S GUIDE

## Integrity Crimes and Liability Issues

Restaurants which offer free cups of coffee, meals, etc., newspaper vendors who offer free newspapers, cannot be considered in the same light as persons who display their sense of hospitality in their own homes. In most instances, any "free" offer usually comes with the expectation that special consideration will be given by the police officer in return for the free "cup of coffee," etc. Even in those few instances where the offer is genuinely free of such expectations, the public perceives the appearance of impropriety. In any instance where the appearance to the general public may be improper, such behavior is prohibited.

Thus, a police officer may not accept any free or discounted item from any merchant where the same is not given to the public at large.

The guiding standard must not only be that behavior in fact be free of taint, but that the public perceives the police officer to be beyond reproach.

### DEPARTMENT BOARD OF ETHICS RULINGS

In order to further clarify gift and compensation acceptance guidelines the following compilation consisting of Board of Ethics Rulings is being provided. Members of the service should note that while there are some clear rules concerning the acceptance of gifts, each case must be decided on its own merits. Common sense, good judgment and prudence must be utilized. Additionally, members should be aware that the manner in which the public perceives certain conduct is a considerable factor in deciding ethical issues. Accordingly, activities which may reflect negatively on the member or the Department are strictly scrutinized.

### GIFTS AND RELATED AREAS

#### Ruling No. 1

**Facts:** A member of the service performing duty as an instructor at the Police Academy in performance of his official duties gave a series of lectures to a group of employees of another city department. Subsequently, the police instructor was invited and attended a public ceremony where he was praised for his efforts and presented with a plaque and valuable wristwatch. Rather than cause embarrassment to the presenting official, the instructor accepted the awards and thereafter sought the guidance of the Police Department and the Board of Ethics as to whether he may ethically retain possession of the award and gift.



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**Ruling:** At a meeting of the Board of Ethics it was determined that receipt of the plaque was not improper and it could be retained, but receipt of the wristwatch was in conflict with the ethical and professional standards required of a police officer and it must be returned.

**Explanation:** It is wrong for any police officer to accept a gift for professional services performed. The wristwatch was in the nature of a gratuity for the performance of duty and is equivalent to an offer of a monetary reward. The plaque is in the nature of an award in recognition of outstanding service. So long as it does not have an unusually costly intrinsic value and is unaccompanied by monetary or another valuable gift, it is not unethical for a member to accept such an award. The requesting member was so advised.

### Ruling No. 2

**Facts:** A Police Department superior officer with many years of service was invited to be "guest of honor" at a dinner to be given by a fraternal organization. At the dinner a plaque was to be presented to the police officer in recognition of police work performed over the years. The member sought the guidance of the Police Department and the Board of Ethics regarding the propriety of accepting the invitation to be guest of honor and receiving the plaque.

**Ruling:** The Board of Ethics determined that attendance at the dinner, as guest of honor and acceptance of the plaque would not be unethical. The requesting member was so advised.

**Explanation:** If no other gifts are offered, and if there is no attempt by the sponsoring organization to utilize the presence of the Department member for any purpose that would compromise the integrity of the member or the Police Department in an unfavorable light, it is not improper for the member to accept the invitation and plaque. The police profession centers on service to the public, sometimes extending over a period of many years. It is expected that some officers' service and dedication will be commendable and that community groups will seek to honor him/her.

### Ruling No. 8

**Facts:** A community group wanted to hold a testimonial dinner for a local precinct commander where he/she would be presented with a plaque for outstanding efforts in promoting community relations. They also wanted to invite a number of police officers and supervisors from local commands to attend the dinner free of charge. The Board was asked to determine if attendance at the dinner and acceptance of the plaque would be ethical for the commander and if members of the service could attend free of charge.



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## Integrity Crimes and Liability Issues

**Ruling:** The Board of Ethics determined it would not be unethical for the commander to attend and accept the plaque. The board also determined that, under the circumstances given, it would not be unethical for other invited members of the service to attend free of charge.

**Explanation:** Acceptance of the invitation by the commander and his acceptance of the plaque is not unethical if no other gift is offered and no attempt is made by the sponsoring organization to use his presence for a purpose that would compromise his integrity or place the Department in an unfavorable position.

Regarding the acceptance of free admission by other invited officers, the Board believes that the fundamental question is whether such attendance would improve community relations. In this case, the answer is clearly "yes." Acceptance of the invitation to attend free of charge is therefore not unethical.

### Ruling No. 9

**Facts:** The Colgate-Palmolive Company has sponsored a contest in conjunction with the television series "Police Surgeon." Contest rules dictated that winning contestants receive a prize and a duplicate prize be given to their local police. The commanding officers of three precincts requested the opinion of the Board regarding the propriety of accepting the television sets and a station wagon awarded for use in their commands.

**Ruling:** The Board of Ethics determined that accepting the gifts would not be unethical, but the gifts could not be made directly to the Police Department. According to law, certain procedures must be followed to secure the gift through the Corporation Counsel.

**Explanation:** In this case, the prizewinners were not businessmen doing business with the City so there was no conflict of interest. There would be no contact between precinct personnel and the civilian prizewinners so there was no danger that the gift was being given to receive preferred treatment from the Department. There was no threat, or appearance of a threat, to the integrity of any police officer. Therefore, the Board ruled that accepting the gifts through appropriate channels would be ethical.

### Ruling No. 11

**Facts:** The management of Madison Square Garden offered to donate tickets to several commands for free admission to the openings of various shows. The main purpose for this offer, as expressed by the management, was to insure a full house on opening nights. The Board was asked to decide if accepting the offer would be ethical.

**Ruling:** The Board ruled that acceptance of the tickets would be improper.



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**Explanation:** The express purpose of this offer was to benefit the corporation. The offer was in no way related to community service nor was it intended to improve police community understanding. Useful motivation for acceptance was entirely lacking. In addition, because there would be no procedural controls over the donations, it would be difficult to prevent the appearance of the acceptance of unlawful gratuities by members of the commands involved. Thus the Board determined that acceptance would be improper.

### Ruling No. 14

**Facts:** Two members of the service, assigned to escort and security duty for a visiting foreign dignitary, were given valuable gifts as a token of appreciation by the grateful ambassador. The officers attempted to refuse the gifts but the donor insisted. The officers felt that refusal would be embarrassing to both the Department and to the State Department. They accepted the gifts and sought a Board of Ethics opinion as to what the proper disposition of the gifts would be.

**Ruling:** The Board decided that the acceptance of the gifts was proper in this situation and determined that the gifts be turned over to the Training Division Museum for display. Should incidents of this nature occur again, in that acceptance of gifts is necessary for the sake of courtesy or diplomatic tact, officers would realize that they are accepting on behalf of the Department and have the gifts placed in the museum.

**Explanation:** It is difficult to refuse a tendered gift especially where diplomatic courtesy is in question. Established Department policy which prevents officers from accepting gifts should be explained to the donor and police refusal should be attempted. The Board of Ethics realizes that this procedure is not always conducive to good public relations or diplomatic protocol. In cases where refusal could well prove embarrassing or insulting to the donor, the member so honored should accept the gift on behalf of the Department. It will then be turned over to the Museum for display. Whenever prior knowledge of an intended gift of this type exists, the opinion of the Board should be sought. Where warranted, the approval of the Police Commissioner will be necessary.

### Ruling No. 26

**Facts:** A request for an opinion was submitted to the Board of Ethics as to the propriety of seeking financial sponsorship from private businesses for a softball team formed by and composed of members of the service.

**Ruling:** The Board of Ethics has determined that a member of the service may not seek financial sponsorship from a private enterprise because such an arrangement constitutes the appearance of a conflict of interest. This type of arrangement is therefore prohibited.



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## Integrity Crimes and Liability Issues

**Explanation:** The sponsorship of departmental athletic teams or activities by private businesses, or the solicitation of businesses to sponsor such teams or activities would create the appearance that the businesses would be accorded favoritism or special attention. The members of the team would derive the benefit of equipment, uniforms and other favors afforded them by them. The sponsoring business may, in turn, feel it should be treated more favorably. In addition, the advertising gained by the sponsoring business would give the appearance of impropriety to businesses not sponsoring teams, and those businesses may feel that they are being pressured to sponsor teams.

### Ruling No. 27

**Facts:** Members of the service participating in an intramural Police Department football league were sponsored by the owner of a social club which supplied jerseys worth approximately \$250.00 bearing the name of the social club. The club has been raided by the borough's Public Morals Division for operating after hours, and appears on the precinct's corruption prone list.

**Ruling:** The Board determined that it would be improper and unethical for members of the service to accept sponsorship from a business interest whether legitimate or not, and that the jerseys must be returned to the owner of the social club in question.

**Explanation:** Although the impropriety of accepting anything of value from a social club whose questionable legitimacy is obvious, this ruling does not depend on the character of the giver. Rather, the Board's general guidelines clearly prohibit solicitation or acceptance of anything that carries with it even the appearance of special consideration for the giver. In this case, members of the service wearing the name of a particular business while playing football under the auspices of the Department can only lead to the assumption that the business enjoys a special relationship with the officers involved, and hence, the Department itself. Analogous prohibitions are found in Patrol Guide 203-16, General Regulations, wherein members of the service may not solicit or publish "booster lists" and may not accept gifts as rewards for police service.

### Ruling No. 31

**Facts:** The Board of Ethics became aware of an American Legion Post making its facilities available to a precinct club, free of charge. The precinct club provides its own food and drink, but was not charged for use of the facility.

The cost for use of the facility was normally \$100.00, though the American Legion often waives this fee for some community organizations. At issue, is whether or not it is permissible for a precinct club to hold its meetings at an American Legion Post, or any other similar facility without payment of the normal fee for such use.



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**Ruling:** The Board of Ethics has determined that free use of an American Legion facility by a precinct club, is unethical. While the Board recognizes that other community organizations may be permitted to use the facility for free, such activity on the part of a police precinct club is improper. Notwithstanding the good intentions of the American Legion Post, there is, at the very least, an appearance of impropriety. The police are sworn to uphold the laws impartially and free use of an American Legion facility may have an adverse impact on this impartiality.

In consideration for use of their facility, some members of the American Legion Post may expect special treatment when confronted with local enforcement, i.e., parking, moving violations, etc. Even if the offer by the American Legion Post is extended without any expectation of special treatment, the public may nevertheless conclude that the American Legion Post is receiving special treatment. The only way to prevent this perception is to not allow the free use of the post by the precinct club.

### **Ruling No. 33**

**Facts:** A prominent watch manufacturer has proposed to sponsor an annual special awards ceremony to honor deserving auxiliary policemen and policewomen who have demonstrated their utmost in service to the community. The awards of watches valued up to \$250.00 will be given to six outstanding auxiliary police officers. The award recipients will be chosen by a committee comprised solely of auxiliary police members.

The Board of Ethics was asked to rule on whether it is appropriate for a private company to offer something of value to a member of an organization (auxiliary police) officially connected with the New York Police Department.

**Ruling:** The Board of Ethics determined that it was not unethical for the auxiliary police members to accept the awards.

**Explanation:** There is little or nothing that these individuals have in their authority to enable them to reciprocate by showing favorable treatment to the donor and the watch manufacturer does not engage in any business with the Police Department. It has been taken into consideration that auxiliary police officers freely donate their time to the service of the community for solely altruistic reasons with no expectation of monetary compensation or reward. Therefore, in this matter, the recognition of their services by these awards has been deemed appropriate.



# POLICE STUDENT'S GUIDE

## Integrity Crimes and Liability Issues

### CIVIL LIABILITY OF POLICE OFFICERS

#### INTRODUCTION

Sometimes a police officer's actions may result in a civil lawsuit not only against the police officer, but also against the City of New York. Lawsuits may be brought for many reasons. Examples of allegations made in lawsuits are as follows:

1. A police officer unnecessarily forced a confrontation with an emotionally disturbed person, antagonizing the emotionally disturbed person into attacking the officer. The officer then shot the emotionally disturbed person.
2. A police officer unlawfully searched an apartment without a search warrant and without being privileged under one of the exceptions to the search warrant requirement to the Fourth Amendment.
3. A police officer used excessive force while making an arrest.
4. Instead of arresting a domestic violence offender who had assaulted his wife, a police officer sent the offender for a walk. The offender returned home an hour later and killed his wife.

#### PROTECTION FOR POLICE OFFICERS WHO ARE SUED

Generally, **New York State General Municipal Law, Section 50-K**, indemnifies police officers from civil liability, provided that they act reasonably and within the scope of their employment. Under this section, the City of New York will provide legal counsel and pay any subsequent judgment assessed on the officer and the City.

In order for you to be fully protected in case of a civil lawsuit, you must know the important parts of Section 50-k.

This section of law states that:

1. The act for which you are sued must have happened:
  - a. While you were acting within the scope of your employment as a police officer; **and**
  - b. In the discharge of your duties as a police officer; **and**



# POLICE STUDENT'S GUIDE

## Integrity Crimes and Liability Issues

- c. While performing your duties, you were not violating any regulation or rule of the Police Department for which a civil action is being brought forward.
2. The City will not pay any judgment if you **intentionally** did something wrong or acted in a **reckless** manner.
3. Any legal papers served **must be delivered** to the **Corporation Counsel within 10 days** (P.G. 211-21 states that this is done via your commanding officer).
4. You must cooperate fully with the Corporation Counsel and the Comptroller's Office in defense of the case.
5. If you receive departmental charges for the act for which you are sued, you must be cleared of these charges first in order to be indemnified by the City.
6. In order to sue the City or an employee of the City, a notice of claim must be filed **within ninety days** of the incident. However, any action or proceeding must commence within **one (1) year and ninety (90) days** from the incident.

### **ACTING WITHIN THE SCOPE OF YOUR EMPLOYMENT AND IN THE DISCHARGE OF YOUR DUTIES AS A POLICE OFFICER**

While you are a police officer throughout New York State, you are also an employee of the City of New York. If you are **off duty** and **outside** the City of New York and you take police action that results in a lawsuit against you, the City **may** claim that you were not acting as its employee. It is not within the scope of your employment to act as a police officer off duty outside the City of New York.

However, you are likely to be indemnified if you make an off duty arrest in the city except: (a) when you are personally involved, (b) when engaged in off duty employment, and (c) when enforcing traffic regulations.

If you are **on duty** and take police action, whether you are in New York City or not, you **will** be protected if you acted properly. You will not receive protection, if your police action involves intentional wrongdoing, a criminal act, a reckless act, or any other act that cannot reasonably be seen as part of your duties as a police officer.





# POLICE STUDENT'S GUIDE

## Integrity Crimes and Liability Issues

### DELIVERY OF LEGAL PAPERS

If you are sued, you must be sure that any legal papers are delivered to the Corporation Counsel. Patrol Guide Procedure 211-21 sets forth relevant guidelines. The papers should be given to your commanding officer and he or she will forward them to the Legal Bureau.

### COOPERATION WITH THE CORPORATION COUNSEL AND THE OFFICE OF THE COMPTROLLER OF THE CITY OF NEW YORK

If you wish to be indemnified, you must cooperate with the Corporation Counsel and the Comptroller's Office. It is only proper that as a City employee you assist the City in its defense of the case. If you refuse to cooperate, the City will notify you that they will not provide you with an attorney and will not pay any judgment against you. However, there should be no reason why you would not cooperate.

### HOW TO PROTECT YOURSELF AND THE CITY OF NEW YORK FROM LAWSUITS

In order to do a professional job as a police officer, and at the same time protect yourself and the City from judgments in civil lawsuits, you should:

1. Know the principles contained in the United States Constitution and the laws granting rights and privileges to citizens, and always uphold them. The requirements of due process, lawful searches and seizures, and probable cause should be studied and mastered by all police officers.
2. Although you are new to the area of law enforcement and are devoting your entire day to learning, upon graduation, you should keep up with the changes in the law and related procedures. The law is always changing. It is your responsibility to be aware of any changes that affect how your job is done.

In addition to formal classes conducted at the Police Academy, all members of the service attend field level unit training several times a year as well as instructions at the range and daily roll call training periods. In addition, the Police Department publishes Legal Bureau Bulletins, orders, and directives, which tell you of new cases that concern your job. *It is your responsibility to read these publications and to follow their direction when performing your duty.* The Legal Bureau has attorneys who will help clarify the law and answer questions that you may have. If you are in doubt about the law, confer with your supervisor to determine if a consultation with the Legal Bureau is appropriate.



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3. Do not be overly concerned about civil lawsuits. Base all your actions on the facts and act in good faith and on probable cause. Don't abuse the power or the trust people have for you as a police officer. Always act as a professional.
4. If you act reasonably, Section 50-k fully protects you from any monetary loss.
5. For a full understanding regarding the subject, the following should be read: Patrol Guide 211-21 and Legal Bureau Bulletin Vol. 17, No. 2.

### WHISTLEBLOWERS LAW

During this lesson, we have discussed very important topics regarding our integrity as police officers; more importantly our responsibility to maintain this integrity and image. We should all recognize the importance of reporting corruption in a timely manner in order to prevent its widespread effects. Those officers who witness corruption and report it should be commended for their efforts. However this is not always the case. Officers who have reported acts of misconduct have often been subject to what is known as "Adverse Personnel Action" and have been labeled as "Whistleblowers."

In order to combat this type of retaliation, Mayor Bloomberg signed a bill on February 18, 2003 Amending the NYC Whistleblowers Law. (NYC Administrative Code 12-113) "Adverse Personnel Action" by definition includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space or equipment or other benefit to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

The Amendment to the Whistleblowers Law has extended protection beyond the categories of criminal activity and corruption. The law now includes reports against gross mismanagement and abuse of authority. The Amendment has also expanded protection to all city agencies, not just those who have heads appointed by the Mayor. Of course the law protects all members of the New York City Police Department. In essence, the law stipulates that if any member of the service reports any act of misconduct there shall be no "Adverse Personnel Action" taken against said member. The Amendment also stipulates that anonymity and confidentiality of the reporting member be maintained. Those that do take "Adverse Personnel Action" against a reporting officer are subject to penalties including but not limited to Department dismissal, fines and, or imprisonment.



# POLICE STUDENT'S GUIDE

## Integrity Crimes and Liability Issues

### QUESTIONS

1. Officer Jones was served with a summons and complaint on March 10<sup>th</sup>. He goes on vacation, and delivers the documents to his commanding officer upon his return on March 25<sup>th</sup>. Is this appropriate?
2. Officer Marshall is being defended by the Corporation Counsel. When requested by the Corporation Counsel to come down for an interview on her regular day off, she refuses. Must she be indemnified?
3. Officer Williams makes an off-duty arrest in Nassau County. Although Officer Williams acted properly, he is later sued for making an illegal arrest. Must he be indemnified?
4. In the situation in Question 3, *may* Williams be indemnified?



# POLICE STUDENT'S GUIDE

## Integrity Crimes and Liability Issues

### L.B.B. INDEX

For more information on ***Bribery*** and related offenses, read the following **Legal Bureau Bulletins**:

1. Vol. 1, No. 19, "BRIBERY," Penal Law sections 10.00 (17) and 200.00.
2. Vol. 15, No. 2, "ACCEPTANCE OF FREE OR DISCOUNT MEALS OR OTHER GRATUITIES BY POLICE PERSONNEL," Penal Law sections 200.30 and 240.36.

For more information on ***civil liability***, read the following **Legal Bureau Bulletin**:

1. Vol. 17, No. 2, "CIVIL LIABILITY OF POLICE OFFICERS," General Municipal Law, 50-k.



# **POLICE STUDENT'S GUIDE**

## **Domestic Violence**

### **WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT DOMESTIC VIOLENCE?**

One of the most explosive issues facing the criminal justice system today is how to react to and control interpersonal violence. Until recently, primary attention was placed upon the control of violence committed by strangers. Such acts were properly seen not only as inflicting serious harm, if not fatalities, on their victims but also as challenging the essence of a public order committed to nonviolent resolution of disputes.

Within the last fifteen years, attention has also focused on what is statistically the greater problem, violence within family structures. As awareness grew of previously unreported incidents of brutal attacks upon intimates and elderly relatives, concerns that first arose over abused children were expanded to encompass other family members.

The following are alarming statistics on domestic violence related crimes:

- The New York City Police Department responds to 600 domestic incidents per day.
- 49% of all female homicide victims in New York City are killed in intimate partner homicides. (Mayor's Office to Combat Domestic Violence)
- Of these intimate partner homicides, teenagers comprise approximately 8% of the total victims. (Mayor's Office to Combat Domestic Violence)
- In the United States, four women are killed every day by their male partners.
- In New York City, foreign-born women were an overrepresented group among intimate partner homicide victims between 1990-1997. (Mayor's Office to Combat Domestic Violence)
- In 2002, 68% of all family related homicides in New York City were committed against women who were either immigrants or women of color.
- Although overall homicide rates have declined in New York City, domestic violence homicide remained at 12-13%. Approximately 25% of those victims are under 10. (Mayor's Office to Combat Domestic Violence)
- A 2002 study of 11 cities, including New York City, showed a high correlation between forced sexed and domestic violence related homicide. (Mayor's Office to Combat Domestic Violence)



# POLICE STUDENT'S GUIDE

## Domestic Violence

- Studies estimate that 3-5% of the elderly population have been abused. The Senate Special Committee on Aging estimates that there may be as many as 5 million elders abused every year.
- It is estimated that \$5 to \$10 billion a year is spent on health care, criminal justice, and other social costs of domestic violence.
- Domestic Violence is a public health epidemic directly affecting an estimated 6.2 million American women every year, and causing more injury to women than vehicle accidents, rape, and robbery combined.
- Proportionately, women are more likely to be injured in violence committed by intimates than by strangers.
- It is estimated that 25% of workplace problems such as absenteeism, lower productivity turnover, and excessive use of medical benefits are the result of family violence.
- In fiscal year 2001, the New York City Police Department made nearly 24,000 family related arrests, an increase of more than 60% since Fiscal Year 1994. (Mayor's Management Report, fiscal year 2001)
- Over 4,000 of these family-related arrests were for violations of Orders of Protection, more than double the amount of such arrests made in Fiscal Year 1994. (Mayor's Management Report, fiscal year 2001)
- In 2002, New York City's Domestic Violence Hotline received over 150,000 calls, a 67% increase from 1999. (Safe Horizon, New York, N.Y.)
- Over 10,000 calls to the City's Domestic Violence Hotline in 2002 were from teenagers. (Safe Horizon, New York, NY)
- In a survey of New York City public hospitals and treatment centers, 2,430 victims were self-identified as domestic violence victims in 2000. (New York City Health and Hospitals Corporation)
- Approximately 10% of the identified domestic violence victims treated at New York City Public Hospitals are under the age of 20.
- In a survey of over 500 female clients involved with preventive service child welfare agencies in New York City, approximately 49% reported violence in their intimate relationship. (Family Violence Prevention Project Data, 1996-97, Administration for Children's Services)



# POLICE STUDENT'S GUIDE

## Domestic Violence

### Domestic Violence Facts

Domestic violence is a learned behavior, not a mental illness or individual pathology. People are abusive because they are taught that it is an effective, acceptable response to stress, frustration, and anger. Men, specifically, may be socialized to believe that aggression equals power and that abuse and control can be justified.

Domestic violence occurs in all ethnic, religious, and social groups. The actual extent of domestic violence may not differ much across social and cultural groups but the rate of official reporting and identification does.

It is clear that both male and female children are affected when they grow up in an abusive environment. The symptoms exhibited by children who witness domestic violence can be similar to those of children who are physically abused.

Research has shown that battering may first occur or increase during pregnancy. According to a study published by the March of Dimes, pregnant women seeking routine prenatal care reported being abused. These women tend to suffer injuries to the stomach, breasts, or pelvic area.

According to the Justice Department, about three out of four spousal assaults occur between people who are divorced or separated. In many cases, the separation process precipitates an increase in the level of violence and harassment. Several studies have indicated that the majority of domestic homicides occur during the separation or divorce process. This phenomenon is easily understood because the abuser's power and control are threatened when a partner leaves.

Women stay in abusive relationships due to fear, lack of resources, psychological damage, and the hope that the abuse will stop. More women are killed by their partners after ending the relationship than at any other time.

Of all families experiencing domestic violence, many also experience the effects of alcohol-related problems. The use and abuse of alcohol however does not cause violent behavior. Substance abuse and physical abuse are problems that should be dealt with separately. Many batterers use alcohol to explain or excuse their violence and to minimize their responsibility for the violent acts they have committed. This is also true with drug use and stress. Stress, drugs, and alcohol do not cause battering, but batterers often use these as a way to excuse their use of violence.



# POLICE STUDENT'S GUIDE

## Domestic Violence

Abusers tend to harm any person with whom they are in a relationship, regardless of the victim's personality or actions. An abuser needs no provocation to become violent. Violence is part of the abuser's pattern of responding. It is important to understand that his/her partner, the victim, ***is not in control of this behavior, nor does the victim cause the partner's behavior.***

Studies indicate that batterers will also harm their children. The severity of the abuse of the mother is reflected in the abuse of the child. The abuse of children is more likely when the marriage is dissolving, or when the couple has separated. The aggressor may not wish to relinquish dominance of the partner and/or the children.

Domestic violence is a pattern of coercive behavior, which serves to maintain power and control over family/household members, including children, or intimate partners. This pattern may include physical, emotional, psychological, economic, and/or sexual abuse and may escalate in frequency and severity over time.

Coercive behavior can include criminal acts such as: assault, sex crimes, stalking offenses, property crimes, and child endangerment. Conduct that is not considered criminal in nature by itself may nevertheless form a basis for criminal charges when the behavior instills fear of injury, harm, or is intended to annoy, intimidate, or alarm the person over a period of time. Domestic violence is not usually an isolated incident, but rather a pattern of abuse.

### Dynamics of Violence

Some types of abuse have the potential for escalating into violations of law, for which police officers can make arrests. However, ***other forms of abuse do not rise to the level of criminal behavior.*** In order to monitor **all** victims, ***police officers are required to complete a New York State Domestic Incident Report (D.I.R.) (DCJS 3221)*** to track all incidents, regardless of whether the conduct complained of is criminal behavior.

### Tactics Used by People who Batter to Control the Lives of their Partners

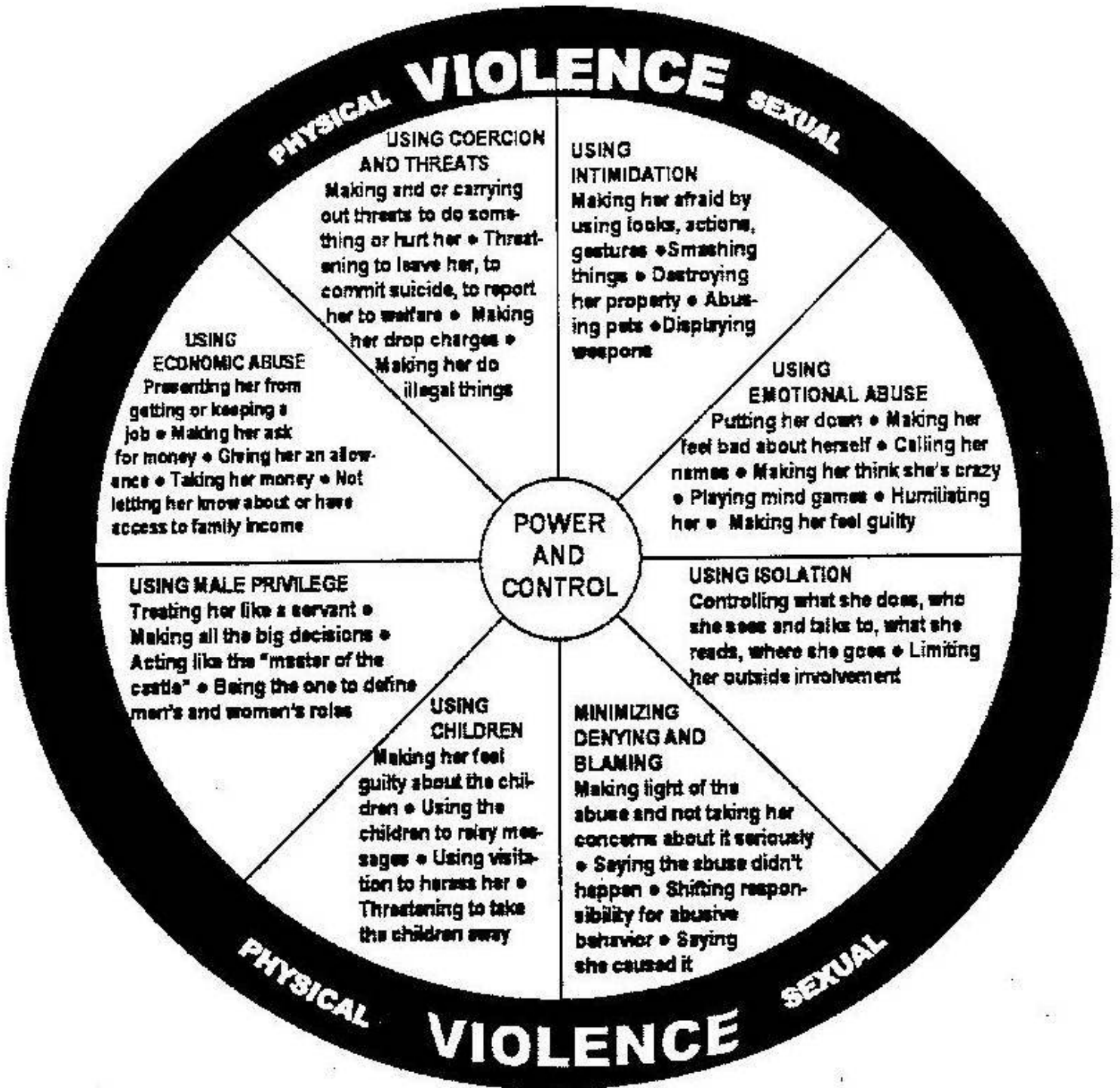
For the police officer to have a better understanding of domestic violence, it is important to understand the tactics used by abusers against their partners. Developed by the Domestic Abuse Intervention Project of Duluth, Minnesota, the Power and Control Wheel helps us to see how an abuser keeps the victims from leaving the relationship.





# POLICE STUDENT'S GUIDE

## Domestic Violence





# POLICE STUDENT'S GUIDE

## Domestic Violence

### Using Coercion and Threats

- Making and/or carrying out threats to do something to hurt the victim
- Threatening to leave the victim/commit suicide/make false allegations
- Making the victim drop charges
- Making the victim engage in illegal activities

### Using Intimidation

- Instilling fear
- Destroying property
- Abusing pets
- Displaying weapons

### Using Emotional Abuse

- Verbal abuse and insults
- Playing *mind* games
- Humiliation

### Using Isolation

- Controlling who or what the victim sees and does
- Limiting outside involvement
- Using jealousy to justify actions

### Minimizing, Denying and Blaming

- Making light of abuse
- Denying abuse
- Shifting responsibility for abuse by blaming victim

### Using Children

- Using children to relay intimidating or threatening messages
- Using visitation to harass
- Threatening to take away children

### Using Male Privilege

- Treating victim like a servant
- Making all decisions
- Acting like the "master of the castle"

### Using Economic Abuse

- Preventing victim from getting a job
- Making victim ask for money/denying access to money
- Giving victim an allowance



# POLICE STUDENT'S GUIDE

## Domestic Violence

### Cycles of Violence

A batterer does not always batter. Sometimes the batterer is loving and caring and at other times, he/she is threatening and abusive. Domestic violence tends to follow a **six-phase cycle**. The length of each phase depends on the individuals involved, although the period between violent outbursts tends to be shorter over time. In terms of risk assessment, police officers should be aware that a victim who has left the relationship or has threatened to leave might be in increased danger.

**Build-Up Phase** - Tension builds within the perpetrator for various reasons. His/her behavior may be more aggressive and intense regardless of how hard the victim tries to calm him/her.

**Stand-Over Phase** - Because of the perpetrator's possible and implied physical strength, and the realistic and frightening threats, the victim feels under the partner's control.

**Explosion Phase** - A violent outburst occurs and is usually carried out in a fit of self-righteous rage. These outbursts are likely to intensify over time. After the assault, the perpetrator may enter the remorse stage.

**Remorse Phase** - The perpetrator may feel ashamed or guilty and afraid of the consequences, however, he/she will usually deny or understate the violence and refuse to take responsibility for his/her actions. The abuser may claim that the victim is responsible for the violence and provokes the abuser. The abuser may claim that he/she was out of control and did not realize what he or she did. The abuser may feel that the victim deserved it. The victim often believes this "reasoning" because to admit otherwise would be to acknowledge the potentially dangerous situation in which he/she is living.

**Pursuit Phase** - If the victim leaves the abuser following the violent incident, the perpetrator will usually try extremely hard to win the partner back. This is also known as the "Buy-Back Phase" because the perpetrator will try to buy back the victim by showering the victim with extravagant gifts, being loving and attentive, and promising not to hurt again. The victim may return, wanting to believe that the abuser has changed. If the victim still refuses to go back, the abuser may resort to threats and more violence. The majority of domestic violence occurs during this time. The victim may then return out of fear. Alternatively, the perpetrator may become helpless, saying that he/she cannot cope without the partner and threaten suicide if the partner does not come back. The victim may return feeling needed, or that they must protect the abuser from harming themselves.



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**Reconciliation Phase** - If reconciliation occurs, the couple, having come so close to separation and destruction, may experience a very intense, intimate relationship where neither wants to remember the pain of the violence and earlier abuse is denied. The perpetrator may be communicative and responsive to his partners needs leading her to hope or believe that he has changed. Unfortunately, in violent relationships, the cycle inevitably continues as the underlying issue of control reappears.

### Progression of Violence

Early on in a relationship, when the controlling behaviors are typically less intense, less severe, and are imposed under the disguise of good intentions, it may be very difficult to clearly identify them as part of a pattern. Often the victim views the first violent incident as an isolated incident. This coupled with the batterer's likely remorse and promises to never repeat the behavior can cause a victim to be easily persuaded to stay and "work it out."

Over time, however, the victim may begin to see the repeated promises and apologies as empty, seeing little change (or an increase) in his/her partner's violence since the first violent incident. If the abuser's "making up" behaviors no longer instill hope and motivate the victim to stay in the relationship, he or she may look for other ways to maintain control over the victim.

Often, that means the abuser will increase his/her use of threats, violence or other forms of control, which increases a victim's level of danger and fear – a process known as entrapment. The fear, isolation, and confusion caused by this pattern of abuse can keep a victim on edge and afraid to tell anyone what is happening. This can also make the victim afraid to reach out for help.

### Why Victims Stay

Under the best of circumstances, it is difficult to end a relationship with an intimate partner. Love, extended family, children in common, shared memories, and a sense of commitment to each other are bonds that are hard to break. Victims face the additional risk of physical, emotional and psychological harm, and a justifiable fear that it is more dangerous to leave. In addition, many victims want the violence to stop, but they do not necessarily want the relationship to end.

There are many obstacles to achieving safety with a violent partner, and the choices victims confront are not risk free. Some of these obstacles include the risk of physical and psychological abuse to self and children, financial hardship, hope that the abuser will change, and fear of loneliness.



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### The Domestic Violence Hotline

On June 1, 1994, New York City established a dedicated, 24-hour, seven days a week, toll-free Domestic Violence Hotline. The only centralized citywide hotline of its kind in the nation, it was created in response to the needs of the City's domestic violence victims seeking immediate assistance. Previously, victims of domestic violence were forced to navigate through a variety of fragmented, uncoordinated systems in order to obtain services.

The Domestic Violence Hotline is staffed by trained counselors, through a contract with a not-for-profit organization. They provide victims with immediate information on crisis counseling, safety planning, legal assistance, healthcare, and referrals to the City's emergency shelter system and to non-residential domestic violence services in the victim's neighborhood. The Hotline is accessible to hearing-impaired victims and those who require services in languages other than English.

Because of the City's extensive public education efforts, the number of calls to the Hotline has more than doubled since its inception. In 2002, the hotline received over 150,000 calls. The Mayor's Office to Combat Domestic Violence was made a permanent part of City government in 2001. This unit can be contacted at (212) 788-3156 for information regarding City services for victims of domestic violence.

### New York City Police Department - Police Strategy #4

Police Strategy #4 was created in 1994 to provide a comprehensive law enforcement response to domestic violence. It created an aggressive, pro-arrest policy for domestic violence-related crimes, and placed specially trained, dedicated Domestic Violence Prevention Officers (DVPO) and Domestic Violence Investigators (DVI) in each of New York City's 76 police precincts. The Police Department also created a computer database and tracking systems for all records of domestic incidents and current Orders of Protection, and mandated on-going trainings within the Department, ensuring that domestic violence is treated as seriously as any other crime. A domestic violence unit was established at NYPD headquarters to oversee the Department's efforts in this area.

Implementation of Police Strategy #4 has been thorough and successful. From fiscal year 1994 to fiscal year 2001, family-related arrests increased 35% and arrests for violations of Orders of Protection increased 114%. There are now over 300 Domestic Violence Prevention Officers and Domestic Violence Investigators throughout the City. In fiscal year 2001, there were over 233,000 Domestic Incident Reports (DIR's) filed. **Every time we respond to an incident involving family matters, a DIR *must* be prepared, (e.g., altercation, disturbance, conflict, or dispute), or if the incident is an allegation of child abuse.**



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### P.H.O.N.E.S. Initiative

New York City conducted the largest citywide cellular telephone recycling program in the country. This program is now providing individuals who need immediate access to emergency services with cellular telephones pre-programmed to call 911 and the City's Domestic Violence Hotline. The recycling drive led to over 22,000 cell phone donations. Through the P.H.O.N.E.S. program (People Helping Others Needing Emergency Services), City agencies are distributing the re-programmed cell phones to domestic violence victims. For additional information, contact the Mayor's Office to Combat Domestic Violence at (212) 788-3156.

### Tactical Considerations

Responding to instances of domestic violence has long been a common occurrence for police officers. These situations, however, place the police officer in a very demanding and complicated position. Experience has shown that officers must be constantly aware that their safety and the safety of others must be given constant consideration. In addition, the role of peacemaker on the one hand, and law enforcer on the other, also comes into conflict in these situations.

On May 21, 1996, Police Officer Vincent Guidice and his partner responded to the scene of a domestic violence call. As the officers attempted to subdue and apprehend the perpetrator, Officer Guidice was mortally wounded when a shard of glass from a broken mirror severed his femoral artery as a result of the struggle. Throughout the country, nine (9) police officers were killed at the scene of domestic incidents in 2001 alone.

To minimize the threat of injury to members of service on the scene of a domestic incident, police officers must be cognizant of the hidden dangers involved. It is important to separate and observe the parties involved while maintaining visual contact with other police officers. Many victims may be reluctant to reveal details if the perpetrator can hear the conversation. Certain areas of the home, such as the kitchen where knives are present, pose a particular threat, however weapons may be secreted almost anywhere. ***Every effort should be made to keep all parties away from areas that may contain dangerous articles (i.e. kitchen, garage, etc.).***

### Overcoming Obstacles to Communication

At times, the assistance of an interpreter may be needed when there is an inability to communicate with parties involved in the incident because of a language barrier or other obstacle to communication (e.g., hearing impairment). The Operations Unit should be contacted to provide an interpreter as necessary.



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If an interpreter is not available, it is not advisable for a police officer to use a family member to communicate because of potential impartiality due to the fear of arrest of a family member or other personal bias. Victims are more likely to respond openly and honestly if an impartial party translates.

### WHY POLICE RESPOND TO DOMESTIC INCIDENTS

A primary distinction that the police officer must draw is whether the incident constitutes a **domestic dispute** or **domestic violence incident**. A domestic dispute involves two or more persons living in a family-type setting where a verbal conflict has arisen and no criminal law has been violated. A domestic violence incident, however, is an incident that involves two or more persons living in a family-type setting who have engaged in an altercation that *has* violated criminal law.

An act defined by the penal law as a crime *is still* a crime regardless of the relationship of the offender to the victim. The offense may arise from a dispute (e.g., argument, screaming matches), but once the conflict reaches a criminal level, it may no longer be handled as merely a dispute.

### Creation of Department Guidelines

Department guidelines define standards for police response to domestic violence situations involving members of the same family or household. They were instituted with two major objectives in mind:

1. To provide a concise explanation of the standards to be followed in domestic violence situations involving (a) felonies, (b) misdemeanors, (c) violations, and (d) orders of protection; **and**
2. To provide police officers with procedures for recording their compliance with these standards.

### Definition of a Family/Household

For purposes of properly investigating, referring, or enforcing the law with respect to instances of domestic violence, the following relationships will be considered members of the same family or household as defined in the **Family Court Act**. These include persons who:



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- A. Are **legally married** to one another; **or**
- B. Were **formerly legally married** to one another; **or**
- C. Are related **by blood** (consanguinity); **or**
- D. Are related **by marriage**; affinity (e.g., in-laws, etc.); **or**
- E. Have a **child in common**, regardless of whether such persons have been married or have lived together at any time.

### Definition of a Family/Household – NYPD Expanded Definition

The NYPD has expanded the definition of a family/household to include two other categories to afford persons who have non-traditional family relationships the same procedural protections as those that have traditional family relationships. Accordingly, the NYPD's definition **includes subdivisions "A" through "E"** above, **and** persons who:

- F. Are not legally married, but are **currently living together in a family-type relationship**, including New York City domestic partners; **or**
- G. Are not legally married, but **formerly lived together in a family type relationship**.

A complainant or offender in a domestic violence situation may be a spouse, a parent, a child, other relative through blood or marriage, people who have a child in common, roommate, or any individual who is living in or has lived in a family-type relationship with another.

**Note:** Only persons whose relationship is defined in the Family Court Act, Section 812, as described in categories "A" through "E" above, may have their cases adjudicated in family court. The family court does not recognize categories "F" and "G."

### Definition of "Family Offenses"

Criminal Procedure Law Section 530.11 and Family Court Act Section 812 establish special procedures regarding arrests for specific domestic violence crimes. These crimes, referred to as **family offenses**, consist of the following:





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1. **Menacing** (3rd Degree, a class B misdemeanor, and 2nd Degree, a class A misdemeanor);
2. **Assault** (3rd Degree, a class A misdemeanor, and 2nd Degree, a class D felony, including Attempted Assault 3rd Degree, and Attempted Assault 2nd Degree);
3. **Disorderly Conduct** (a violation - including acts not committed in a public place).
4. **Reckless Endangerment** (2nd Degree, a class A misdemeanor, and 1st Degree, a class D felony);
5. **Aggravated Harassment** (2nd Degree, a class A misdemeanor);
6. **Stalking** (1st Degree, a class D felony, 2nd Degree, a class E felony, 3rd Degree, a class A misdemeanor, 4th Degree, a class B misdemeanor);
7. **Harassment** (2nd Degree, a violation, and 1st Degree, a class B misdemeanor).

### PROPER POLICE RESPONSE TO DOMESTIC VIOLENCE (P.G. 208-36)

When a police officer responds to, or is notified of, any incident involving members of the same family/household (including the NYPD expanded definition), the officer should

1. Obtain medical assistance if needed or requested.
2. Ascertain all facts.
3. Take photographs (2 sets) if the victim has visible physical injuries, or if property damage exists as a result of violence.
4. Collect evidence and record statements of persons present at time of occurrence.
5. Be cognizant that many ethnic cultures may have different views as to what constitutes domestic violence or abuse.



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6. Determine whether:
  - a. Probable cause exists that any offense has been committed;
  - b. An order of protection has been obtained by the complainant/victim;
  - c. The offense constitutes a family offense.
  - d. There are children present in the home who may be victims of neglect, abuse, or maltreatment. The officer should conduct an investigation and make proper notifications or take summary action as required.
7. If it appears that members of the New York City Police Department are involved (uniformed or civilian members of the service), **request response of the Patrol Supervisor.**
8. You should temporarily remain on the scene until reasonably satisfied that the danger or recurrence of the incident has passed if no arrest has been effected.
9. When offender has departed scene prior to arrival of police: Conduct search of immediate vicinity for offender when:
  - a. Probable cause exists that a crime has been committed or an Order of Protection has been violated, and
  - b. Officer has reason to believe that such search might yield positive results. Advise complainant/victim to call police when offender returns if search produces negative results. Follow reporting procedures as set forth below.

### Domestic Incident Report

In **all** instances in which police respond to, or become apprised of an incident (e.g., altercation, disturbance, conflict, or dispute) that involves members of the same family/household (including NYPD expanded definition), or an allegation of child abuse is received, the assigned officer must prepare a **New York State Standardized Domestic Incident Report (DIR)**.

When preparing a DIR, the officer should adhere to the following guidelines.

1. If prepared in response to a radio run, include SPRINT job number on form.



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2. List in the "Narrative of the Incident" section all factors that resulted in determination or inability to determine that a particular offender was the primary physical aggressor and whether any property was removed, (e.g. arrest evidence, safekeeping, etc.).
3. Ensure that the name and phone number of the precinct Domestic Violence Prevention Officer is printed on the rear of the last copy of the N.Y.S. Domestic Incident Report. Advise complainant/ victim to contact the Domestic Violence Prevention Officer to obtain further information (e.g. referrals, voucher number, etc.).
4. Insert tax number of reporting member of the service in caption entitled "Officer I.D. No."
5. Give New York State Standardized Domestic Incident Report (pink copy) and Domestic Violence Notice (gold copy) to complainant/victim, if present. This copy contains information concerning victim's rights and the telephone number to the 24 hour all language domestic Violence Hotline.
6. Inform all parties that the Precinct Domestic Violence Prevention Officer may contact them concerning the incident.

**Note:** Domestic Incident Reports must be maintained at the precinct of occurrence. If an arrest is effected, the arresting officer must ensure that the Assistant District Attorney is provided with copies of all Domestic Incident Reports prepared concerning the person arrested.

### The Presence of Firearms

In addition to the above-mentioned guidelines, police officers will question persons who are present at a domestic incident about the existence of firearms in the household. Officers should **seize any firearms** (including rifles and shotguns), and **any licenses or permits** if:

1. License holder is arrested; or
2. An order of protection exists against Licensee; or
3. Incident involves physical force or threat of physical force.

In addition, when a police officer reasonably believes that the presence of firearms at a location creates an **imminent risk of physical injury or serious physical injury**, the following actions should be taken to remove the weapons from the location:



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4. Seize illegally possessed weapons and arrest offender; or
5. Seize any legally possessed weapons when such weapons create an imminent risk of P.I. or S.P.I.; or
6. Voucher legally possessed firearms that are voluntarily surrendered

### Proper Documentation at Domestic Violence Incidents or Arrests:

Police officers should carefully document information obtained at the scene of a domestic incident whether or not an arrest is made. Information that may seem unimportant at the time may prove to be significant during an investigation leading to an arrest or helpful to prosecutors after an arrest. This information is vital because complainants may change their minds about testifying or may be intimidated by the defendant.

Additionally, domestic violence cases prompt the involvement of many other units within the department such as the Domestic Violence Prevention Officer, Precinct Detective Squad, Special Victims Squad, Gang Unit, just to name a few, as well as outside agencies such as Administration for Children's Services ("ACS") and various other City agencies created to intervene and assist families affected by domestic violence.

Police officers should follow the general guidelines listed below regarding the areas to document when responding to the scene of a domestic incident.

**Excited Utterances:** Also known as Spontaneous Utterances  
Document what the defendant is saying and how he or she is acting (e.g., "She asked for it.").

**Note:** If a defendant makes a verbal threat to the victim as he or she is being arrested by the police (e.g., "you'll pay for this"), you should also charge **Intimidating a Witness - Felony** (P.L. 215.15), which deals with the intent of a person to prevent a witness of a crime from relaying information to a law enforcement officer.

**Location of Alleged Offender:** Document where the defendant was when the police arrived. Did the police officers hear what was going on inside prior to entering the home?



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**Injuries:** Document the victim's injuries and encourage him/her to go to the hospital. Did the victim appear to be treating him/herself (e.g., ice pack over eye, etc.)? Was the victim limping or complaining of pain? Remember: He or she may testify, "It wasn't that bad." Document the defendant's injuries. He or she may claim that they acted in self-defense.

**Condition of Scene:** What is the condition of the scene or home? Document the layout. If the area qualifies as a crime scene follow the appropriate Patrol Guide procedure (P.G. 212-04)

**Persons Present:** Find out who was present at the time of the incident. Take statements from other witnesses (family members, neighbors, etc.).

**Identify the Caller:** Document who called 911 and why they called.

**Interview Children:** Interview each child in the home *separately*. Ask specific, non-leading, open-ended questions. **Do not use children** as *interpreters* for alleged victims or alleged perpetrators.

**Invoice Evidence:** This includes any item that may have been used as a weapon, even if the item may not be unlawful (e.g., rope, phone wires, kitchenwares, etc.), as well as threatening communications (e.g., letters, tapes, etc.), and clothing, if torn or bloody. If an item cannot be invoiced, such as a wall or floor that a victim was injured against, document and photograph, then invoice the photos.

### The Primary Physical Aggressor

Criminal Procedure Law Section 140.10 (4) (c) mandates that where a police officer has reasonable cause to believe (i.e., probable cause) that **more than one (1)** family member or household member has committed a **family offense misdemeanor**, such police officer is **not** required to arrest each person, but must attempt to identify and arrest the **primary physical aggressor**.

When attempting to determine who the primary physical aggressor in a domestic violence situation was, a police officer shall consider the following criteria:

1. The comparative extent of any injuries by and between the parties. (In other words, whose injuries are worse?)



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2. Whether there are offensive and defensive wounds. For example, a swollen hand may be an offensive wound, while a bruised forearm may be an indication that the person tried to shield himself from an attacker resulting in a defensive wound.
3. Whether there is an existing order of protection.
4. Evidence from witnesses.
5. Whether any of the parties are threatening future harm against another party or another family or household member.
6. Whether any of the parties have a history of domestic violence that the police officer can reasonably ascertain.
7. Whether any such person acted defensively to protect himself or herself from injury. In other words, is the person's conduct justifiable under Article 35 of the Penal Law?

The primary physical aggressor law does not prohibit the arrest of **both** parties if a primary physical aggressor cannot be determined in a domestic violence situation.

**Example:** Where there is reasonable cause to believe that both parties to a particular domestic violence dispute have committed family offense misdemeanors and the responding police officers are unable to determine who, if anyone, was the primary physical aggressor, it would be lawful to **arrest both parties**. Even where the responding police officers are able to determine who the primary physical aggressor was, both parties may be arrested, if appropriate.

The primary physical aggressor law does not pertain to violations, non-family offense misdemeanors, or felonies. Furthermore, it only applies to persons who are covered by the definition of family/household members located in section 530.11 of the Criminal Procedure Law or section 812 of the Family Court Act ("A" through "E"). Thus, there is **no obligation to identify** the primary physical aggressor in domestic disputes between persons who are not legally married but currently living together, or have formerly lived together in a family-type relationship - unless they have a child in common (NYPD expanded definition "F" and "G").



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The primary physical aggressor law also requires that each complainant of domestic violence be evaluated separately and provides that the police officers shall not base a decision to arrest or not arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding. In addition, police officers shall not threaten the arrest of any person for the purpose of discouraging requests for police intervention. Finally, when the victim of domestic violence is non-English speaking, a translator must be used before making a dual arrest to assure the police officer has accurately assessed that a primary physical aggressor could not be determined.

### Circumstances Where the Officer Must Arrest

Pursuant to the New York State Criminal Procedure Law and applicable Patrol Guide procedures, a police officer who responds to a report of an offense committed between members of the same family or household (including NYPD expanded definition A-G above), **must** make an arrest and shall **not** attempt to reconcile the parties or to mediate situations where there is probable cause that the offense committed was:

**Felony:** An arrest will be made even if complainant does not want the arrest made. The officer has no discretion in this matter.

**Violation of an Order of Protection:** An arrest will be made even if the complainant does not want an arrest made. This is so even if the act prohibited by the order does not amount to a crime. The fact that the order was violated constitutes a misdemeanor or possibly a felony under the penal law.

**Misdemeanor:** The officer must arrest **unless** the complainant **specifically states** that he or she does not want the offender arrested. If the complainant does not want the offender arrested, it is within the officer's discretion to effect the arrest if, in the officer's judgment, an arrest is warranted (e.g., on-going dispute, complainant appears to be intimidated, or potential for greater violence).

**Violation in Officer's Presence:** In this instance, the officer also must arrest **unless** the complainant specifically states that he or she does not want the offender arrested. If the complainant does not want the offender arrested, it is within the officer's discretion to effect the arrest if in the officer's judgment an arrest is warranted. **A summons may not be issued.**



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**Note:** For misdemeanors and violations in the officer's presence where the complainant does not want the offender arrested, the officer will make an entry in his or her Activity Log and request the complainant to sign. If the complainant will not sign the Activity Log, the officer will enter "*Refused Signature.*"

### Complainant's Objection to an Arrest

The primary considerations when the complainant/victim does not want an arrest are the prevention of further violence and the safety of **all** household members. Factors to be taken into consideration include, but are not limited to:

- a. The history between the offender and victim (prior arrests, incidents, injuries sustained etc.). If possible, conduct an inquiry through the Precinct Domestic Incident Database.
- b. The officer's observations of the scene and victim.
- c. Statements of witnesses.
- d. Statements made by the offender (especially threats of suicide, homicide or other future violence).
- e. Threatened use of weapons, or the presence of or access to weapons by the offender.
- f. Mental and physical state of the offender (drug or alcohol intoxication, etc.).
- g. Presence of other household members who may be at risk, including the elderly.

In misdemeanor or violation domestic violence cases, the ***officer shall not ask whether the victim wants an arrest made.*** If an officer has any doubts about the continued safety of any household member, an **arrest** should be effected.

Unless the complainant **specifically communicates** to the officer that he or she does not want the arrest effected, nothing will preclude an officer from making the arrest. This is true even if the officer believes that the complainant will not follow through with the prosecution or the victim refuses to cooperate with the officers.





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### Violations *Not* Committed in the Officer's Presence

For a police officer to make an arrest, a penal law violation must be committed in the officer's presence. If it is not, refer the complainant as follows:

1. Family/household members, as defined in the Family Court Act, **and** family offense violation, to:
  - a. N.Y.S. Family Court, **or**
  - b. N.Y.C. Criminal Court, Summons Part. (If concurrent jurisdiction exists, the complainant may go to either court or both.)
2. Family/household - expanded definition subdivisions "F" and "G" and/or non-family offense violations - N.Y.C. Criminal Court, Summons Part.

**Note:** A police officer cannot arrest for a violation not committed in his/her presence unless the conduct constituting the violation is specifically prohibited in a valid order of protection.

### Concurrent Jurisdiction

The family court and the criminal courts have jurisdiction to hear domestic violence related matters. This parallel authority is known as **concurrent jurisdiction**.

There is concurrent jurisdiction in these courts to hear family offenses between family/households as defined in the Family Court Act ("A" through "E"). When such a family member is arrested on a family offense, although concurrent jurisdiction may exist, the **arrested person must be first taken directly to criminal court** for arraignment. Charges, however, may be brought in either family court or the criminal courts, and the complainant/victim has the option to change from one court to the other at anytime before the verdict or disposition, or to proceed simultaneously in both courts.

It is the responsibility of the assigned or arresting officer to advise the complainant of the option to proceed in one court or both. Before the complainant can make an informed decision, the officer must explain the different nature of the two court systems.



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Generally, a **family court** proceeding is a **civil proceeding** for the purpose of attempting to stop violence, end family disruption and obtain protection. Referrals for counseling and counseling services are also made available. A proceeding in the **criminal courts**, on the other hand, is for the purpose of prosecution of the offender and can result in a **criminal conviction** of the offender. **Both** family court and the criminal courts have the authority to **issue an order of protection**, the purpose of which is to stop the violence and provide protection. A police officer investigating a family offense must also advise the victim of the availability of shelter or other services by providing the Domestic Violence Hotline number that is on the back of the DIR.

**Note:** If the respondent would not be criminally responsible by reason of age, pursuant to Section 30.00 of the Penal Law, then the Family Court shall have exclusive or sole jurisdiction (i.e., juvenile).

**Note:** If any non-family offense is committed, then one of the criminal courts shall have exclusive jurisdiction.

### Situations Where Concurrent Jurisdiction Does Not Exist

When a family offense is committed between individuals who are **not** legally married to one another but who are living together in a family-type relationship (including New York City domestic partners), or persons who previously lived together in a family-type relationship (NYPD expanded definition; "F" and "G"), then **concurrent jurisdiction does not exist** and the offender **must** be taken to criminal court where the matter will be heard and properly disposed.

Similarly, when the offense committed is not a family offense as defined by the Family Court Act, a criminal court will have sole jurisdiction.

If a defendant is charged with a **family offense** and an **additional criminal charge** that is **not** a family offense (e.g., assault 1st degree, rape, etc.), then the case may only be handled in a criminal court.

If a violation of an **order of protection** exists, regardless of the court of issuance, a **criminal court will have jurisdiction**.

A police officer will **not** issue a **desk appearance ticket** or **station house bail** when complainant or victim and offender are members of the same family/household (including expanded definition).



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### ORDERS OF PROTECTION

An "order of protection" is a legal order, signed, by a judge, that forbids a person from engaging in certain threatening behavior against the complaining party. The N.Y.S. Family Court, N.Y.C. Criminal Court, and the N.Y.S. Supreme Court, may issue an order of protection or a temporary order of protection on behalf of a complainant. The complainant is commonly referred to as the ***petitioner***, while the defendant is referred to as the ***respondent***.

The **family court** order may set forth reasonable conditions of behavior to be observed for a period ***of one (1) year or three (3) years*** (or longer if there was child abuse) by the complainant, defendant, or both parties, or any other member of the family or household. **Supreme Court** orders and **criminal court** orders can remain in effect for ***as long as the court specifies*** in the order.

#### Terms of the Order of Protection

An order of protection mandates that the respondent avoid certain behavior or face criminal charges for violating the order. Typically, an order requires the defendant to:

1. Stay away from the home, school, business, or place of employment, of the other spouse or the child; **or**
2. Permit a parent to visit the child at stated periods; **or**
3. Refrain from committing a family offense or any other criminal offense against the other party and/or the child; **or**
4. Abstain from offensive conduct against the child or against the other parent or against any person to whom custody of the child is awarded; **or**
5. Refrain from acts of commission or omission that tend to make the home an improper place for the child; **or**
6. Pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order, if such order is issued or enforced; **or**
7. Participate in an educational program and pay the costs thereof if the person has the means to do so; **or**



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### 8. Surrender firearms, ammunition, and licenses.

The court may also award custody of the child during the term of the order of protection to either parent or to an appropriate relative. The court may also upon the showing of special circumstances, extend the order of protection for a reasonable period of time.

### Procedures to Follow Regarding Orders of Protection

If you receive a complaint that an order of protection has been violated, an arrest must be made. Prior to the arrest, however, you must ascertain that the **order is valid** and is not expired. You must also determine whether there is **probable cause** to believe that the person to be arrested did violate the terms of the order of protection.

In situations where an arrest is made for a violation of **any** order of protection issued by **any** court either in New York State or any other state, the **arrest will be processed in N.Y.C. Criminal Court.**

If the Family Court issued the order, the officer will also advise the complainant or victim that he or she has the right to proceed independently in Family Court by filing a petition with that court. The police officer, however, will still be required to bring the offender before the local criminal court.

This procedure applies only to arrests arising from violations of orders of protection. Keep in mind that concurrent jurisdiction still exists for arrests arising from family offenses committed against family members as recognized by the Family Court Act where no orders of protection exist.

### What to Charge when an Order of Protection is Violated

Regardless of the nature of the prohibited conduct, a **violation of an order of protection** is a **criminal act**. This is because the arrest is based on the defendant's **defiance** of the order. For instance, an order may prohibit the respondent from standing outside of the petitioner's residence. This act by itself does not constitute a crime, but when a judge orders a person to refrain from this behavior, and the person defies it, he has committed a **crime**.

When an order of protection is violated and the act that violates the order is also an offense (e.g., assault, menacing, harassment, etc.), the offender will be charged with the offense committed **in addition** to the charge for violation of the order of protection.



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In all cases, whether the order of protection was issued by Family Court, Supreme Court, or Criminal Court, and whether the violation constitutes an offense or not, the penal law crime charged will be either **Criminal Contempt, 1st degree; Criminal Contempt, 2nd degree; or Aggravated Criminal Contempt**; as appropriate, and the offender will be brought to Criminal Court.

### Out-of-State Orders of Protection

Uniformed members of the service are mandated by Federal Law to enforce out-of-state orders of protection in the following situations:

1. The complainant **produces** a valid order of protection or the officer **reasonably believes** of the existence of such an order; **and**
2. The officer has **probable cause** to believe the order of protection has been violated; **and**
3. The **offender had notice** of the existence of the order and an opportunity to be heard before the court of issuance.

In **all cases** where a violation of an order of protection is alleged, the appropriate charge will be **criminal contempt**, in addition to any other charges. Article 215 of the New York State Penal Law defines the various criminal contempt charges.

### Certificate of Warrant

The Family Court may also issue a **warrant** directing that the defendant be brought immediately before the court when it appears that:

1. The summons cannot be served; or
2. The respondent has failed to obey the summons; or
3. The respondent is likely to leave the jurisdiction; or
4. A summons, in the court's opinion, would be ineffectual; or
5. The safety of the petitioner is endangered; or
6. A respondent on bail or on parole has failed to appear.

Upon issuance of the warrant, the complainant will usually be given a **certificate stating that a warrant has been issued**. The presentation of such a certificate to a police officer **authorizes him to arrest the individual stated** on the warrant and take him or her to the issuing family court. A Certificate of Warrant **expires ninety-days (90) from the date of issuance**, but the issuing court may renew it.



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**Note:** All applicable rules regarding warrants of arrest also apply to this type of warrant.

### What if a Complainant Cannot Produce the Order of Protection? PG 208-38 New York State Order of Protection Registry

If complainant is unable to produce the order of protection, the police officer must telephone the **Central Records Division, Identification Section**, to verify whether an order of protection was issued. If Central Records does not have an order of protection on file, the officer will check with the **Desk Officer, precinct of complaint's residence** to determine whether an order has been filed at the precinct level. If further verification is required, the uniformed member of the service may inquire whether a record of the order exists on the **Statewide Registry of Orders of Protection**, or the protection order file maintained by the **National Crime Information Center (N.C.I.C.)**.

If the arresting officer is unable to verify the existence of the order through the above means, an arrest may still be effected as long as the investigating officer has **probable cause** to believe that the order is in existence through **credible information supplied by the complainant or victim** or **other reliable source**.

Additionally, the officer must also have **probable cause** that the order was **effectively served upon the respondent prior to its violation**. While a notation in the database file will provide the member with sufficient probable cause to believe the order was effectively served, the absence of such information in the database file will not automatically prevent the member from making the arrest. If the member, through alternate means, can verify that the order was properly served (e.g., an affidavit of service, an admission by the respondent that he/she was properly served, etc.) then the arrest can be affected.

Lastly, the fact that the order has not been properly served or that the specific terms of the order have not been violated will not prevent the member from effecting an arrest if the **underlying conduct constitutes a crime**.

### Service of an Order of Protection by a Police Officer

At times, a police officer will be called upon to serve an order of protection upon a respondent. This is necessary for two reasons: (1) police officers can effectively document the fact that the person was properly served, and (2) police officers can prevent violence between the parties.



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A police officer may serve an order of protection at any time - seven (7) days a week, twenty-four (24) hours a day. Service will be attempted for six (6) consecutive tours. Once service is completed, the officer is required to prepare a **Statement of Personal Service**.

**Note:** When called upon to serve an order of protection, inform the complainant that they need not be present upon the service of the order if they choose not to be.

The officer should make every effort to locate the respondent and serve the order. This may require the officer to inquire of neighbors, superintendent, etc., as to the respondent's whereabouts. If the respondent has moved, the officer should attempt to obtain the new address. If the new address is within the precinct, service of the order of protection will be attempted at the new location for an additional six (6) consecutive tours.

If the officer is unable to serve the order of protection, he or she is required to document each attempt on a **Warrant Officer's Report of Investigation**, make an **Activity Log (PD112-145)** entry of each attempt, and return the order of protection and any accompanying forms to the Desk Officer at the end of tour.

If the new address is outside the precinct concerned, this fact will be indicated on the **Warrant Officer's Report of Investigation**. The order of protection will be returned to the patrol borough coordinator for forwarding to the proper patrol borough.

### **Service of Exclusionary Orders of Protection**

An order of protection that ***prohibits contact*** between the petitioner and respondent or ***excludes the respondent from being present*** at the stated location is referred to as an "**exclusionary order of protection**." Once such an order is served and the respondent is made aware of the terms of the order, the order takes effect and the respondent must leave the premises. Police officers serving the order **will not forcibly remove the respondent**. Instead, the officers will explain to the respondent that failure to leave the premises within a reasonable time will result in his or her arrest for the violation of the order.

Additionally, uniformed members of the service ***may not assist respondents*** who wish to remove clothing or property (commonly known as "clothes jobs"). Instead, the respondent should be advised to return to the court that issued the order to have it amended, so that he/she may remove clothing or personal property from the location, or that the items may be delivered to the respondent or a third party.



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### MEMBERS OF THE SERVICE INVOLVED IN DOMESTIC INCIDENTS

As members of the New York City Police Department, it is difficult to envision one of our own being the perpetrator or the victim of a domestic violence incident. This topic is very sensitive. As a police officer, you may have to address domestic violence among members of the service.

The use of violence in domestic relationships always indicates the use of power and control by one household member over another. When the offender is a police officer or another member of the Department, the abuse of power can be even greater. The victim may be afraid to call the police, thinking that his or her allegations will not be believed. He or she may feel that the responding officers will try to protect their fellow officer, and/or the victim may be the one arrested. The victim probably is aware that if the batterer is arrested or the subject of an order of protection, the officer may face disciplinary action, or even worse, loss of his/her job and income.

As with any job that police officers perform, or any tasks we are assigned, we **must** uphold the standards of the law. We **must** not let our peers, or even our desire to protect one of our own, dictate the decisions we make or the actions we take – professionalism and integrity must be the overriding concern.

### The Police Officer and Domestic Violence

In many ways, families with police officers are the same as any other family. However, in addition to dealing with the same daily frustrations that all families must deal with, officers must cope with the exceptional pressures that accompany police work. The following are some factors that may make police officers more prone to alcoholism, domestic violence, divorce, and suicide:

- The police officer is a *victim* of abuse;
- Inability to exercise the power and control in the home that exists in the workplace;
- Sleep deprivation due to rotating shifts;
- Safety anxieties;
- Exposure to pain / suffering / violence.

### Consequences of Domestic Violence Involvement

Federal law makes it illegal for anyone convicted of a misdemeanor crime of domestic violence to possess any firearm or ammunition. This means that police officers convicted of such a misdemeanor will be placed on modified assignment, and/or suspended pursuant to Department guidelines. New York





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City Police Department policy dictates that an officer who is involved in a domestic violence situation has two (2) options for referral purposes:

1. The officer who voluntarily seeks counseling will have that information kept confidential, with no record of such in his or her personnel file, and such information may not hinder a transfer or promotion.
2. The officer who is referred involuntarily, usually by a supervisor will in fact have a record of this referral, which may hinder transfers and promotions.

### **Procedures Regarding Domestic Violence Situations That Involve Uniformed Members of the Service and Probationary Police Officers (P.G. 208-37 and P.G. 212-34):**

When police officers respond to a domestic violence incident involving a uniformed member of the service, they must follow the same domestic incident procedure in P.G. 208-36, and assure that the patrol supervisor is responding to the location. When the patrol supervisor responds, and once he or she determines that the situation is a domestic incident involving a member of the service, the patrol supervisor then notifies the Commanding Officer, precinct of occurrence, or the Duty Captain.

When the member of the service is a victim, the Commanding Officer or Duty Captain ensures that appropriate action is taken, and appraises the parties of the availability of counseling. When the member of the service is alleged to have committed an offense, the patrol supervisor directs that a Complaint Report Worksheet (PD313-152A) be prepared. If a member of the service is arrested, P.G. 206-11, "Member of the Service Arrested - Uniformed or Civilian," is applicable.

If a **probationary police officer** is involved in a domestic incident, or **any police incident**, the probationary police officer must report the facts to the Commanding Officer of the Police Academy, as per P.G. 212-34.

In all circumstances, no matter where issued, when a member of the service (uniformed or civilian) becomes aware that he or she is the respondent/defendant on an order of protection, the member concerned **must immediately** notify his/her commanding officer/supervisory head. The commanding officer/supervisory head will interview the member concerned and conduct an investigation to determine whether the member of the service is fit for duty. The commanding officer/supervisory head must then notify the Internal Affairs Bureau Command Center at (212) 741-8401 and obtain an Internal Affairs Bureau log number. If the member's command is not open when such situation occurs, the member



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concerned will immediately notify the Internal Affairs Bureau Command Center at (212) 741-8401 and obtain an Internal Affairs Bureau log number. The member will subsequently notify his/her commanding officer/supervisory head (providing the Internal Affairs Bureau log number) at the first available opportunity. After obtaining the log number, the commanding officer/supervisory head will prepare a report to the Chief of Internal Affairs, containing a decision as to duty status.

In cases where the member of the service is a petitioner or complainant on an order of protection, the member may choose to notify their commanding officer for safety reasons. If necessary, those affected should comply with the provisions of P.G. 212-31, "Threats to Members of the Service."

Counseling and other services are available for both members of the service and their families. Uniformed and civilian members or their families may contact any of the units listed below to obtain necessary services and referrals for counseling, shelter and other assistance:

Family Counseling Unit	(718) 760-7665
Employee Relations Section	(646) 610-5434
Early Intervention Unit	(646) 610-6730
Counseling Service Unit	(718) 834-8433
Chaplains' Unit	(646) 610-6472
Psychological Services Section	(718) 760-7665
Sick Desk	(718) 760-7600
Sick Desk Supervisor	(718) 760-7606
NYPD HELPLINE	(718) 271-7777
Operations Unit	(646) 610-5580

After hours, contact the HELPLINE, Sick Desk, or Operations Unit.

In addition, the following non-Departmental programs and Domestic Violence Prevention Hotlines can provide referrals:

New York City (Safe Horizon)	(800) 621-HOPE (4673)
NYS Coalition Against Domestic Violence	(800) 942-6906
Police Organization Providing peer Assistance	(888) 267-7267
Police Self Support Group	(888) 400-7125
Columbia University (free counseling)	(800) 845-8965



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### VICTIM SUPPORT SERVICES

#### Project Safe - Escorts for Victim Services Client and Locksmiths

**Project Safe** is a program administered by Safe Horizon that provides lock replacements and counseling to victims of domestic violence and other crimes. This Department will assist in this endeavor by providing a police escort. The desk officer will assign the precinct crime prevention officer or the precinct domestic violence officer to escort the client and locksmith, if time permits. If the crime prevention officer or the domestic violence officer is not available, the desk officer will assign a uniformed member of the service to provide the escort.

1. Escort identified client and locksmith to location and notify radio dispatcher.
2. Have client ride in Department vehicle to the location, if necessary.
3. Remain at location until locksmith has completed the work.
4. Escort locksmith from premises.
5. Notify radio dispatcher that escort is completed.
6. Report completion of assignment to desk officer.

### CONCLUSION

It must be stressed that these procedures are not aimed at merely creating a mechanical reaction to domestic violence situations. Rather, these procedures seek to provide police action for victims of domestic crime by mandating the arrest of a member of the same family or household where probable cause exists that he or she has committed a felony, violated an order of protection, committed a misdemeanor or a violation in the officer's presence. Also, remember that an act defined as a crime in the penal law *is still* a crime regardless of the relationship between the offender and victim, or if the offender or victim is a police officer.

Responding to domestic violence is difficult, and requires knowledge, sensitivity, and an understanding of the complex nature of domestic violence. Police officers responding to a call of domestic violence must be aware that their actions will either provide for the safety of all parties concerned, or continue a situation that continues to escalate. Victims of domestic violence may be reporting details of their abuse for the first time when police officers respond to a call. Negative experiences in the reporting of domestic violence incidents may lead victims not to call police in the future. An empathetic approach to the individuals involved and knowledge of the law and department procedures is of the utmost importance to the proper handling of domestic incidents.



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### MANDATORY READING

The following are Patrol Guide procedures, and a Legal Bureau Bulletin, that must be added to this chapter – ***Domestic Violence***. These materials must be read in conjunction with this chapter. Questions for the 3<sup>rd</sup> Trimester Exam may come from these procedures:

P.G. 208-36	Family Offenses/Domestic Violence
P.G. 208-37	Family Offenses and Domestic Violence Involving Uniformed or Civilian Members of the Service
P.G. 208-38	New York State Order of Protection Registry
P.G. 212-04	Crime Scene
P.G. 212-34	Probationary Police Officer, Police Eligible or Civilian Employee Involved in a Police Incident

Legal Bureau Bulletin Vol. 16, No. 3, "ORDERS OF PROTECTION AND FAMILY OFFENSES," *Sorichetti v. City of N.Y.* (1985).



# **POLICE STUDENT'S GUIDE**

## **Children and Adolescents**

### **WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT CHILDREN AND ADOLESCENTS?**

Before you opened your Student Guide, you probably knew that you would be required to know the law and Departmental procedures regarding the handling of children, youth and adolescents. Police work does, after all, include a myriad of responsibilities and tasks involving kids, ranging from finding lost children to apprehending juvenile offenders. What may not have occurred to you is that it is also essential that you learn to communicate with the young people you meet on patrol. There are two major reasons you must develop sufficient knowledge to talk to kids. First, your interactions with them may profoundly affect their lives. Second, your effectiveness as a police officer involved in maintaining order, enforcing the law, and protecting the public, partly depends on the quality of relationships you develop with children and adolescents.

This lesson examines what you need to know to deal effectively with young people. We begin with a discussion of those aspects of child development that influence how kids react to you and you may respond to them. We go on to explore the types of children that police officers typically encounter on patrol. These include kids who are runaways, homeless, truant from school, involved with drugs or alcohol, engaged in delinquent acts, members of gangs, and children who are victims and/or witnesses to crimes. The laws and police procedures that relate to each category are included in relevant sections.

### **CHILD AND ADOLESCENT DEVELOPMENT FOR POLICE OFFICERS**

Children of every age are heavily influenced by the adult figures in their environment, particularly those in positions of authority. You can provide a positive role model for the kids in the neighborhood, depending on your behavior and the kind of relationships you develop. In some instances, you may be the only positive role model in the child's life. As a police officer you can influence whether the child finishes school, finds productive work, and grows up to be a respectful and law abiding citizen. This point will become clear when you think about the adults who were both positive and negative influences on your life. Some of you may even have had encounters with police officers which influenced how you perceived them and why you decided to become one.



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Young people often have special access to information regarding crimes and other important activities that are going on in their neighborhood. Many of them will be willing to share what they know with police officers who have a reputation for being fair and helpful and with whom they've developed rapport. This is true for kids in school who are troubled by the illegal activities they observe around them. This is also the case for some youth who are involved in criminal activity but ambivalent about participation or who find particular actions morally problematic.

*I went into the grocery store to check the time and was on my way home when I got stopped by a scooter cop. "What are you doing?" he said, like I'd done something wrong. "What do you mean what am I doing?" I responded, "I went to the store to check the time," He then asks, "What time is it?" So I told him the time and he checked his watch to see if it was true and I said, "Officer is there something wrong?" He took that as a challenge or something because... I remember exactly what he said, "Don't get smart with me. Cause I'll lock you up for being in a drug infested neighborhood..." Whatever that means and I went upstairs to my place. I was thinking about what happened. What did he stop me for? He said he was going to lock me up. For what reason? I was pretty heated. Really upset. He violated my civil rights. It left a bad stigma about how I felt about the cops in the precinct (Interview, 2003). (This boy became a New York City police officer in order to better understand and help change how officers deal with juveniles. Most children who experience this sort of encounter do not become police officers. Instead, regardless of whether or not they violate the law, they begin to view the police as an enemy to be hated and feared.)*

**REMEMBER THAT THE IMPRESSION YOU MAKE ON A CHILD CAN LAST A LIFETIME**

Your relationship with kids also has implications for your standing in the larger community. What youths tell their parents and friends about the police influence whether they perceive you as part of an occupational army invading their neighborhood and harassing people, or an advocate working to reduce crime and keep their children safe and out of trouble.

It's apparent that you are an important person to kids and kids are important to you. Having a shield and gun will transform you into an authority figure, even if you're a rookie police officer. What isn't so obvious is how to deal effectively with a population of teenagers who are neither innocent nor compliant. Knowledge about what happens to youths, as they become adolescents, will help you understand and better deal with this sometimes difficult group.



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When children leave their families and begin school, they are exposed to a group of peers who introduce new values and customs and to teachers who educate and evaluate them. The children then begin to acknowledge a different and more general adult authority and learn to assess behavior according to new standards.

*"...an officer described a high speed chase involving a man and 5-year old boy. In reporting the scene, the officer described the panic he felt that accompanied his fantasy of the motorcycle crashing and killing the boy. However, what bothered him most after this incident was that as he yelled at the man, the boy began to cry and shouted at him to stop being mean to his father" (Marans, 1996; 531.)*

**AVOID CRITICIZING PARENTS IN FRONT OF CHILDREN AND ADOLESCENTS. DOING SO WILL MAKE THEM FEEL THAT THEY MUST DEFEND THEIR PARENTS, MAKING YOU LOOK LIKE THE ONE WHO'S BAD OR WHO'S DONE SOMETHING WRONG.**

The importance of peer groups to children's sense of esteem cannot be underestimated. Children often attribute their moments of greatest unhappiness to peers rather than to parents. The reactions of peer groups thus play an important role in what words and actions children define as good and bad, influencing their behavior. How kids act in relation to you as a police officer partly depends on the opinion of their peers. A youth whom you embarrass in front of his or her peers may become a life long enemy. His or her friends will mark you as problem cop and spread the word of your reputation around the neighborhood. While one "mistake" will not automatically destroy your relationship with the neighborhood kids, it will make it more difficult to gain their trust.

The adolescent stage of development begins when a youth is about 12 years old, and continues until about 22. During this time, biological and hormonal changes dramatically affect children's moods and how they feel about themselves, their families, and the authority figures in the world around them. Some adolescents openly welcome the physical changes that accompany puberty. Others have conflicting feelings about whether or not they want to grow up. The increase in sexual desire that occurs during this time is sometimes accompanied by guilt and confusion and a lot of misinformation.

Many adolescents experience vacillations in self-esteem. They may worry about their appearance (whether they are growing in height at the same pace as their peers) and popularity (whether or not they are in the "right" clique, or have boyfriends and girlfriends). During this time, even well adjusted teenagers may



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be acutely vulnerable to criticism or hostility emanating from peers, parents, teachers, and other authority figures, including the police.

Some fluctuations in mood are made worse by feelings of temporary or longer-lasting depression. Kids who are depressed may lose their capacity to enjoy school, work and relationships. They may feel that the world is a bleak place and that they have no future. Depressed teenagers tend to be irritable, sullen, and angry, do poorly in school, and may engage in activities that provoke trouble (e.g., fighting).

Depressed teenagers may tempt fate and put themselves in emotional and physical harm by engaging in high-risk behaviors. They may attempt to reduce anxiety and sadness by drinking excessively or taking mood altering drugs (e.g., ecstasy, cocaine, marijuana, amphetamines, valium, and barbiturates). Depressed teenagers may also be suicidal. They may kill themselves alone or, on rare occasions, as part of a couple (like Shakespeare's Romeo and Juliet).

Kids also take drugs for reasons other than depression, including involvement in a peer subculture which encourages their use; desire to experience new things; wish to act grown up; a need to express independence by negating parental rules; or a traumatic reaction to witnessing violence (e.g., shootings, stabbing, beatings etc.). In any case, regular or binge drinking and drug abuse can disrupt the course of normal adolescent development, compromising performance at school and relationships with parents, teachers, and other authority figures, including the police. The upheaval of adolescent development is often compounded for children who live in adverse social conditions and have to contend with poverty, inadequate housing, disruptions in family care, poor schools, and crime-ridden neighborhoods.

*Attention Deficit Hyperactivity Disorder (ADD or ADHD)* is another condition that can affect the moods and behaviors of adolescents as well as younger children. Kids with ADD may be impulsive and hyperactive, and have difficulty being attentive. These symptoms can manifest themselves in behavior which appears rude or defiant (e.g. ignoring commands, inability to concentrate on a task, restlessness, inability to focus, fidgeting). Even with the help of medication, kids with ADD cannot completely control these responses and, as a result, they often have difficulty developing stable relationships with peers and adults. This is important for police officers to keep in mind so they can avoid





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overreacting to unintended provocations on the part of children with ADD, whose condition you may not be able to easily recognize.

Physical change in adolescents is accompanied by renewed attempts to assert an autonomous identity that is different from that of their parents. Sometimes adolescents show their independence in ways that involve disobedience to authority. As symbols of authority, police become the targets of the anger, resentment, and negative feelings the adolescent has towards parents and society. Kids who have a history of criminal victimization, arrest, or questioning by police tend to have more negative attitudes towards police.

Adolescents are full of contradictions. As part of their effort to develop their identity, they may act in negative ways towards people in authority. At the same time, they are engaged in a search for adult authority figures whom they can respect, admire and emulate. Those of you who are able to deal with antagonistic behaviors in a respectful and professional manner can become important role models for these kids.

Police officers' contacts with youths and adolescents frequently occur after they get involved in antisocial or delinquent behavior. While some adolescents commit serious crimes, others engage in minor offenses which would not be viewed as troublesome if they were committed by adults. How you use your discretion to handle these minor offenses has far reaching implications for youths' lives and whether or not they are labeled "bad."

It's important for patrol officers to be aware that the way they communicate with kids can affect whether or not situations become unruly. The officer who is familiar with the community and reacts to the kids as familiar individuals rather than as anonymous groups of "juvenile offenders" will usually be successful in averting trouble. It's essential to keep in mind that, as a result of your authority as a uniformed police officer, you will be the target of powerful emotions by some of the very children and adolescents you find most difficult to deal with. Understanding that the origins of such intense emotional responses are not personal, even if they feel that way, should help you administer your authority in ways which maximize compliance, and lessen the likelihood for unnecessary conflict.



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*Following the shooting of a 17year old gang member, there was concern about retaliation and further bloodshed. In the days that followed the death, grieving gang members congregated on the corner where the shooting had taken place. The efforts at increased presence and containment were in the form of the police spending time on the corner and listening to the gang members express their grief. As one senior police officer put it, "We could show our concern for their trauma by being with them, lending an adult ear to their misery. Alternatively, we could put more officers on the street, show them who's boss and, with a show of force, sweep them off the corner as often as necessary....We could then offer them an additional enemy and wait for them to explode..." [A gang member and brother of the victim said to a neighborhood cop] "You were there for us, that helped... and we were there for you" (Excerpt from Marans, 1996:532).*

**IN THIS SITUATION IT WAS SAFE FOR THE POLICE TO LEND AN EAR AND TALK TO MOURNING GANG MEMBERS. IT SERVED TO AVERT VIOLENCE AND STRENGTHEN AVENUES OF COMMUNICATION.**

### COMMUNICATION SKILLS

1. Always be polite, courteous and professional when you deal with neighborhood youths. Acting tough does not engender respect. When you begin to talk with them, do not assume they have done something wrong.
2. Take care to avoid seeming punitive in the tone of your voice, the way you ask a question, or in the words you choose. You may provoke a dangerous confrontation by talking to juveniles in an overly harsh manner that evokes feelings of humiliation and undermines their developing sense of independence and autonomy.
3. Try not to take challenges to your authority personally or to react harshly when kids, who aren't breaking the law, are antagonistic or even teasing towards you.
4. Don't put down a kid in front of his or her peers. This will be experienced as a painful humiliation. Talk to the youth when he or she is alone or take him or her aside, if possible.
5. Don't scold a parent in front of a kid, even if you are upset at the parent's careless behavior. If possible, take the parent aside.
6. When trying to develop relationships with youths, including members of gangs and others who may be involved in criminal activity, try to talk to them apart from peers and siblings.



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7. Observe the activity of youth groups before deciding who to approach first. Such observations will provide important information regarding who is who in the group. With gangs, for example, it's probably useful to approach the lower status members (*go-fers*) because they are more likely to have mixed feelings about their participation in gang activity.
8. Explain your reasoning when making requests of kids who don't know the law and may therefore perceive its enforcement as a form of harassment.
9. Use your discretion when dealing with youth who commit minor offenses. There are times, for example, when a simple admonishment or a trip to his parent or guardian's house will suffice to help the child get on the right path.
10. Do not take offense if some youths are hostile to you in the presence of peers.
11. An irritable child may be depressed. Watch for high-risk behavior that indicates that child is suicidal. Take overt suicidal threats seriously.
12. Don't adopt overbearing attitudes when talking to youths and adolescents who are acutely sensitive to perceived attacks on their sense of self and desire to be treated like an adult.
13. Remember that an antagonistic attitude towards the police by some individuals results from their assumption that **you** are looking for trouble. When **safe** and **appropriate**, find ways to defuse concerns.
14. Be cognizant of your tone of voice and body language when speaking to young people. They are acutely sensitive to contradictory messages. Don't be sarcastic.
15. Keep lines of communication open.
16. Appreciate and understand diversity among youth population, even within the same group.
17. Establish trust and relationship with youths.
18. Appreciate and learn about youth and adolescent culture.



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19. Be alert to personal biases in your feelings about kids.
20. Know the resources available to which you can properly refer youths and, when appropriate, provide mediation and counseling referrals for troubled youths.

*"Hey, it's not illegal to be in a gang. What are you getting upset about? "*  
*- A member of the NYPD Gang Division*

**DEFUSE THE SITUATION.**

In my experience, when dealing with youths it is important for officers to explain their reasoning because the kids do not know the law. A potentially explosive situation can be derailed by explaining to the kids what, for example, "dis-con" is and why it is necessary for them not to block pedestrian traffic....

*- A member of the NYPD Gang Division*

**AVOID EXPLOSIVE SITUATIONS. EXPLAIN YOUR REASONING.**

## CHARACTERISTIC PROBLEMS OF ADOLESCENTS

### Runaways (Patrol Guide 215-05)

The Patrol Guide defines a runaway as a child who runs away from home and is a New York State resident under the age of sixteen (16). Some out of state residents are also considered runaways, as per the Interstate Compact for Juveniles. Most runaways do not have the permission of their parents or legal guardians to leave home or to stay overnight at some place other than their home. It is estimated that about one million children run away from home each year. These figures do not include the large number of children who run away from home but go unreported because their behavior is chronic or their parents do not care whether or not they return.

Children run away from home for a variety of reasons. Some have psychological problems that are manifested by impulsive, disorganized or delinquent behavior. A history of suicide attempts is common among this group. Other kids leave home to avoid family conflict, divorce, alcoholism, parental drug abuse, neglect and maltreatment, including sexual or physical abuse. Other



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youths who run away are too old for foster care and too young for adult shelters. Some leave to escape maltreatment at the hands of foster parents. A few run away, seeking adventure, and encounter trouble instead. Some youths have even run away to meet someone they met on the Internet.

### **Victimization of Runaways**

Criminals are aware that runaways will not report crimes committed against them out of fear of giving away their own status. As a result both male and female runaways often fall victims to many types of crimes. These include sexual abuse (prostitution and pedophilia). Pimps and other persons of questionable character loiter in and around the Port Authority bus terminal waiting to pick up runaways upon their arrival in the city. These individuals pretend to befriend these youths then introduce them to a new world of drugs and prostitution. The life-style of the runaway makes him or her prone to illnesses linked to poor nutrition, inadequate medical care, venereal diseases, and drug addiction.

### **The Police and the Runaway**

A police officer should realize that a child runs away for a reason. An abused or neglected youth may be calling attention to his or her problem by running away, seeking someone who will understand his or her troubles. The officer who apprehends the runaway may be the first person the youth has had the opportunity to talk with about his or her problems.

If the officer is skeptical or feels that the child is exaggerating or lying, he or she may ignore the complaint. The police officer should try to ascertain if the runaway is telling the truth. The officer must take full advantage of this opportunity to find out the reasons why the child has run away. This is important because the officer does not want to return a child to an abusive home.

The factors that lead to runaway behavior have long-term consequences that may cause youths to develop the same problems as their parents. Those who run away are less likely to complete school and are more likely to be unemployed and to have interpersonal problems. The opportunity to talk to a police officer who can refer the youth to agencies that provide help and psychological treatment can positively influence the child's future. For the



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chronic runaway, leaving home may be a well thought out act. By leaving a situation of personal and family turmoil, he or she hopes to change his or her relationship with parents, school or peers.

*The Family Court Act* states that a police officer "may return to his or her parents or other person legally responsible for his or her care any child under age 16 who has run away from home without just cause." The police officer should interview the runaway as to the reason for leaving home. If there is reason to believe that the child is abused or neglected, the officer should contact the Administration of Children Services (ACS). The child will not be returned home until that agency investigates the situation. In the meantime, the child will be placed in a youth house or other facility. If the charge of neglect or abuse is unfounded, the child will be returned home. If there is some basis to the allegations, the Administration of Children Services (ACS) or the Society for the Prevention of Cruelty to Children will bring the case into Family Court for a hearing, which may result in placement of the child and action against the parents.

Another reason that police officers should interview the runaway is to determine what the child has been doing since leaving home. The child may require medical treatment for drugs, sexually transmitted diseases (STDs), physical injuries, or sexual abuse. As the result of information received, arrests may be made of individuals who harbor a runaway under Section 260.10 Penal Law (Endangering the Welfare of a Child) if the officer can show that they were aware that the child was a runaway.

Police officers should know that many runaways feel that they would *lose face* if they return home voluntarily and are often quite content to allow themselves to be discovered by a police officer. In some cases, they will do everything possible to ensure detection by the officer, short of announcing themselves as runaways.

### **Missing Persons Squad**

The police officer should know that the Detective Bureau maintains a Missing Person's Squad, which consists of police officers and detectives who are specially trained in this area. They are available to assist and counsel the patrol officer who may not have the time or expertise to handle runaways in the most effective manner. The unit is familiar with the areas where runaways usually



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congregate. In addition to the Port Authority Bus Terminal, runaways are most frequently found in prostitution prone locations, and in Times Square.

### Applicable Laws

In New York, runaways fall within the category of "Persons In Need Of Supervision," commonly referred to as **PINS**. Section 718 of the Family Court Act authorizes peace officers to return a runaway to his or her parent. It also allows them to detain a child who is not properly identified, and in the reasonable opinion of the officer, appears to have run away from home.

At present, there is a conflict in the law in the areas of parental responsibility for their children. On the one hand, the law states that upon reaching his or her 16th birthday, the child is mature enough to be on his or her own, and the parent can't do anything to detain the child. On the other hand, the parent is responsible for the child's health and welfare until the child is 18 years old, as defined in the "neglected child statute" of the Family Court Act, Section 1012 (f). This means that New York Family court processes runaways from New York only up to 16 years of age. However, the age jurisdiction in most states is 18 rather than 16 years old for juveniles. Runaways from other states, who are picked up in New York, will therefore be processed in the Family Court, pursuant to the Inter-State compact (Unconsolidated Laws, 1801, *et seq.*).

In 1978, the New York State legislature amended the Social Service Law and the Executive Law by enacting the Runaway and Homeless Youth Act. This act was designed to establish procedures and services to help protect runaway and otherwise homeless youth. This important act provides for temporary shelter, care and counseling services for runaway and homeless youth under the age of eighteen.

### Out-of-Town Runaways

Under the Home Free Program provided by the Greyhound Bus Company, any child is delivered home free of charge. The officer must first confirm that the youth is in fact a runaway, by conducting a National Crime Information Center (NCIC) computer check, and must have the youth's consent to be sent home. If the officer delivers the child to the Emergency Children's Services (ECS), transportation home will be arranged by them after contacting guardian or parent.



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Out-of-state runaways may also be brought to Bridges or Beach House facility in cases where the officer cannot arrange the child to be taken to the Emergency Children's Services.

### **Juvenile Court Jurisdiction**

Juvenile Court is responsible for the following:

1. Processing out-of-town alarms from other authorities.
2. Processing runaways who refuse to identify themselves.
3. Detaining uncooperative runaways via out-of-town missing persons' alarms, warrants, enforcing provisions of the Inter-State Compact, which is an agreement between member States to return each other's runaways, absconders and escapees.

At present, the Missing Person's Squad is faced with multiple obstacles when dealing with out-of-town runaways and local runaways who require overnight lodging to insure their surrender to parents or their appearance in Juvenile Court.

### **Port Authority Police, Youth Services Unit**

The New York City Police Department Missing Person Squad and the Port Authority Youth Officers, located in the Port Authority Bus Terminal, exchange information and assist each other in the return of runaway children.

The New York City Police Department's Missing Person Squad also assists the Amtrak and Metropolitan Transportation Authority Police Department in handling and processing runaways.





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### PROCESSING OF A RUNAWAY (PG 215-05)

Upon determining that a child has run away from home, the uniformed member of the service must:

1. Take the child into custody and remove to command (stationhouse).
2. Prepare a Juvenile Report.
3. Prepare an Aided Report Worksheet. (A duplicate copy gets sent to the Missing Persons Squad) and notify the precinct youth officer.

### HOMELESS YOUTH

A homeless youth is defined as a youth who has no place of shelter and is in need of services, shelter, supervision, and care. Some homeless youth are runaways who have left their homes for unknown reasons. Others have been *thrown out* by their families, often after a history of conflict with the family and problems in the school and the community. Still, others have been abandoned by parents and other relatives who can no longer afford to care for them.

Although runaways and homeless youths share many problems, homeless youths face additional obstacles, including health care problems and the absence of care. Homeless youth are at increased risk of acquiring sexually transmitted diseases, such as Acquired Immune Deficiency Syndrome (AIDS). They also are less likely to be treated for alcohol or drug abuse problems and are much less likely to be reunited with their families.

### CRIMES AGAINST CHILDREN

Crimes against children range from neglect, through exposure to a world of criminal activity, to physical and sexual abuse. Many incidents of child abuse go unreported. Children don't always understand that what has been done to them is bad. Others fear that parents will abandon or punish them if they tell. Many child victims feel guilty, as if they are partly responsible for what the parents or other adults or children have done. The non-abusing parents deny what is happening and fail to protect the child because they fear the guilty spouse will leave them; and suspicious neighbors may be hesitant to get involved.



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In order to ensure that child victims are protected, a number of laws have developed. Certain occupations (Mandated Reporters) are legally required to report child abuse to the New York State Child Abuse and Maltreatment Register (The Central Registry). These include teachers, doctors and police officers. Failure to report child abuse by those designated as Mandated Reporters is a class A misdemeanor. The failure to report child abuse would also make them liable for damages in civil court (Social Services Law §420).

***The Family Court Act and Social Services Law*** have set forth classifications for children of abuse. These classifications are encompassed in the acronym, **MAN** which stands for Maltreated, Abused and Neglected. Police officers and other mandated reporters are required to know what makes a child a "MAN" child, so that they can recognize the signs and take appropriate actions. Below are the definitions for a "MAN" child. The required age is under eighteen (18) years old, unlike that of a juvenile, who by definition, is under sixteen (16) years old. Assault and related charges may also be applicable in the cases below.

### **MALTREATED, ABUSED, NEGLECTED CHILD DEFINED (PG 215-03)**

**Maltreated Child** (Social Services Law, Section 412):

A child under eighteen (18) years of age who is:

1. Defined as neglected by the Family Court Act; **and**
2. Who has had serious physical injury inflicted upon him by other than accidental means; **or**
3. Who is in residential care and whose custodian impairs, or places in imminent danger of becoming impaired, the child's physical, mental, or emotional condition.

**Abused Child** (Family Court Act, Section 1012, subd. e):

A child less than eighteen (18) years old whose parent or person legally responsible for his or her care either:



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1. Inflicts or allows to be inflicted upon such child, physical injury, by other than accidental means, which causes or creates a substantial risk of death, disfigurement, impairment of physical or emotional health, or the loss or impairment of any bodily organ; **or**
2. Creates or allows to be created a substantial risk of physical injury, with the results as listed in subdivision a; **or**
3. Commits or allows to be committed a sex offense against a child.

### **Neglected Child** (Family Court Act, Section 1012, subd. f):

1. A child less than eighteen (18) years old whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to either:
  - a. Supply adequate food, clothing, shelter, education, medical, dental, or optometric (eye), **or** surgical care; **or**
  - b. Provide proper supervision or guardianship by inflicting or allowing being inflicted harm, including excessive corporal punishment, misusing drugs, or misusing alcohol to the extent that he loses self-control of his actions, or any other acts of a similarly serious nature; or abandons the child.

### **INVESTIGATIONS OF CHILD ABUSE CASES**

When responding to family disputes or any other jobs that involve children, a police officer must make a reasonable determination as to whether the child has been maltreated, abused, or neglected. **If a police officer has reasonable suspicion that a child is a maltreated, abused or neglected child, the form "Report of Suspected Child Abuse or Maltreatment" must be prepared and the State Central Registry must be notified.** This form must be prepared whether the State Registry accepts notification of the facts or not. Failure to prepare this form is a class "A" misdemeanor.



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When imminent danger to a child's life or health exists, a police officer *must* request that the patrol supervisor respond to the scene. A police officer may only remove a child from a home with the consent of a parent or other person legally responsible for his or her care. If the parent does not consent to having the child removed, the patrol supervisor has the responsibility and authority to remove the child without the parent's consent. In cases where probable cause exists that a crime has been committed, the perpetrator will be arrested. Unless medical attention is required, the child will be brought to the stationhouse and the Child Welfare Administration will be notified. They will send a representative to the stationhouse, who will transport the child to a shelter.

At times there may be complaints of child abuse that allege that there are drugs, guns, or violent incidents in a household. If these allegations are received by caseworkers from the Administration for Children's Services, they will present themselves to the desk officer in the precinct of occurrence and request a police escort to the location of the alleged incident.

Uniformed members are required to notify the **Special Victim's Squad** in the following two cases. First, they must be notified when there is any allegation that a child less than 11 years of age is the victim of abuse inflicted by a parent or a person legally responsible for the child's care. In addition, the Special Victim's Unit must be notified if there is any allegation that a child less than 13 years of age is a victim of **any sex crime** committed by any person.

In certain cases, an "Instant Response Team," which consists of ACS caseworkers, members from the Special Victim's Unit or Precinct Detective Squad and/or patrol personnel will respond and conduct joint investigations. It should be noted that members of the service may release all pertinent information and copies of documents (complaint reports, vouchers, aided cards, etc.) regarding cases of child abuse to ACS case workers upon request except for sealed records and the identity of adult victims of sex crimes. Whenever a child is removed from a household by police personnel, or an arrest is made in connection with the abuse or neglect of a child, the Administration for Children's Services Instant Response Team Coordinator must be notified (1-877-CALLIRT/1-877-225-5478).



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### PENAL LAW OFFENSES RELATING TO CHILDREN

#### **Endangering the Welfare of a Child – Class A Misdemeanor (P.L. 260.10):**

1. When a person knowingly acts in a manner that is likely to be injurious to the physical, mental or moral welfare of a child less than seventeen (17) years old, **or** If he or she directs or authorizes the child to engage in an occupation involving a substantial risk of danger to life or health. This charge can stand alone or be added as an additional charge. Below are two examples.
  - If John beat his 8 year old child, causing injuries, he could be charged with Assault and also Endangering the Welfare of a Child.
  - If Tina had her 12 year old son sell crack cocaine, or if she hid drugs in the baby carriage with her baby daughter inside the carriage as well, she would properly be charged with Criminal Possession and/or Criminal Sale of a Controlled Substance and also Endangering the Welfare of a Child.
2. When a parent or a guardian who is legally charged with custody of a child less than eighteen (18) years old fails or refuses to exercise reasonable diligence in the control of the child to prevent the child from becoming abused, neglected, a juvenile delinquent, or a person in need of supervision as those terms are defined in Articles 3, 7, and 10 of the Family Court Act. This charge can stand alone when there is sufficient evidence of a "MAN" child. It basically pertains to a child who is being neglected.

#### **Abandonment of a Child – Class E Felony (P.L. 260.00):**

This offense can be charged when a person, who is a parent, guardian, or other person who is legally charged with the care or custody of a child less than 14 years old deserts the child in any place with intent to wholly abandon it.



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### Abandoned Infant Protection Act – Operation Safe Haven (P.G. 215-19)

This act was designed to protect the lives of newborn infants that were abandoned by their parents. Under the Abandoned Infant Protection Act, parents, guardians, or other legally responsible persons who are unable to care for their newborn infants may anonymously and safely leave their infant in the care of a responsible person at a hospital, police station, fire station or a responsible person at another safe location. It also created an affirmative defense to the charges of “Abandonment of a Child” and “Endangering the Welfare of a Child,” if the abandonment is done in a manner that is safe for the child. It holds that persons abandoning a child not more than five days old whose intent was that the child be safe from physical injury and properly cared for, may leave the child with an appropriate person or in a suitable location and notify an appropriate person of the child’s location.

### Unlawfully Dealing with a Child in the 2nd Degree – Class B Misdemeanor (P.L. 260.21):

1. When an owner, lessee, manager, or employee of a place where alcoholic beverages are sold or given away permits a child who is less than sixteen (16) years old to enter or remain in such a place **unless**:
  - a. The child is accompanied by a parent, guardian or other authorized adult; **or**
  - b. The activity or entertainment being offered is part of a benefit or under the auspices of a non- profit school, church, or other educational or religious institution; **or**
  - c. It is otherwise permitted by law; **or**
  - d. The establishment is closed to the public for a specified period of time and no alcoholic beverages are being sold, served, given away, or consumed during that period.
2. When a person tattoos the body of a child less than eighteen (18) years old.
3. When a person sells tobacco in any form to a child who is less than eighteen (18) years of age.



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### **Unlawfully Dealing with a Child in the 1<sup>st</sup> Degree – Class A Misdemeanor (P.L. 260.20):**

1. This occurs when a person knowingly permits a child who is less than eighteen (18) years old to enter or remain in or upon a place, premises, or establishment where there is sexual activity, controlled substances, or marijuana.

#### **Examples:**

- Mary and Tom often smoke crack in their house in front of their three (3) year old child.
  - Jacob allows his fifteen (15) year old son to hang out in a house of prostitution.
2. When a person gives, sells, or causes to be given or sold any alcoholic beverage to a person who is less than twenty-one (21) years old. (This subdivision does not apply where the tasting of alcohol is required in courses that are part of the curriculum in colleges, trade schools, etc.)

### **SEXUAL OFFENSES INVOLVING CHILDREN**

The sexual offenses of Sexual Misconduct, Rape, Criminal Sexual Act, Sexual Abuse, and Aggravated Sexual Abuse all have subdivisions that specifically pertain to children under 17 years old. These offenses are discussed in greater detail elsewhere in your student reading.

### **ASSAULT CHARGES INVOLVING CHILDREN**

#### **Assault 2nd Degree – Class D Felony (P.L. 120.05, subd's. 8 & 9):**

Subdivision 8: Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly causes serious physical injury to such person.



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Subdivision 9: Being eighteen years old or more and with intent to cause physical injury to a person less than seven years old, the defendant causes physical injury to such person.

### **Aggravated Assault Upon a Person Less than Eleven Years Old – Class E Felony (P.L. 120.12):**

When a person, being eighteen years old or more, commits the crime of Assault in the 3rd Degree upon a person less than eleven (11) years old and has a previous conviction for Assault in the 3rd Degree within the preceding three years.

### **SIGNS OF ABUSE**

Whether responding to jobs involving children or just observing children during your tour, it is your responsibility to look for signs of abuse and neglect, and to report suspicious findings. When you respond to a family dispute, ask to see the children and look at their appearance. Discreetly look for bruises, signs of malnourishment, dirtiness, or any other signs of neglect.

If you have probable cause that an offense has been committed against a child, call the patrol supervisor and make the arrest. If you have any suspicion at all that a child is suffering from any form of abuse, prepare the "Report of Suspected Child Abuse or Maltreatment" form. Of all the preventive measures we take to recognize and deter crimes against children, this is perhaps the most important measure there is.

Remember that you are there to protect the child (the victim) and the rights of all involved parties, including the "alleged suspect." Child abuse is highly emotional for the child, the non-abusing parent(s), the "alleged" abuser(s) and for you, as the police officer.





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### UNLAWFUL CONDUCT BY JUVENILES

#### General Categories

Enforcement responsibilities as they pertain to youths and adolescents fall into three categories:

1. Juvenile Misconduct
2. Juvenile Delinquent
3. Juvenile Offender

We will describe and illustrate each category and discuss the various procedural responses.

### JUVENILE MISCONDUCT

Patrol officers encounter many situations involving juvenile misconduct, which require the use of discretion on your part. Juvenile misconduct includes, but is not limited to: PINS, truants, alcoholics and runaways.

#### Persons in Need of Supervision (PINS)

As a police officer, you will frequently encounter distraught parents who are worried about the behavior of their children. Their complaints run the gamut from frequent truancy to petty stealing around the house, talking back to the parents, staying out late with undesirable friends, refusal to listen to parent and generally being uncontrollable. The child has done nothing for which he or she should be arrested and the parents are at their wit's end. In these situations, the Family Court has jurisdiction.

A person in need of supervision (PINS) is a person less than 18 years of age who:

1. Does not attend school in accordance with part one of Article 65 of the Education Law; **or**
2. Is incorrigible, ungovernable, or habitually disobedient and beyond the lawful control of parent or other lawful authority; **or**



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3. Violates the provisions of section 221.05 of the Penal Law (marijuana possession).

**Note:** Unlike the definition of juvenile delinquent, the definition of a person in need of supervision contains no minimum age.

**The statute lists three separate grounds on which a juvenile may be designated a person in need of supervision. Each is considered separately below.**

- a. **Lack of compliance with the Educational Law** - In order to comply with Part One of Article 65 of the Education Law, a person 6 to 16 years of age, is required to attend school regularly for the entire time school is in session and be orderly while so attending. Thus, there are two possible ways under the education law on which to have a petition: (1) truancy, and (2) disruptiveness in class. A single absence from school would not be grounds for a proceeding since the education law only requires a minor to "attend regularly," whereas the petition must allege that the respondent is "a habitual truant"; i.e., one who goes to school rarely, if at all.
- b. **Beyond Control** - The second ground for filing a PINS petition is that the juvenile is "incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority". The phrase "incorrigible, ungovernable or habitually disobedient" has been upheld as not being unconstitutionally vague; however, the courts have never specifically defined these terms.

**Example:** A certain child was consistently running away from home to live at a relative's house. In this case, although the child may technically fall within the definition of a person in need of supervision, the court may refuse to designate the child as a PINS based upon all the facts and circumstances. The juvenile, in this case, may have good reason to refuse to live at home and reside instead with a relative.



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- c. **Marijuana Violation** - The third ground on which a PINS petition may be based is a violation of P.L. 221.05. This section makes the possession of 25 grams or less of marijuana a violation punishable by a fine not to exceed one hundred dollars. This ground was added by a 1977 amendment. The amendment enables the Family Court to exercise its jurisdiction over a juvenile who engages in forbidden conduct, and is necessary since such conduct is a violation and therefore could not otherwise be the basis of a juvenile delinquency petition.

**Note:** A written court order is necessary to take a PINS into custody. Similar to the juvenile delinquency petition, the PINS petition, in addition to the underlying acts, must also allege that the respondent requires supervision or treatment as required by the Family Court Act. A petition lacking such allegation and proof is defective, and the court will not hear the case.

### Procedure for PINS (P.G. 215-08)

1. Prepare a Juvenile Report and write across the top of the report, "Person in Need of Supervision."
2. Refer the parent to Family Court to seek a PINS petition.
3. Police Officers will not take a PINS into custody without a court order.

### Truancy – Generally

Truancy is an early indicator of delinquency and may be symptomatic of family problems. A police officer should take the appropriate action whenever he or she observes a youth who is:

- Involved in *street trades* (selling newspapers, shining shoes, washing windows, selling flowers, selling fruit, etc.); or
- Is on the transit system for extended periods of time; or
- Is simply out of school when it is normally in session.



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Truancy sometimes is an outward sign of other problems like PINS, abuse, neglect, or maltreatment. A youth might have some type of learning disability, or a psychological or social problem which leads to his or her avoiding school. It is critical that you interview the youth in a non-threatening manner so he or she can vent. Ask the youth to tell you why he or she is not in school so that you can find out whether the child is avoiding an abusive situation and make the appropriate referrals.

### **Truancy: Patrol Guide 215-07**

A truant is defined as a juvenile at least six years old but less than eighteen years old who is observed on the street during school hours and is absent from school without permission.

The Educational Law requires that a person attend school until the last session of the school year in which the person reaches seventeen years of age. This law defines the term school year as the period starting on July 1<sup>st</sup> and ending the next June 30<sup>th</sup>. Therefore a person who reaches his or her 17<sup>th</sup> birthday on or after July 1<sup>st</sup> must attend school, when in session, until the following June 30<sup>th</sup>.

**Example:** Joe and Bob are seniors at Central High. Both are seen in the park during school hours. Joe reached his 17<sup>th</sup> birthday August 15<sup>th</sup>, while Bob reached his 17<sup>th</sup> birthday on June 20<sup>th</sup>. Joe would be considered a truant, but Bob would not.

### **Procedure for Truants**

A police officer will deliver a child to either a principal or designee of the school in which the child is enrolled, if known. If it cannot be determined or is impractical to deliver the truant to that school, the juvenile will be taken to the borough truancy site, which is designated by the School Chancellor. An officer should make appropriate activity log entries. The principal or his or her representative should be asked to sign the police officer's activity log as receipt for the child. The officer should then prepare a Youth Referral and deliver it to the desk officer upon completion of the tour.



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### **Remember:**

1. A Juvenile Report is not prepared in the case of a juvenile who is only a truant and has not committed a crime.
2. When dealing with juveniles, discretion should always be used. Truants may be frisked to ensure the officer's safety. They may also be handcuffed if the officer believes his safety is in danger.

### **Precinct Youth Officer**

The Precinct Youth Officer is an excellent resource for patrol officers. This is especially true if you work in an area where there are a large number of schools and school-aged children in residence. The Precinct Youth Officer is responsible for processing and investigating all the Juvenile Reports prepared for youths residing in the precinct. The Youth Officer also maintains the files of juveniles arrested in the precinct, contacts parents/guardian, and warns them of truancy problems or other offenses committed by their children.

The Youth Officer executes youthful offender warrants and institutes the court process when necessary. He or she coordinates youth-directed activities, follows up on crimes committed by youths, identifies home conditions which contribute to youth violence, tracks statistics on violence in schools (by conferring with principals and school safety officers) and serves as an information resource, advising precinct personnel, parents and community groups on youth matters. In addition, the Youth Officer works with the precinct Domestic Violence Prevention (DVPO) Officer on cases involving child abuse.

### **JUVENILE DELINQUENCY (PG 215-09)**

As defined by the Family Court Act, a juvenile delinquent is a child *over 7 and under 16 yrs. of age who commits an act that would be a crime if committed by an adult.*

### **Designated Felony Offenses (PG 215-12)**

Certain serious crimes which if committed by a Juvenile Delinquent require special processing. After a child is apprehended for committing a designated felony offense, detain the child and notify the desk officer of the facts.



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Attempt to verify the age of the juvenile by satisfactory documentary proof, if available. If Family Court is closed, a Designated Felon can qualify for personal recognizance.

The **Desk Officer** will consider the following criteria in determining whether a juvenile will be **arrested** and charged with juvenile delinquency **or** if a **Juvenile Report** applies:

- Facts or circumstances;
- Offense committed;
- Recommendation of Youth Officer;
- Manner in which committed;
- Previous record from command and Youth Records Section.

### Offenses for Which a Juvenile Will Be Taken Into Custody

A police officer will effect the arrest of a juvenile if the child commits:

- Any Felony
- Unlawful Assembly - Misdemeanor
- A "Photographable Misdemeanor" (see PG 208-07 "Photographable offenses")

Parent or guardian **must** be notified of the custody and location where a juvenile is being detained. Detain juvenile in location designated for juvenile detention and interrogation, if court is not in session. If court is in session, determine if the juvenile should be delivered direct to court or processed for personal recognizance. Have a female police officer or other qualified female present, if the juvenile is a female.

### Questioning Juveniles in Custody

A juvenile in most circumstances will not be questioned concerning his or her criminal activity until the juvenile **and** the parent/guardian are advised and understand the juvenile's Constitutional Rights. Miranda warnings should be read to the juvenile while the parent/guardian is present. The juvenile may be questioned if he waives Miranda rights in the presence of the parent/guardian. The parent/guardian does not have to separately waive the Miranda rights. They only have to be advised of such rights. However if the parent/guardian objects to



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the questioning or requests an attorney for the juvenile, no questioning should occur even if the juvenile is willing to answer questions.

### **Special Instructions Concerning the Preparation Of OLBS Worksheet;**

- a. Under caption #9 "CHARGES INFORMATION" enter "JD" followed by specific crime.
- b. Complete entire section captioned "JUVENILE INFORMATION" (boxes 32-33).
- c. Prepare Juvenile Arrest-Investigation Probation Intake Report.
- d. Attach hard copy of FINEST system / Investigation Card / Juvenile Recidivist Check to court copy of report.

### **If Juvenile Will Be Released On Personal Recognizance:**

Determine if applicant's parent, guardian, or lawful custodian is a responsible adult by evidence of their identity and relationship to the juvenile. Call the Identification Section, Youth Records Unit for prior police record of juvenile. Conduct a Warrant investigation card/juvenile recidivist name check conducted via FINEST system.

### **Juveniles Will Not Be Released On Personal Recognizance If:**

- Classified a Juvenile Offender;
- Dangerous to Community;
- Wanted on a warrant/ is a juvenile recidivist;
- The applicant cannot provide adequate supervision;
- Health or morals would be endangered;
- Not likely to appear on return date;
- Designated Felony and Family Court is in session;



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- Arrest on a Felony and awaiting trial on a Violent Felony;
- An act committed against a Family/ Household member and the act is Felony Assault, any Sex Offense or the release would be a danger to the family.

Member of the service will prepare "Appearance Ticket – Family Court" and distribute:

1. Prepare and have the applicant sign in the place provided.
2. If the person refuses to sign the form, the word "*refused*" will be entered on the signature line. The member of the service must then sign the ticket.
3. The appearance date for Family Court is obtained from the borough court section. The arresting officer must appear if:
  - a. Juvenile was sent to a detention shelter.
  - b. If multiple arrests were made and one (1) or more juveniles does not qualify for Personal Recognizance.
  - c. When Family Court is closed and the juvenile is charged with a designated felony and an Appearance Ticket - Family Court was issued.

If there is a civilian complainant, he or she **must** also appear in Family Court on the return date. The arresting officer should inform them of this. Some patrol boroughs are involved in the "Officer Excusal program" (Refer to PG 215-12 [Interim Order 57 of 2003] for further information).

A juvenile will be transported to Family Court if it is open or to the Bridges Juvenile Center if the Family Court is closed. **The arresting officer must call the Bridges Juvenile Center to arrange for lodging prior to transporting.** Certain paperwork must accompany the juvenile to the Bridges Juvenile Center; namely, a copy of the ON LINE BOOKING SYSTEM ARREST WORKSHEET and a copy of the JUVENILE ARREST INVESTIGATION/PROBATION INTAKE REPORT. An arrest package must also be prepared and sent to the borough





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court section. This package should contain copies of all related arrest paperwork. **Juveniles will never be transported with adult prisoners.**

When juveniles are taken into custody and charged as juvenile delinquents with any offense listed below, the arresting officer must contact Corporation Counsel by Telephone during business hours. All other hours, the arresting officer will use the beeper system for contact at 212-314-9878:

- Murder 2<sup>nd</sup> degree
- Manslaughter 1<sup>st</sup> & 2<sup>nd</sup> degree
- Rape 1<sup>st</sup> degree

### Photographs

1. Take one (1) front view Polaroid photo of juvenile & on the reverse side enter the following info:
  - Name of juvenile;
  - Date of birth;
  - Mother's full name, including maiden name;
  - Date and the precinct of arrest;
  - Arrest number, complaint number and crime charged.
2. Forward photo promptly, in sealed envelope to:
  - Identification Section;
  - Youth Records;
  - Room 110B Police Headquarters.

**Fingerprints via the "Livescan" System are required to be taken only in the following cases (208-08):**

1. Juvenile **11** years of age or older and is charged with a class **A** or **B felony**
2. Juvenile **13** years of age or older and charged with **any felony**
3. Juvenile charged as a Juvenile Offender



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**Note:** For information on processing juveniles that have been arrested see PG 215-09 for Juvenile Delinquents and PG 215-10 for Juvenile Offender.

Bring juvenile to the juvenile room in station house for interrogation. A female police officer, if available, or another qualified female will be present if the juvenile is a female. Notify parent/ guardian of custody and location.

An arrest for juvenile delinquency requires an arrest number generated by Central Booking. The juvenile's statement of age may be in conflict with official records. The arresting officer shall ask to examine the following references from Bridges Juvenile Center:

- a. Family Court - Remand Order Form C-23B.
- b. Family Court - Order Directing Detention of Respondent Form 3-11.
- c. Criminal Court - Securing Order Form 299.
- d. Supreme Court - Securing Order Form 299.

### **JUVENILE DETENTION (ARREST) PROCEDURES (Juvenile Delinquents and Juvenile Offenders)**

1. Detain and question juveniles only in designated room of the station house (As per Legal Bureau Bulletin Volume 13, number 4).
2. Send for parents - Give Miranda Warning to juvenile and the parents at the same time, prior to questioning. An arresting officer can obtain pedigree information prior to Miranda. A juvenile may waive his or her rights in the presence of a parent or guardian. The parent does not need to waive the rights separately. However, if the parent objects to the questioning or they request an attorney, all questioning will end. If the parent/guardian cannot be notified, the juvenile can only be questioned after:



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- a. Every reasonable effort has been made to notify the parent/guardian;
- b. Determining the necessity for questioning at this time;
- c. Considering the age, apparent intelligence, and the ability for the juvenile to understand the Miranda Warnings.

**Note:** If the juvenile must be questioned without the parent or guardian present the officer must be prepared to testify that a "good faith" attempt was made to have a competent adult present during questioning.

3. Check juvenile's activity (home, school, youth officer). Call Youth Records Unit to obtain prior police contacts. Call Central Warrants Division to ascertain if the juvenile is wanted.
4. Determine if the juvenile should be released in accordance with Patrol Guide section 215-12 (I.O. 57 of 2003) Verify the identity of all parties concerned and relationships.
5. Prepare Department forms (e.g., OLBS, Complaint Report, Vouchers, etc.).

When Personal Recognizance is given prepare the following forms:

- a. Juvenile Arrest Invoice/Probation Intake Report Worksheet;
  - b. Appearance Ticket, Family Court;
  - c. Complainant's Notification to Appear in Court.
6. Have an **official department photograph** taken for anyone charged with **any felony**, including juvenile offenders (JO's) and for any of the following **misdemeanors** (PG 208-07):
    - Criminal Possession of a Weapon 4<sup>th</sup> degree (firearm only)
    - Manufacture, Transport, Disposition, Defacement Of Weapons And Dangerous Instruments And Appliances
    - Prohibited Use Of Weapons (subd. 1 and 3)
    - Fraudulent Accosting Except If Specifically Charged With Operating a "Three Card Monte" Game



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- Sexual Abuse 2<sup>nd</sup> degree
  - Criminal Impersonation 2<sup>nd</sup> degree (subd. 3)
  - Promoting Prostitution 4<sup>th</sup> degree
  - Loitering For The Purpose Of Promoting Prostitution (sub. 3)
  - Prostitution
  - Patronizing a Prostitute 3<sup>rd</sup> degree or 4<sup>th</sup> degree
  - Patronizing a Prostitute
  - Trademark Counterfeiting 3<sup>rd</sup> degree
7. A **Juvenile Delinquent ("J.D.")** that is not eligible for personal recognizance will be removed to the Bridges Juvenile Center with a copy of the OLBS, Complaint Report and the Juvenile Arrest Investigation/Probation Intake Report. If the arresting officer is informed that the juvenile will be detained at the Vernon C. Bain Center (males) or the Bronx Juvenile Center (females), the officer must contact the admissions unit of each location prior to delivering the juvenile and provide them with information (PG 215-09). **Juvenile Offenders ("J.O.")** are not eligible for personal recognizance. They will be brought to Central booking, but will not be placed with adult prisoners. Under no circumstances will a JO be brought to a Juvenile Detention Center.
8. Place the following forms in an envelope addressed to the Special Projects Officer in Family Court and mail using Department mail:
- a. OLBS.
  - b. Appearance Ticket - Family Court.
  - c. Juvenile Arrest Investigation/Probation Intake Report.
  - d. Property Clerk's Invoice (if applicable).
  - e. Copy of the Complaint Report.
  - f. Copy of Activity Log.
  - g. Any other related information.
9. In cases where the JD was given personal recognizance, obtain the hearing date for Family Court from the Borough Court Section and notify the complainant.



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### JUVENILE REPORTS (PATROL GUIDE 215-08)

In order to properly record and investigate certain complaints concerning juveniles at least seven (7) years of age, but less than sixteen (16) years of age, uniformed members of the service will prepare a Juvenile Report in the following instances:

- An act that would constitute a crime if committed by an adult except for those acts recorded on a Complaint Report;
  - Petty Violations by juveniles;
  - Persons in Need of Supervision;
    - Print in capital letters across top of Juvenile Report "Person in Need of Supervision."
    - Advise civilian complainant of right to seek a petition in Family Court.
  - Intoxicated Juveniles;
  - Juveniles under sixteen years of age found in a house of prostitution;
  - Stranded juvenile;
  - Runaway juvenile;
  - Juvenile unlawfully present in a licensed premises;
  - Juvenile apparently under the influence of a dangerous drug, e.g. heroin, cocaine, morphine, opium, marijuana, amphetamines, barbiturates, hallucinogens;
  - Missing person, at least seven (7) years of age but less than sixteen (16) years of age;
  - Traffic infractions – bicycles – persons over seven (7) but less than sixteen (16) years of age.
- 
- Prepare a separate Juvenile Report for each juvenile involved.
  - Deliver completed Juvenile Reports to the Desk Officer, at completion of tour.

In September of 2003, the School Safety Division of the N.Y.P.D. instituted a pilot program allowing School Safety Agents to prepare Juvenile Reports at Taft High School in the Bronx. Based upon the success of this pilot program, the program has been expanded to include one (1) high school in each Patrol Borough, in addition to Taft High School. (Operations Order 1 of 2005 [1/06/05])



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### JUVENILE OFFENDER ("J.O.") (P.G. 215-10)

A juvenile offender is defined as child less than 16, taken into custody, and charged with a felony as indicated.

- a. **13, 14, 15 yr.** old charged with Murder 2<sup>nd</sup> degree (PL 125.25) subdivisions 1 and 2 (intentional and depraved mind); or
- b. **14, 15 yr. old** -Murder 2<sup>nd</sup> degree subdivision 3 (Felony Murder) if the underlying felony is listed in subdivision c below.
- c. **14, 15 yr. old** charged with:
  - Assault 1<sup>st</sup> degree (PL 120.10) subdivision 1 and 2;
  - Manslaughter 1<sup>st</sup> degree (PL 125.20);
  - Rape 1<sup>st</sup> degree (PL 130.35) subdivision 1 and 2;
  - Criminal Sexual Act 1<sup>st</sup> degree (PL 130.50) subdivision 1 and 2;
  - Kidnapping 1<sup>st</sup> degree (PL135.25);
  - Burglary 1<sup>st</sup> degree (PL140.30) and Burglary 2<sup>nd</sup> degree (PL 140.25) subdivision 1;
  - Arson 1<sup>st</sup> degree and 2<sup>nd</sup> degree (PL 150.20 and 150.15);
  - Robbery 1<sup>st</sup> degree (PL 160.15) and Robbery 2<sup>nd</sup> degree (PL 160.10) subdivision 2;



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- Aggravated Sexual Abuse 1<sup>st</sup> degree (PL 130.70);
- Attempted Murder 2<sup>nd</sup> degree (PL 110/125.25) or Attempted Kidnapping 1<sup>st</sup> degree (110/135.25);
- Criminal Possession of a Weapon 2<sup>nd</sup> degree (PL 265.03) and 3<sup>rd</sup> degree (P.L.265.02) within school grounds.

The officer must bring the juvenile to the room designated for juveniles. Have a female police officer or other qualified female present if the juvenile is a female. Notify a parent or guardian of custody and location.

### Arrest Procedures for Juvenile Offenders

1. Notify parent.
2. When filling out an On Line Booking Sheet, Juvenile Offender crimes would be listed first in the "charges section." Enter the words "Juvenile Offender" in the D.A.T. return date caption.
3. J.O. will be lodged and **transported separately from adults**. Arresting officers will remove J.O. to Central Booking, not Bridges Juvenile Center (Juveniles will be lodged separately at Central Booking). Fingerprint the J.O. using the LIVESCAN Fingerprint Imaging System.
4. The arresting officer will confer with the Borough Court Section Supervisor to determine if arraignment can be completed prior to removing the J.O. to the Borough Court facility. The Desk Officer will arrange for transport for the J.O. if they cannot be received at central booking, and will have to be lodged at another location. If the J.O. is already at central booking, the central booking supervisor will arrange lodging to an alternative location if they cannot receive the juvenile.
5. A juvenile offender cannot under any circumstances receive personal recognizance.
6. A juvenile offender who is awaiting arraignment in criminal court will not be detained overnight at a Juvenile Detention Center. These perpetrators are



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charged as adults, and although they will not be lodged with adults, they will not be held with juvenile delinquents.

7. The identity of a youth under 16, who has been charged as a juvenile offender, may be released.

If the Assistant District Attorney declines to prosecute, comply with PG 210-16 "Release of Prisoner from the Complaint Room." If classification is dropped to Juvenile Delinquency, the arresting officer will change the OLBS with the Booking Officer, if it has not been forwarded, or they will prepare an Arrest Supplement if the OLBS has already been forwarded.

### GANGS

Gangs can be found in both depressed and more affluent areas of New York City. Most gangs originally form in an effort to preserve the identity of their culture or cause. At some point, as the desire for profit and power grows, gangs may begin to recruit from among their friends and acquaintances who are members of different racial, ethnic or cultural group.

Gangs are attractive to some neighborhood youth for a variety of psychological and sociological reasons. Sometimes youths who come from poor families are attracted to the power and comparative wealth which gang members display. Others who come from poorly functioning families (including very hard working parents who can't afford to be at home) may find in gangs a substitute family to guide and reward their behavior.

Much of the criminal activity perpetrated by juveniles and young adults can be attributed to the growing number of gangs in our neighborhoods. Gangs are involved in narcotics, extortion, robberies, and homicides.

It is important that police officers familiarize themselves with the signs of gang activity. Gang graffiti, for example, contain coded messages which are used to communicate information such as the gang's territory (turf) and the





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identity of its members. Bandanas and flags placed on various parts of the body may also be used to communicate important information.

Officers must be diligent when inspecting their posts for any gang-related activity or graffiti. Members of the service who want to find information about a particular activity or report an incident involving a gang member, whether as perpetrator or victim, should contact Intelligence Division's Operations Desk at (877) 4INTELL, (877-446-8355), or (718) 834-4301 24 hrs / 7 days a week.

### TYPES OF GANGS

#### Criminal Gang

- Group or criminal enterprise having a formal structure;
- Identifiable leadership/membership;
- Activities focus on for-profit crimes.

#### Street Gang

- A group of people that form an allegiance of some duration;
- Concerns with "turf";
- Special dress or "colors";
- Interest in violence for status or reputation;
- Engages in criminal activity;
- Can create fear/intimidation in the community.

#### Youth Gang

- Generally compiled of adolescents;
- Identifiable group who have engaged in unlawful or anti-social activity, verifiable by police records or reliable sources.

#### Situation/ Event Group

- This is not necessarily a gang; nonetheless a group of people who come together, and spontaneously engage in criminal conduct (i.e. homicide, rape, robbery, and violent assaultive behavior), defined by a specific event, time, or occurrence.



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### Reporting Gang Related Criminal Activity (P.G. 212-13)

#### *Definitions:*

**Gang** - a group of persons, with formal or informal structure that includes designated leaders and members, that engages in or is suspected of engaging in unlawful conduct.

**Drug Gang** - a gang as defined above that exists primarily for the purpose of distributing illegal narcotics and/or marijuana.

**Gang Related Incident** - any incident of unlawful conduct by a gang member or suspected gang member.

**Gang Motivated Incident** - any gang related incident that is done primarily to benefit or further the interests of the gang or as part of an initiation, membership rite, or act of allegiance to or support for a gang or as a result of a conflict or fight between gang members of the same or different gangs.

**Gang Related Intelligence** - information about a gang, a suspected gang, an individual gang, or suspected gang member. This includes information about gang meetings, recruiting attempts by gangs, plans by gang members to organize or take part in protests, marches, and other public events, self-styled "community" events organized by a gang, as well as any information useful developing profiles and intelligence about gang activities.

#### **Why Report Gang Activity?**

The purpose of reporting and collecting information about gangs is to inform other members of the service and other law enforcement agencies city-wide of gang activity and intelligence information. Upon learning of a possible gang related or gang motivated incident, or upon making an arrest of a suspected or identified gang member for any offense:

1. Take immediate action as necessary;
2. Notify the Patrol Supervisor;
3. Enter information in your activity log, if appropriate;



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4. Contact the Intelligence Division's Operations Desk (877) 4INTELL, (877- 446 - 8355), or (718) 834 - 4301 24 hrs / 7 days a week. Provide all pertinent information to the Intelligence Division member accepting the report along with the telephone number of the command/location that you are calling from.
5. Prepare Complaint Report Worksheet and/or On Line Booking System Arrest worksheet, as appropriate.

If incident or information is not recorded on Complaint Report or On Line Booking System Arrest worksheet, follow procedure 212-12 "Citywide Intelligence Reporting System." This will insure that proper information can be forwarded to all commands concerned. If the information received involves a drug gang, in addition to notifying the Intelligence Division, also notify the Organized Crime Control Bureau Field Operations Desk 1 (646) 610-6610.

6. Be guided by the direction given by the Intelligence Division member. if requested, and when feasible, remain at command until Gang Division investigators arrive.
7. Provide full cooperation to the Intelligence Division personnel conducting the investigation of the reported gang incident.
8. Enter the following information in the "Details" Section of the Complaint Report worksheet and in "Box 11" (when an arrest is made) of the OLBS worksheet:
  - The name of the Intelligence Division member taking the notification and the Gang Division Log Number.
  - If victim/witness has gang affiliation and the name of the gang.
  - Perpetrator's gang affiliation and the name of the gang.
9. Enter the appropriate designated gang code on the Complaint Report worksheet in the caption which reads "Detective Squad Case Number":



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- a. **Codes 30** (Gang-Motivated) or **31** (Gang-Related) for incidents occurring within the confines of Patrol Services Bureau Patrol Boroughs/S.A.T.C.O.M. Brooklyn North (excluding Transit and Housing).
  - b. **Codes 40** (Gang-Motivated) or **41** (Gang-Related) for incidents occurring within the New York City Transit System.
  - c. **Codes 50** (Gang-Motivated) or **51** (Gang-Related) for incidents occurring on New York City Housing Authority Developments or Properties.
10. Fax a copy of the completed Complaint Report to the Intelligence Division at (718) 625-3076.
  11. Provide the Intelligence Division with all information available.
  12. Permit Intelligence Division member to interview any prisoner(s), complainant(s), witness (es), or other police officer(s).
  13. Notify, when appropriate, the Intelligence Division member of:
    - a. Name of the Assistant District Attorney assigned;
    - b. Charges preferred against the defendant;
    - c. Charges on any indictment;
    - d. Amount of any bail;
    - e. Next court date;
    - f. Scheduling of each subsequent court appearance;
    - g. Status of the prisoner;
    - h. Final disposition.

**Note:** MOS will **immediately** notify both the Intelligence Division and the complainant if the defendant posts bail or is released from custody.

14. Submit all completed forms to the desk officer for review.



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The Intelligence Division has a twenty-four (24) hour a day, seven (7) days a week, response capability and can dispatch experienced detectives to debrief gang prisoners, victims, and witnesses of gang-related incidents. The Intelligence Division serves as the department's central repository of intelligence on violent street gangs. The Intelligence Division will insure that any valuable criminal intelligence obtained regarding suspected gangs or gang members is rapidly disseminated to all units within the department that can use this information to further their investigations and to reduce crime.

### **DEPARTMENT RESOURCES FOR YOUNG PEOPLE**

#### **Anti-Graffiti Initiative**

The Office of the Deputy Commissioner of Community Affairs has been involved in the Department's quality of life strategy by developing and implementing programs and policy regarding the eradication of graffiti in our city.

#### **Mayor's Anti-Graffiti Task Force**

Established in August 1994, the Task Force consists of twenty-one city agencies working together to enhance the quality of life in New York City. DCCA represents the Police Commissioner, who is co-chair with the Mayor, overseeing the coordination of these agencies.

#### **Graffiti Hot Line**

In October 1994 the Graffiti Hot Line 1 (212) 374-5914 was established for residents to report acts of graffiti vandalism in progress to the Department.

#### **Graffiti Reward Program**

The Graffiti Reward Program issues rewards of up to \$500 to persons who give information resulting in the arrest, prosecution or conviction of a graffiti vandal.



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### **Graffiti Vandals Unit**

The first ever graffiti vandal unit in the New York City Police Department was established in June 1994 to follow up on complaints, investigate and arrest those involved in graffiti vandalism. Policy was instituted whereby desk appearance tickets are no longer issued for graffiti related crimes.

## **YOUTH PROGRAMS – NYPD**

### **Youth Division**

The mission of the Youth Division is to prevent youth violence by developing and implementing innovative educational programs. In response to the growing demands on the resources of the D.A.R.E. Program and the Youth Services Division, the Office of the Deputy Commissioner of Community Affairs recently reorganized the two Divisions into the newly created Youth Division. The Youth Division consists of two major sections: the Education Violence Reduction Section and the Youth Outreach Section.

The Youth Division serves as a repository for all reports on juvenile offenses and suspected child abuse.

The Education and Violence Reduction Section conducts educational programs within schools, address the causes of drug abuse and youth violence. Early education about these problems is an important tool. The programs use police officers as role models to foster positive relations between the youth and the police department. The following programs alter the attitudes and perceptions of young people regarding substance abuse, violence, gang affiliation, bias and criminality, and increase their awareness of the effects and consequences of negative behavior.

The Youth Outreach Section develops and coordinates innovative recreation and discussion group programs. The programs have been developed as a preventive approach to the escalating problem of youth related crime. These programs provide a climate in which youth can grow and develop into positive adults; they are discussed below.



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### **YOUTH OUTREACH SECTION**

#### **Police and Community Together (PACT) - Stop the Violence**

The Youth Dialogue Unit and other members of the Youth Division participated in the coordination of a series of PACT - Stop the Violence neighborhood rallies/concerts throughout the city. These events focused on a Police and community alliance against violence, crime and drugs. Numerous community organizations, social service organizations, block, tenant and citizen organizations participated in these community events. In 1995, there were nine events held in large parks throughout the city with an attendance estimated at 63,000. The Spanish Broadcasting Station sponsors these events. These events have proven to be most appealing to the city's youth. There are twelve large events scheduled throughout the city during the summer months.

#### **Fresh Air Fund Youth Leadership Weekend**

The Youth Division personnel and New York City Youth spend a weekend at the Fresh Air Fund Camp in Fishkill New York and participate in workshops and activities designed to forge harmonious relationships between the police and the youngsters. This biannual event was conceived by Youth Division personnel and is funded by the Fresh Air Fund Inc. It involves police officers, detectives and sergeants from the Youth Division As well as precincts and youth ranging from "at risk" to productive college bound. The weekend events are held in the spring and in the fall. The Youth Leadership Weekend was recently highlighted on a segment of "World News Tonight." One hundred and forty young people participate in each of these weekend events.

#### **Police Athletic League Liaison Unit**

The Police Athletic League (PAL) is the largest independent youth organization in New York City. Trained police officers are assigned to each patrol borough as program coordinators for the Police Athletic League. These officers work with local schools, churches, civic organizations, and local precincts to help establish such recreational opportunities as seasonal sports leagues, tournaments, clinics, trips and outings. This unit coordinates the annual Police Commissioner for a Day and the PAL Essay contests in the school.



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### **Police Athletic League (PAL) Play Streets**

PAL officers will bring recreational activities during the summer to neighborhood streets experiencing heavy drug activity. These drug prevention play sites are located in all precincts.

### **Youth Games**

The New York City Police Department Youth Games were designed to strengthen the partnership between the community, the Board of Education and the New York City Police Department. This undertaking included the scheduling of nine sporting events in over two (2) hundred public and parochial schools with eight thousand children participating citywide.

### **Juvenile Database Processing Unit**

The Youth Database Processing Unit is currently working with the Management Information Systems Division (MISD) to develop a comprehensive Juvenile Database. The Database will enable the processing unit to provide accurate statistical information on Juvenile offenses and reports of child abuse. This database will track juvenile crime trends and aid in developing crime reduction strategies and programs. Presently the processing unit is manually recording and filing reports of juvenile offenses. The Youth Division and the Management Information Systems Division are in the process of creating and implementing a Juvenile Database LAN system. The database will have both investigative and report function capabilities. The database will serve as a tool in juvenile investigations and will be available at the precinct level to authorized personnel. The report function will enable the Youth Division to produce citywide statistical reports and allow for borough and precinct command report capability. The database investigative function will allow for access on-line to Juvenile Reports and Youth Referral history. The database will track juvenile crime trends and aid in developing crime reduction strategies and programs.

### **D.A.R.E. Program - "DARE to Say 'NO' to Drugs!"**

DARE, which stands for "Drug Abuse Resistance Education," is a preventative program originally developed in Los Angeles. In September 1996, the NYPD joined forces with DARE America to bring the nationally recognized D.A.R.E. Program to New York City's classrooms. The 17-week curriculum is aimed to equip NYC youths with the skills to resist peer pressure and help youths





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to live productive drug-free and violence-free lives. The concept is straightforward and simple: DARE to say "NO"! The instructors are specially trained Police Officers. Each year DARE elementary curriculum is taught to over 5.5 million children in over 250,000 classrooms. The program is taught from kindergarten through the twelfth grade in public and private city schools. There are over 16,000 police officers certified to teach DARE throughout the United States and the world. The DARE program is now the largest and most successful drug presentation program in the United States. A recent Gallup survey of students who have completed the DARE program, more than 90% believe the DARE program provided them with skills to avoid drugs and alcohol. Drug Abuse Resistance Education is not about keeping kids off drugs. Our state education system has many effective education programs to teach kids about drugs by using professionals in the field. More than 22,000 community-oriented law enforcement officers from 7,000 communities throughout the country have taught the core curriculum to more than 25 million elementary school students. An additional 20 million students will be influenced by D.A.R.E. D.A.R.E. is taught by law enforcement officers in 19 countries and is being implemented in Department of Defense Dependent Schools worldwide.



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### CHILDREN AND ADOLESCENTS MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this chapter – *Children and Adolescents*. These procedures must be read in conjunction with this chapter. Questions for the 3<sup>rd</sup> Trimester Exam may come from these procedures:

- PG 208-07 Photographable Offenses
  - PG 212-13 Reporting Gang-Related Criminal Activity
  - PG 215-03 Emergency Removals or Investigation and Reporting of Abused, Neglected, or Maltreated Children
  - PG 215-05 Runaway Children
  - PG 215-06 Children or Minors Requiring Shelter
  - PG 215-07 Truants
  - PG 215-08 Juvenile Report
  - PG 215-09 (I.O. 56 of 2003) Offense Committed by a Child Under 16 Years of Age (Other than a Juvenile Offender)
  - PG 215-10 Arrest of a Juvenile Offender
  - PG 215-11 Arrest of Child Unlawfully in Certain Licensed Premises
  - PG 215-12 (Which is currently suspended by I.O. 57 of 2003) Personal Recognizance Juvenile Delinquent
  - PG 215-13 Handcuffing Students Arrested Within School Facilities
  - PG 215-19 Abandoned Infants/Operation Safe Haven
- Operations Order #49 of 2001
- Operations Order #1 of 2005



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### REFERENCES

Hurst Y. G and J Frank, 2000, "How Kids View Cops: The Nature of Juvenile Attitudes Towards the Police." *Journal of Criminal Justice* 28:189–2002.

Marans, S., 1996, "Psychoanalysis on the Beat: Children, Police, and Urban Trauma. *The Psychoanalytic Study of the Child* 51, ed. A.J. Solnit, P.B. Neubauer, S. Abrams, and A.S. Dowling: New Haven, Yale University Press.

Marans, S., R. A. Murphy and S.J. Berkowitz, 2002, "Police–Mental Health Responses to Children Exposed to Violence." In Melvin Lewis, (ed.) *Child and Adolescent Psychiatry: A Comprehensive Textbook*, 3<sup>rd</sup> Edition. Baltimore: Lippincott Williams and Wilkins.

Zide, M.R. and A.L. Cherry, 1992, "A Typology of Runaway Youths: An Empirically Based Definition." *Child and Adolescent Social Work Journal*, Vol. 9 # 2:155–168.



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### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT AUTO RELATED CRIMES AND PROCEDURES?

In a city as densely populated as New York City, police officers' daily routines revolve around the automobile. Patrol officers can expect that, virtually every day, automobiles will play a major part in their work lives. Every day, officers issue summonses, complete accident reports, and take complaints for stolen autos. In order to do these jobs effectively, officers must have extensive knowledge of automobiles and automobile related procedures. Your learning starts here in the Academy. In other parts of your program, we will train you in emergency vehicle operation and in vehicle searches and the laws that govern them, as well as in the proper procedures related to car stops and the issuance of summonses.

In this chapter, we focus on auto related crime and paperwork. We will begin with auto crime (including prevention and detection measures, vehicle fraud, stolen vehicle complaints, and crimes related to autos) and then advance to vehicle accident procedures (including accident scene safety), related paperwork, and towing. We will also cover vehicle pursuit procedures.

### VEHICLE LARCENY

More than one million vehicles are reported stolen in the United States annually. According to the National Automobile Theft Bureau (NATB), between ten and fifteen percent of these reports are fraudulent. The police officer responding to an auto larceny call is responsible for more than just taking a report. **A diligent investigation will uncover fraudulent claims**, along with other instances where missing vehicles, in fact, have not been stolen. Your observations while on patrol will aid in the prevention and detection of auto theft. Knowing what to look for in identifying a potential stolen vehicle is the first step toward making quality arrests. In turn, those arrests will contribute to the reduction of auto crime in that area. This chapter will help in identifying prevention and detection techniques as well as the laws relating to auto larceny.

The goal of the auto related crime strategy is to enable police officers, particularly at the patrol level, to gain the expertise necessary to mount a meaningful and concentrated citywide effort to combat auto related crime. The Department wants the auto related crime strategy to be as disruptive and averse to the criminals of New York City as auto related crime is to the citizens of New York City. Vehicle theft has become a nationwide problem. Many vehicles are stolen for parts and are dismantled very soon after the crime, in *chop shops*. Other stolen



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vehicles are stripped for parts, as they lay abandoned by the side of highways - after they were stolen or used in the commission of a crime. An even worse and more recent trend is *carjacking*, in which motorists are robbed of their autos as they drive them. In other situations, vehicle owners arrange for their own autos to be stolen and destroyed for the insurance settlement. By following the investigative techniques mentioned within this lesson, the Department can reduce the incidence of vehicle theft and apprehend those individuals who profit from other people's possessions.

### Prevention and Detection

Vehicle registration plates of automobiles can easily be removed and changed, facilitating many thefts. The police officer, therefore, must be familiar with the **vehicle identification number** ("**VIN**"), which is permanently affixed to each vehicle. This will help the officer accurately ascertain the true ownership of the vehicle and identify whether or not it has been stolen. The vehicle identification number was introduced in 1954, and is attached to the vehicle by the manufacturing plant. The VIN characters describe certain features of the automobile (e.g., year, model, make, restraint systems, engine type, etc.).

Knowledge of the VIN code provides the officer with inside information into the makeup of the automobile. For instance, if the VIN code reveals that the auto is supposed to have four doors, but it only has two, it can be concluded that the VIN has been replaced or altered and a crime has occurred. Extensive knowledge of VIN codes takes years of experience and the codes themselves vary from car to car. A smart patrol officer carries the VIN code booklet issued by the National Insurance Crime Bureau. This booklet is an essential tool in combating auto theft and fraud.

Each automobile manufacturer has its own system for compiling the VIN. There are several locations on an automobile where the "public VIN" is attached. This is the VIN that can easily be seen from outside the vehicle. These locations are:

1. Left side of the dashboard/instrument panel;
2. Left side of windshield pillar or post;
3. Door post of the driver's side (*on vehicles manufactured prior to 1968*).



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Although the VIN is generally more reliable than the registration plate, it is also subject to alteration or removal. One method used by counterfeiters is to produce a plastic strip with a tape-punching machine, and then attach it over the true VIN plate. Another involves the removal of a single character from the VIN and replacing it with a different character made by the counterfeiter and then sprayed black.

When searching a vehicle, never make the assumption that a VIN is absolutely accurate; always check for signs of tampering, including:

- Obvious alterations;
- A scratched or bent plate;
- Improperly affixed or crooked plate;
- Rivets that appear to be damaged;
- Paper or other material covering the location where the VIN is normally found. (Ask the driver to remove the paper. **Do not** do this yourself).

**Note:** Without probable cause, a police officer cannot reach inside an auto to move an object in order to view the VIN. To avoid this form of illegal search, officers should request the operator to move the object.

**Note:** It is a Class "E" felony in the Penal Law to knowingly alter a VIN plate, or possess such a plate that has been removed from a vehicle illegally. Any evidence of tampering requires careful investigation.

When there arises a question concerning the location and/or the validity of the VIN or whether assistance is needed to ascertain if the vehicle is stolen, request the help of someone in your command who has been trained by the Auto Crime Division. If such local assistance is unavailable, contact the Auto Crime Division direct.



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### Observations While On Patrol

In addition to the information listed on your Auto Larceny Activity Log insert, there are certain indicators of suspicious circumstances involving vehicles. While on patrol, at accident scenes, conducting car stops and conducting vehicle safety check points, you should be aware of the following ***indicators of vehicle theft***:

- A clean license plate on a dirty vehicle, or *vice versa*;
- A worn license plate attached with new bolts or wire;
- A new car without hubcaps or riding on undersized spares ("donuts");
- A damaged trunk lid that appears to have been forced or pried open;
- Vehicle with a shattered window;
- Front & rear plates that do not match;
- A freshly painted vehicle;
- Ignition locks - missing, tampered with;
- Cars with tool marks on the frame around windows;
- Missing trunk, door lock cylinders;
- Flapping or missing vent windows;
- Folded over, obstructed or missing registration plates;
- Out-of-state plates with NYS stickers and vice versa;
- Cars showing evidence of recent tool marks on bolts holding license plates;
- Cars with license plates insecurely mounted;
- Operator appears to be unfamiliar with the operation of the vehicle;
- Operator of vehicle appears to be underage;
- A vehicle that will not pass, or tries to avoid a marked patrol car;
- Unmarked tow trucks and flatbeds;
- Tow trucks and flatbeds hauling undamaged vehicles;
- Unmarked pick up and rack trucks carrying vehicle parts;
- Trucks with "cover-up" paint jobs;
- Chewed up steering columns;
- Drivers who appear nervous and confused when questioned;
- Persons removing parts or accessories from automobiles;
- Persons apparently repairing or, without reason, loitering in the vicinity of a parked car;
- Persons trying a number of keys to open a car door.

**Note:** These are indicators and do not, alone, equal probable cause. Several factors or a combination of these factors may lead to suspicion that a crime is in progress.



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Extreme care must be exercised when approaching a suspected stolen vehicle. An approach should be made from the rear of an occupied vehicle. The officer should never walk in front of, or reach into, an occupied vehicle for keys or documents. Documents should be handed to the officer by the operator, or removed after the operator has exited the vehicle.

### Chop Shops

A **chop shop** is any building, lot, or other premise where any person has been engaged in altering, destroying, disassembling, dismantling, reassembling, or storing any motor vehicle or motor vehicle part known to be illegally obtained by theft, fraud, or conspiracy to fraud, in order to do either of the following:

1. Alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity of a motor vehicle or motor vehicle part, in order to misrepresent the identification of the motor vehicle or the motor vehicle part;

*or*

2. Sell or dispose of the motor vehicle or motor vehicle part.

Becoming aware of the existence of chop shops on patrol affords you the opportunity to assist in mounting a meaningful effort to combat auto crime. The following is a list of indicators that may aid you in identifying such locations:

- The building is usually located in a commercial area;
- There are no business signs posted on the building's exterior;
- The surface of the building is usually covered with graffiti;
- There is bodywork being done on cars, however, the Department of Motor Vehicle issued Repair License is not displayed out front;
- The business is operating during odd hours. For example, while adjoining businesses have closed for the day, this shop remains open;
- The building will have gates that remain closed, but open periodically to allow for the entrance or exit of vehicles or people;
- Service stations and auto body repair shops with: wrecks with missing VIN plates, cut up chassis rails, or late night work and deliveries;
- Private garages and residential areas: numerous vehicles without plates, wrecks in driveways and yards.





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The following are vehicles that may be observed in the vicinity of a chop shop:

**Parts Truck** - This vehicle is usually an ordinary van with no windows. It is used to transport parts to the body shop that ordered them. It is important to note that cars are stolen based on demand for parts.

**Bones Truck** - This vehicle usually is a box van, like those typically used as bread trucks. It is used to remove what is left of the vehicle (*skeleton of the car*) after the desired parts have been removed. The Bones Truck is usually extended five to six feet from the end of the truck and reinforced with a beam. The doors on the truck look typical but are actually hinged at the top of the truck. Ramps are installed inside the truck to aid in the entry and removal of vehicles. It may also have a hole in the roof that allows for a crane to go over the wall of a salvage yard and fish the remains out of the truck.

### Tools of the Trade

National statistics show that a large percentage of all cars stolen have keys left in the ignition. However, to the professional, the absence of a key means little. Locks, as well as anti-theft devices, can be bypassed. Like skilled technicians, auto thieves rely on a variety of specialized tools to make their jobs easier. Below are some of the tools of their trade:

- Screwdriver;
- Slim Jim;
- Dent Puller;
- Slap Hammer;
- Extracting Ignition Lock Puller;
- Ignition Lock Breaker;
- Special Wrench Socket;
- Coat Hanger.

Possession of these tools in and of themselves may not constitute a crime, but can raise a police officer's level of suspicion when investigating auto larceny. If these tools are recovered on a perpetrator charged with larceny an additional charge of Possession of Burglar's Tools (P.L. 140.35) can be added.



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### Preventive Measures

In a continuing effort to reduce crime, the NYPD has developed specific strategies to address property crimes. As part of this effort, the Department has stepped up initiatives to combat auto theft. These strategies include using specially trained plainclothes officers, VIN etching for participating car owners and decal programs such as Combat Auto Theft (CAT), and Help End Auto Theft (HEAT). Officers also conduct vehicle checkpoints and directly patrol areas known to attract car thieves. These programs are available to all communities and are offered throughout every precinct in the City. A person interested in becoming involved in these programs should contact the precinct's Crime Prevention Officer.

Crime prevention is a cooperative enterprise between the police and the community. Residents are urged to avail themselves of the many free crime prevention programs, including bicycle registration, security surveys, and **Operation Identification** for property in homes or businesses.

### Combat Auto Theft (C.A.T.) Program

The **Combat Auto Theft Program (C.A.T.)** is designed to deter auto larceny, and assist you in the identification and recovery of stolen vehicles. A "C.A.T." sticker is attached to the rear side windows of an auto. The stickers are depicted with yellow shields identifying the precinct and an ID Number. The owner signs an authorization form, which allows you to stop their auto during the hours of **1:00am until 4:00am**. The person stopped need only show proper identification.

### Commuter C.A.T.

This program is set specifically for those residents who commute and leave their auto parked for the day. This is the same as the C.A.T. program except the hours that a vehicle may be stopped are from **10am until 4pm**. This program also works by placing stickers on a vehicle's window.

### H.E.A.T. (Help End Auto Theft)

This is a citywide volunteer program to combat auto theft. In order to participate, a person must be a New York City resident, a registered owner of a motor vehicle, and above the age of 40. When a person registers for this program, two decals are placed on their vehicle. The decals inform the police that anyone driving the vehicle that is apparently under the age of 25 may be doing so without the owner's consent. It authorizes you to stop and check the vehicle. H.E.A.T. is in effect **24 hours a day**.



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### Preliminary Investigation, Recording And Transmission Of Alarms For Stolen Vehicles (P.G. 207-11)

A complainant, present at a precinct command, or other Department facility to report a stolen vehicle, must be transported by Department vehicle to the place of occurrence, or be requested to await the arrival of a uniformed member(s) of the service at the location where the crime occurred. The assigned uniformed member of the service will then conduct a preliminary investigation at the scene and enter the results in the details section of the **Complaint Report Worksheet**. (Including the presence of broken glass or a "popped" vehicle lock left at the scene, the license plate number of the auto that is now parked in the spot of the theft (if any), as well as the plate numbers of the cars parked in front and behind the vehicle).

**Note:** In situations where it is not feasible to either transport or meet a complainant at the location of a reported vehicle theft (e.g., when the date of theft and the reporting date may be days or weeks apart), the need for an RMP canvass will be left to the discretion of the desk officer. **A complaint for a stolen vehicle must never be taken over the phone.**

The complainant must be given a **Vehicle Theft Preliminary Investigation Report** and **Vehicle Theft Supporting Deposition** to prepare and sign. If the complainant is unable to prepare the forms, the investigating officer will prepare them. If the complainant refuses to prepare the reports, note facts on the face of the reports and sign them. **Refusal to sign these reports does not preclude the officer from taking the complaint.**

The reports will be attached to the Complaint Report worksheet and given to the desk officer for review. After the desk officer confirms (through FINEST) that the automobile is not impounded, wanted in connection with a crime, towed or previously reported stolen, the investigating officer will use the FINEST system to transmit an alarm for the stolen vehicle.

**Note:** The Complaint Report will be closed to patrol unless it was used in the commission of a crime or other condition indicates that further investigation is necessary (pattern, unique crime, etc.).



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### Complaints of Lost or Stolen License Plates (P.G. 207-13)

When a complainant reports license plates missing or stolen, certain procedures must be followed to ensure the proper transmittal of an alarm. First, the investigating officer must ascertain that the complainant is the registered owner or a true representative of the owner of the plate(s), and then he must prepare a **Complaint Report Worksheet**.

- **If one plate is missing** and there is no other evidence to suggest a larceny or other crime, **classify the complaint as lost property** and close the complaint immediately as referred to Department of Motor Vehicles. Whether the complaint is classified as a crime (e.g., larceny) or lost property, direct the owner/representative to turn in the remaining plate to the Department of Motor Vehicles. Advise complainant to contact the precinct after the plate is turned in for transmission of an alarm. A person subsequently found to be in possession of a lost license plate could be charged with larceny by acquiring lost property. A license plate missing from an out-of-state registered vehicle, that is only required to have one plate, will not be classified as a larceny or other crime unless there is additional evidence to support the crime. An alarm, however, will be transmitted in all cases.
- **If both plates are missing**, have alarm transmitted via FINEST System and attach a copy of the NYSPIN acknowledgement to the **Complaint Report**.

**Note:** When one plate is missing from a vehicle registered to this Department, have alarm transmitted as soon as possible via FINEST System. Ensure that the "DETAILS" section of the **Complaint Report** includes that the missing/stolen plate is registered to a Department vehicle.

**Note:** Unless additional information is available to determine if a missing plate(s) is stolen, one missing plate will be classified as **lost property**. When both plates are missing, the case will be classified as a **Petit Larceny**.

The investigating officer must then prepare and sign **Report of Lost or Stolen License or Registration Items** and give it to the complainant. This form will also be prepared when a complainant claims that their driver's license or registration was stolen or lost. The complainant will then be instructed to deliver the form to the Department of Motor Vehicles to obtain new documents.



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### AUTO CRIMES

This section describes some offenses that, at first glance, appear to be a larceny. However, these offenses either lack the elements necessary to charge larceny or are used as additional charges to the crime of larceny. To commit a larceny, it is necessary that the offender intends either to deprive the owner or to appropriate the property permanently or for so long a period that the major portion of the property's economic benefit is lost to the owner. A person who takes a vehicle to use for a day, a week, even a couple of weeks, and does not intend to deprive the owner either permanently or for so long a period that a major part of the vehicle's economic value or benefit is lost, has committed Unauthorized Use of a Vehicle. This is the basic difference between the two crimes. Where intent to take the vehicle permanently can be determined, the crime should be handled as a Grand Larceny.

#### Unauthorized Use of a Vehicle

Unauthorized Use of a Vehicle is an offense commonly referred to as "joyriding." It can be either a misdemeanor or a felony. Basically, **Unauthorized Use of a Vehicle** means **using a vehicle without the permission or consent of the owner**; there is no intent to gain the value of the vehicle permanently.

**There are three (3) ways to commit the offense of Unauthorized Use of a Vehicle:**

1. Use of a vehicle without permission;
2. Use of a vehicle as a gross deviation from a repair contract;
3. Use of a vehicle, retained or withheld, as a gross deviation from an agreement.

#### Unauthorized Use of a Vehicle - Misdemeanor (P.L. 165.05)

1. A person is guilty of Unauthorized Use of a Vehicle (*without permission*) when, knowing that he does not have the consent of the owner; he takes, operates, exercises, control over, rides in, or otherwise uses; a vehicle.

**Note:** This charge would also apply in the case of the theft of an auto. Charge Grand Larceny for appropriating the property and Unauthorized Use of a Vehicle for using the vehicle.



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**Example:** A person sees his neighbor's vehicle parked in their common driveway with the keys in the ignition. He decides to use it to go to the store and returns after approximately thirty (30) minutes.

2. A person is guilty of Unauthorized Use of a Vehicle (*gross deviation from contract*) when:
- Having custody of a vehicle;
  - Pursuant to an agreement between himself (or another) and the owner of the vehicle;
  - That he (or another) is to perform for compensation a specific service for the owner involving maintenance, repair or the use of the vehicle;
  - He intentionally uses or operates the vehicle without the consent of the owner for his own purposes and in a manner constituting a gross deviation from the agreed purpose.

**Example:** A mechanic was given a car to repair on Friday. He was told that the owner would pick it up on Monday. The mechanic finished the repair work Friday evening and decided to use the car to go on a weekend trip. The mechanic could be charged with Unauthorized Use of a Vehicle, because his trip was a gross deviation from the agreement to repair the car. The agreement could have included a short drive for testing purposes, but not a weekend trip.

3. A person is guilty of Unauthorized Use of a Vehicle (*retained or withheld*) when:
- Having custody of a vehicle;
  - Pursuant to an agreement with the owner of the vehicle (usually a rental/lease agreement);
  - That the vehicle is to be returned to the owner at a specified time;
  - He intentionally retains or withholds possession of the vehicle without the consent of the owner;



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- For so lengthy a period beyond the specified time as to make such retention or possession a gross deviation from the agreement.

**Note:** If the rental contract was obtained through fraudulent means, a complaint report will be prepared for **Grand Larceny**, if not; the complaint report will be classified as **Investigation - Unauthorized Use of a Vehicle**.

### Unauthorized Use of a Vehicle - Felony ( 165.06/.08)

A person is guilty of Unauthorized Use of a Vehicle - felony when he commits Unauthorized Use of a Vehicle - misdemeanor, subdivision 1 (*without permission*); **and**

- He has been previously convicted of this same offense and subdivision within the preceding ten (10) years; or
- He has the intent to use the vehicle in the course of, or the commission of, a class A, B, C, or D felony, or in immediate flight therefrom.

### Auto Stripping - Misdemeanor (P.L. 165.09)

A person can be charged with Auto Stripping - misdemeanor, when he removes or intentionally destroys or defaces any part of a vehicle, *including an abandoned vehicle*, without permission of the owner, or authorization by law.

**Example:** Joe sees a car parked on the street. He takes the front bumper off, in order to put it on his own car.

### Auto Stripping - Felony (P.L. 165.10/.11)

A person can be charged with Auto Stripping - felony when:

- He commits Auto Stripping – misdemeanor, **and** has been previously convicted within the last five years of Auto Stripping - misdemeanor; **or**
- He or she removes or intentionally destroys, defaces, disguises, or alters any part of **two or more vehicles, other than abandoned vehicles**, without the permission of the owner, and the value of the parts removed, destroyed, defaced, disguised, or altered **exceeds an aggregate value (or total value) of \$1,000.**



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### CRIMES RELATED TO AUTOMOBILE OPERATION

A police officer may come across a variety of crimes in the course of an automobile investigation. These crimes may relate to the automobile itself (auto larceny, altered VIN) or to the person (DWI, unlicensed operation of a vehicle). *This section will cover the crimes and violations related to the operator of a vehicle.*

#### Driving While Intoxicated (D.W.I.)

The media reminds us, daily, of the tragic consequences of drinking and driving. Yet deaths, injuries, and property damage accidents attributed to alcohol-impaired driving continue to be a serious problem in New York State. In fact studies indicate that alcohol is a contributing factor in more than 40 percent of all motor vehicle accidents in which someone is killed.

You will undoubtedly encounter intoxicated drivers during the course of performing your patrol duties. Your keen observations of the circumstances of the incident will result in a conviction of the drunken or drugged driver. ***Accurate and complete Activity Log entries as well as detailed associated reports are essential to the successful prosecution of this offense.***

While on patrol, an observant officer will be aware of the ***warning signs*** of an intoxicated driver. Driver impairment signs include:

- Following too close to another vehicle;
- Inconsistent speeds (too fast/ too slow);
- Gradually drifting/weaving;
- Failing to dim hi-beam headlights at night;
- Disregarding traffic signs/signals;
- Condition of a vehicle (damaged);
- Complaints from citizens;
- Extreme caution (prolonged/unnecessary stops);
- Asleep at the wheel;





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- Interfering with oncoming traffic;
- Wide turns;
- Straddling center or lane marker;
- Almost striking an object or vehicle;
- Face too close to the windshield;
- Gripping steering wheel tightly;
- Staring straight ahead with fixed eyes;
- Inappropriate behavior (throwing an object from the vehicle/urinating at roadside/arguing with other motorists);
- Braking erratically;
- Driving the wrong way on a one way street;
- Driving recklessly or aggressively.

There are a number of observations you may make during an interview that would be describable ***clues or evidence of alcohol or drug influence***. Among these are:

- Alcohol on the breath;
- Soiled clothing/appearance in disarray or stained;
- Speech (thick/slurred/confused);
- Balance (unsteady, swaying, relaxed);
- Face (pale or flushed);
- Eyes (bloodshot, red or puffy);
- Fumbling or dropping of Driver's License, I.D.;



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- Misjudges distance;
- Alcohol containers present in the vehicle;
- Unusual actions (i.e., excessive hiccupping, vomiting);
- Drugs or drug paraphernalia.

### Definitions Relating to D.W.I.

- **D.W.I.:** Driving while intoxicated, **.08 BAC** (blood alcohol concentration) or higher or other evidence of intoxication.
- **D.W.A.I.:** Driving While Ability Impaired by alcohol, **more than .05 but less than .08 BAC**, or other evidence of impairment.
- **Chemical Test Refusal:** Refusing to take a chemical test, such as a breathalyzer, for blood alcohol content shall result in license revocation and a \$300 civil penalty (\$350 for commercial vehicle drivers). Chemical test refusal within five years of a prior DWI-related charge carries a \$750 civil penalty.
- **D.W.A.I./Drugs:** Driving while ability impaired by drugs other than alcohol.
- **Zero Tolerance:** Drivers **under 21** who are found to be driving with any alcohol in their system (**.02 to .05 BAC**) may be charged with violating the Zero Tolerance Law.

**Note:** Any amount of drinking will affect judgment and coordination and will reduce the ability to safely operate a vehicle.

### Intoxicated/Impaired Driver Arrest (P.G. 208-40)

**Driving While Intoxicated** ("DWI") is a crime. DWI laws are **strictly enforced** in New York State. Penalties include loss of driving privileges, loss of vehicle under New York State forfeiture laws, fines, and possible jail time.



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Your observations prior to taking the person into custody are crucial to establishing probable cause for an arrest. Ordinarily, DWI arrests will originate in one of three different ways:

1. Observations of improper driving;
2. Vehicle checkpoint stop;
3. As a result of an accident.

When you conduct a car stop as a result of erratic driving, the nature of what was seen should be noted, the particulars must be explored (e.g., slow speed, weaving, stop and go pattern, etc.). If either a moving violation (speeding, illegal turn) or some other infraction (e.g., a defective muffler, a broken taillight) caused the stop, ***make certain that the initial violations are noted.***

When the arrest occurs as a result of a checkpoint stop, the placement and operation of the stop should be noted (as well as your observations). Ordinarily, the intrusion upon a driver will escalate gradually from a mere glance through a car window, to a brief verbal exchange, to removal from the vehicle and a full observation of the person's appearance and conduct.

Arrests, which follow from an accident, usually result in the most serious cases. These may be the most difficult to prove in court as you may be responding to the scene and did not witness the actions of the driver prior to the accident. However, your ability to gather evidence and make observations of the driver's condition will play an important role in the prosecution of the case. If the driver is not seriously injured as a result of the accident, he or she will be processed in the normal manner.

### **Upon Arresting a Person for Operating a Vehicle While Under the Influence of Drugs or Alcohol:**

Remove the prisoner to the stationhouse (precinct of arrest) and comply with arrest procedures as indicated in Patrol Guide Section 208-40. Voucher, as evidence, any credit card receipts from a recent stop at restaurants, bars, etc., found on the driver during a search.

Once arrested, the person will be asked to submit to a ***chemical test***, the chemical test is administered by use of a ***Breathalyzer exam***. A Breathalyzer is a self-contained instrument, which determines the ***concentration of alcohol present in a person's blood***, indirectly, by determining the concentration of alcohol present in his breath.



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Continuous observation of the subject will be maintained for at least 20 minutes prior to the collection of the breath specimen. During the period of observation, the operator **must not** ingest alcoholic beverages or other fluids, regurgitate, vomit, eat, or smoke, or be allowed to place anything in his or her mouth.

The arresting officer reads a card which sets forth a warning that **failure to submit to a chemical test will result in immediate suspension of the arrestee's license and revocation of his or her driving privileges.**

The Vehicle and Traffic Law (VTL) mandates that a chemical test be performed **within two hours of the arrest**, or within two hours after a screening test indicates consumption of alcohol. Despite a great deal of scientific data indicating that tests performed within this period will frequently provide an inaccurate reflection of the blood alcohol concentration in existence at the time of the operation of the vehicle, the courts have given this section of the VTL a most literal interpretation.

**Note:** Chemical testing of a prisoner arrested for driving while intoxicated or impaired may be administered beyond the two-hour limit if the prisoner consents.

### If Prisoner Refuses Chemical Test or Any Portion Thereof

The Intoxicated Driver Testing Unit (IDTU) technician will prepare and sign the **Chemical Test Refusal Form** and the arresting officer will sign it as well. The arresting officer must be able to articulate circumstances that led to the original charge of Intoxicated or Impaired Driving. After arraignment, the court will forward to the arresting officer a **NOTICE OF SUSPENSION / NOTICE OF HEARING FORM**, with instructions to appear at a designated date, time and place for a hearing, which will be within fifteen days of the arraignment.

When a chemical test reading is .05 of 1% or less, and the prisoner still appears to be intoxicated, request the prisoner submit to testing for controlled substances. If the prisoner refuses, follow applicable steps in this procedure regarding chemical test refusal.

If a prisoner requests to consult an attorney prior to submitting to a chemical test, they may do so as long as it does not delay the administration of the test beyond the two-hour limit mandated by the VTL. There is no obligation to inform the prisoner, prior to the test that he may consult with his attorney if he wishes to do so.



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You should be aware that a motorist's license will not be suspended or revoked for failure to submit to a chemical test conducted more than two (2) hours after arrest.

If a prisoner requests to be tested for intoxication by his personal physician, the test will not be allowed until the Department testing is completed. If he or she refuses a test by this Department, he will not be allowed to have a test administered by his or her personal doctor.

**Note:** In arrest cases for DWI involving vehicle accidents, a photocopy of MV-104AN (Police Accident Report) will be attached to arrest paperwork.

**Note:** Notify the ADA when the prisoner is removed to Central Booking if the prisoner has any previous arrests for the same crime within the past ten years.

### Driving While Intoxicated (Vehicle And Traffic Law - Section 1192)

#### V.T.L. Section 1192, subd. 1 - Operating a Motor Vehicle While Under the Influence of Alcohol or Drugs - Violation.

- **Driving While Ability Impaired:** no person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the consumption of alcohol.

**Note:** A *third conviction* for this offense within ten years is a *misdemeanor*.

#### V.T.L. Section 1192, subd. 2 - Operating a Motor Vehicle While Under the Influence of Alcohol or Drugs - Misdemeanor.

- **Driving While Intoxicated:** no person shall operate a motor vehicle while such person has **.08 percent or more** by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine, or saliva.

#### V.T.L. Section 1192, subd. 3 - Operating a Motor Vehicle While Under the Influence of Alcohol or Drugs - Misdemeanor.

- **Driving While Intoxicated:** no person shall operate a motor vehicle while in an intoxicated condition (based upon a police officer's observation).



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### V.T.L. Section 1192, subd. 4 - Operating a Motor Vehicle While Under the Influence of Alcohol or Drugs - Misdemeanor.

- **Driving While Impaired by Drugs:** no person shall operate a motor vehicle while the person's ability to operate such a vehicle is impaired by the use of drugs.

### Zero Tolerance Law (P.G. 208-41)

The Zero Tolerance Law (Section 1192-a VTL) requires a six-month suspension of a Drivers License or privilege and payment of a civil penalty of \$125.00 if, after an administration hearing, conducted by the NYS Department of Motor Vehicles, it is determined that a person, **less than twenty-one years of age**, operated a motor vehicle after having consumed alcohol. Such a person must have had a chemical test reading of .02 to .05%.

If a uniformed member of the service has probable cause to believe that a person under the age of 21 is operating a motor vehicle while impaired or intoxicated, a summary arrest will be effected.

Under the authority of the Zero Tolerance Law, a police officer can temporarily detain a motorist younger than 21 years of age, for the purpose of administering a chemical test upon reasonable grounds to believe that the individual is operating a motor vehicle after having consumed alcohol. Reasonable grounds are considered as follows:

- The **totality of the circumstances** surrounding the incident which, when taken together, indicate that an operator under the age of 21 was driving a motor vehicle while impaired or intoxicated. Such circumstances may include any visible or behavioral indication of alcohol consumption by the operator, the existence of an open container containing or having contained an alcoholic beverage in or around the vehicle driven by the operator, or any other evidence surrounding the circumstance of the incident which indicates that the operator has been operating a motor vehicle after having consumed alcohol at the time of the incident.

A violation of VTL Section 1192 (a) is not a criminal offense. It is a civil violation, which can result in a six-month license suspension and a fine. An individual who refuses a chemical test pursuant to this statute will have their license revoked for a period of one year. Even though the law allows for civil penalties only, it also allows a police officer to temporarily detain the individual for the purpose of administering a chemical test.



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The procedures for administering the chemical test are virtually the same as a standard chemical test. If the subject registers between a .02 and .05 he will be notified that he must appear at a scheduled suspension hearing and released. If the subject registers above a .05, he will be processed as an arrest.

**Note:** The initial detention of the individual under the Zero Tolerance Law is for the purpose of administering a chemical test.

### CRIMES RELATING TO DWI

When a person is arrested for Driving While Intoxicated as the result of an auto accident and the person has seriously injured or killed another individual, additional charges will be added as follows:

#### **Vehicular Manslaughter - Felony (P.L. 125.12, 125.13)**

A person commits Vehicular Manslaughter - felony, when with ***criminal negligence***, he causes the death of another by operating a ***motor vehicle***, including a snowmobile or all-terrain vehicle (A.T.V.), while ***intoxicated*** by alcohol or drugs.

#### **Vehicular Assault - Felony (P.L. 120.03, 120.04)**

A person commits Vehicular Assault - felony, when ***with criminal negligence***, he causes a ***serious physical injury*** to another by operating a ***motor vehicle***, including a snowmobile and an all-terrain vehicle (A.T.V.), while ***intoxicated*** by alcohol or drugs.

### UNLAWFUL OPERATION OF A MOTOR VEHICLE

The authority to operate a motor vehicle may be suspended, revoked or otherwise withdrawn for a variety of reasons, including reckless driving, failure to take a chemical test, D.W.I., failure to pay fines etc. Additionally, licenses are not granted to individuals who fail road tests. Individuals who unlawfully operate motor vehicles pose a danger to all other drivers and pedestrians. The following sections explain those NYS Vehicle and Traffic Law (VTL) statutes that apply to **Unlawful Operation of a Motor Vehicle**.



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### Unlicensed Operator – Traffic Infraction (VTL Section 509, subd.1)

No person shall operate or drive a motor vehicle upon a public highway, or upon any sidewalk or to or from any lot adjacent to a public garage, supermarket, shopping center or car-washing establishment unless he or she is duly licensed pursuant to the provisions contained in Article 19 of the NYS Vehicle and Traffic Law.

**Note:** If such motorists are properly identified, they usually are issued a summons for this infraction.

### Aggravated Unlicensed Operation 3rd Degree – Misdemeanor (VTL 511, subd.1) [P.G.208-53]

No person shall operate a motor vehicle upon a public highway/street while knowing or having reason to know that his or her license is **suspended, revoked or otherwise withdrawn**.

**Note:** The motorist, in this situation must be arrested and, if eligible, should be processed for a Desk Appearance Ticket (DAT).

### Aggravated Unlicensed Operation 2nd Degree – Misdemeanor (VTL 511, subd 2) (Patrol Guide Section 208-53)

No person shall operate a motor vehicle upon a public highway/street while knowing or having reason to know that his or her license is **suspended, revoked or otherwise withdrawn, and:**

1. The operator of such motor vehicle **has a conviction for the same offense within the preceding eighteen months; or**
2. The suspension or **revocation is based upon a refusal to submit to a chemical test** pursuant to Section 1192 of the NYS Vehicle and Traffic Law; **or**
3. Such person **has in effect three or more suspensions** imposed on at least three separate dates for failure to answer, appear or pay a fine for previously issued summonses.

**Note:** Motorists stopped for 511, subd. 2 must be arrested and are **not eligible for DATs**.





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### Aggravated Unlicensed Operation 1st Degree – Felony (VTL 511, subd. 3) (Patrol Guide Section 208-53)

No person shall **operate a motor vehicle** upon a public highway/street while knowing or having reason to know that such person's license is suspended, revoked or otherwise withdrawn **and** is operating a motor vehicle while such person has in effect **ten or more suspensions** imposed on at least ten separate dates for failure to answer, appear or pay a fine for previously issued summonses.

**Note:** This is a **felony**. The motorist **must be arrested** and processed through normal procedures (**NO DAT**).

**Note:** When a license is run through the DMV computer a list of suspensions and/or revocations will appear. The total number of suspensions, as well as the total number of dates, must be noted in the arrest paperwork. This will usually determine the specific charge. A printout should then be attached to the arrest paperwork before being sent to the ADA.

## VEHICLE PURSUITS

Everybody has seen dramatic and frightening vehicle pursuits on television and in the movies. Two New York cop movies – **The French Connection** and **The Seven-Ups** – featured spectacular chase scenes. But they were both fiction, and did not happen in real life. If, today, any New York police officer conducted a pursuit anything like the chases in those movies, it is very likely he or she would very soon be looking for new employment. No matter how well you may drive, it is not consistent with your primary responsibility to protect life to chase people on public streets – especially in this densely populated city – in order to apprehend them for traffic violations, property crimes (like vehicle larceny), or for anything but offenses that are so serious that they show that the fleeing suspects will be an imminent danger to the community if they are not immediately apprehended. Many studies of vehicle stops and vehicle pursuits have been conducted. Here's what they show:

1. Except for the traffic violations that cause police to try to stop them, the great majority of motorists the police attempt to stop are otherwise law-abiding people who present no danger to the police. Instead, because they are anxious to avoid traffic summonses, they do everything officers ask of them.



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2. Because most traffic stop subjects act precisely as officers expect them to, officers tend to become very nonchalant about pulling over motorists. This causes two problems:
  - a. Every once in a while, officers meet motorists who pull over to the side of the road as requested, but who then surprise by forcibly resisting their authority. If such officers have used poor tactics because they have come to assume that all traffic violators are nice guys who pose no threat, they may find themselves in deep trouble. You can avoid this by never taking any motorist for granted, and by always adhering closely to the vehicle stop tactics you will learn here in the Academy.
  - b. Every once in a while, motorists push down on the gas pedal instead of the brake pedal when officers try to stop them. Unless they are carefully trained in what to do when this happens, officers are likely to let their emotions take over at this point, and to do some really stupid things in response to this sudden challenge to their authority. For example:
    - 1) In 1980, a motorcyclist took off when Miami-Dade officers tried to stop him. When they finally caught him after an 8.5-mile chase, five officers beat him to death. They were caught in lies about what they had done, and were tried for murder. Because the prosecutor could not prove which of these officers had actually struck the fatal blow, the officers were acquitted. This acquittal led to a demonstration, which turned violent, and became the notorious Liberty City riot. The riot killed 18 people, caused \$80 million in property damage, and resulted in 855 arrests.
    - 2) In 1989, a motorcyclist riding with a passenger fled from the Miami police. An officer who was handling another call saw the chase approaching, and stepped into the street to stop the motorcycle. The motorcyclist did not stop and, as he sped past, the officer shot and killed him. The bike then crashed, killing the passenger, as well. Four nights of rioting followed. The officer subsequently was convicted of manslaughter, and was sentenced to seven years in prison. His conviction was overturned on appeal.



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- 3) In 1991, the California Highway Patrol attempted to stop a motorist, who fled and led the police on an 8.5-mile chase. When he was finally apprehended, a neighbor videotaped four Los Angeles police officers beat the motorist with their batons. They subsequently were criminally tried and acquitted, which led to several nights of rioting. Fifty people were killed, and more than \$1 billion in property damage resulted. The officers subsequently were charged with federal civil rights violations and were convicted and sent to prison.
  - 4) In 1995, police in Pennsylvania chased a fleeing motorist who ran through a red light and broadsided an innocent citizen's car. The police then ran to the fleeing motorist's car, dragged him out and, according to several witnesses, beat him up. As they did so, they failed to notice that the innocent citizens' automobile had burst into flame and that, trapped in the car by the force of the collision, he was screaming desperately for help. He burned to death while the officers subdued their prisoner.
- c. It is true that some very serious offenders have been caught by the police after being stopped for routine traffic violations. Timothy McVeigh, the Oklahoma City bomber, was stopped for speeding as he left the scene of his crime, and was in a rural jail overnight before the police realized his connection to the bombing. Ted Bundy, the notorious serial rapist and killer, was brought to justice after a Florida officer stopped him for a routine traffic violation. These two cases illustrate the need for great care when dealing with people who appear to be only traffic violators: both of these men wound up being executed after encounters with the police that started only with minor traffic violations. But these two cases also make another point: ***neither of these two individuals fled from the police.*** Instead, they pulled over and then tried to talk their way out of trouble. This is fairly typical, because research also shows that very few serious offenders are among those who lead the police on high-speed chases. When really serious offenders leave the scenes of their crimes, they may speed away for a block or two, but they then slow down and try to blend in with all the other traffic. This means that the motorists who flee from the police are very unlikely to be on anybody's wanted lists.



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- d. Instead, the research shows, most of those who flee from the police are relatively minor offenders. Typically, they are young men who have no drivers' licenses and/or have very little driving experience and/or are drunk and/or are driving their parents' cars without permission. In other words, no matter how good and expert a driver you may be, the person who is most likely to flee is likely to be a bad, and panicky, driver whose apprehension is likely to result only in charges related to the pursuit itself.
- e. When fleeing motorists have committed a serious crime, it is most likely that they have stolen the vehicles they are driving. When police engage in pursuits of such offenders, they are putting life at risk in order to protect property. This is a violation of their fundamental responsibility to protect life, isn't it?
- f. About 30 percent of all high speed pursuits end in accidents. Consider this: most people believe that police do the owners of stolen cars no favors when they chase them until they are totaled.
- g. About ten percent of all chases result in injuries to someone. Sometimes, it is the driver of the fleeing vehicle who is injured. Sometimes, it is the pursuing officer. Sometimes, it is a passenger in the fleeing vehicle – who usually has had no part in the driver's decision to flee, and would much rather be someplace else. Sometimes, it is a completely innocent and uninvolved citizen – often a child or an elderly person - surprised to be caught in the middle of a police pursuit, and maimed or crippled for life.
- h. About one percent of all pursuits kill at least one person. Sometimes, this is a fleeing motorist. More often, it is an officer or a totally innocent citizen. A few years ago, an Oklahoma police chief responded to an accident that had ended a pursuit. When he arrived, the chief found that the fleeing subject – a teenaged traffic violator – had struck his wife's car as she returned home from an errand. Dead in the chief's private vehicle were his wife and his three children. In Pennsylvania, an officer pursued a van that had been stolen from a local business. The van sped down a quiet street, ran a stop sign, struck an auto, and spun out of control. It struck a mother crossing the street with her infant in a stroller and, literally, tore them both into pieces.



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- i. The remaining pursuits generally end in one of two ways:
  - 1) The subject comes to his or her senses and stops voluntarily. But when this happens, it occurs almost immediately after the chase begins. It is rare that people who have led the police on long, dangerous, high-speed chases stop voluntarily. Instead, the longer the chase proceeds, the more panicky and dangerous the subject becomes.
  - 2) The police break off the chase. When this happens, fleeing motorists typically slow down and quietly try to drive home in order to get their vehicles off the street. If the officers involved in the pursuit have broadcast good descriptions, these motorists frequently are spotted and stopped by other patrol officers. When such chases involve car thieves or other offenders who have done something more serious than violate traffic laws, the subjects drive far enough to be sure that police are no longer behind them. Then they stop and abandon their cars and try to flee on foot. This means that the vehicles involved are usually recovered intact. This usually makes car theft victims a lot happier than would be the case if police had persisted in pursuing their cars until they were wrecked in accidents.
- j. Vehicle pursuits are much more dangerous to the police than are actual vehicle stops. Every year, felons kill about six U.S. police officers who have stopped them for traffic violations. Every year, 60 or 70 U.S. police officers are killed in vehicle accidents, most of which involve pursuits.
- k. Vehicle pursuits are much more dangerous to the public than are police guns. Although the figures are hard to come by, it is virtually certain that more people die every year in police pursuits than are killed in shootings by police. Further, unlike the overwhelming majority of the people shot by the police, a large percentage of those killed in police pursuits are completely innocent people who were presenting no danger to anybody when they were struck.



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- I. There is no evidence anywhere that prohibiting the police from engaging in dangerous pursuits has any effect on crime or encourages motorists to flee from the police. Instead, the evidence is that fleeing from the police in a motor vehicle is a stupid and reckless act. Rational people know that doing this can have extremely serious consequences and, therefore, they don't do it (this discussion is based heavily on Alpert, 1987; Alpert and Anderson, 1986; Alpert and Fridell, 1992; California Highway Patrol, 1983; Fyfe, 1989; International Association of Chiefs of Police, 1989; State of New Jersey, 1993).

If you are a native New Yorker, these figures are likely to have surprised you, because you have very rarely heard anything about police pursuits in this City. Even if you are not a native New Yorker, it is a safe bet that you have never seen any NYPD vehicle involved in a spectacular high-speed chase on any television news show; on any reality-based television show; or on any of the *Insane Police Chases* types of videotape. There is a simple explanation for this: ***we do not do it.*** We have very strict regulations on vehicle pursuits, and it is critical that you understand them and that you adhere to them. If you do, you will know precisely what to do on that one in a thousand vehicle stop when a motorist takes off on you. That is:

- ***You will not take the motorist's flight personally;***
- ***You will not let your emotions get the better of you, but will make quick, rational, and smart decisions about what to do next;***
- ***You will ask yourself several questions, and will have quick answers to them;***
  - ***Does the immediate apprehension of this subject outweigh the danger to public safety caused by the pursuit? Or, in plainer English:***
    - ✓ ***Is trying to catch this individual worth risking the life of everybody on the road?***
    - ✓ ***Would I chase this individual if this were the street where I lived? Where my kids walked home from school? Where my deaf grandmother lived?***



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- ✓ ***If I chase this individual and somebody gets hurt or killed, will I be able to explain – to my bosses; to the family of the killed or injured person; to the lawyers who will inevitably sue me; to the jury that hears the suit – why I became involved in this pursuit? Will they think I acted reasonably? Or will they think I am a cowboy?***

Many times, pursuing officers do not know why a subject refuses to stop. When this happens, a simple rule applies – **WHAT YOU SEE IS WHAT YOU'VE GOT** – and the decision of whether to pursue should be made on what is **known**. ***If the subject was being stopped for a traffic infraction and a license plate check comes up clean, that is all you know*** – that you've got a traffic violator and that chasing him or her cannot be justified on the basis of what you might find out later. As the data above suggest, you cannot assume that the fleeing subject is a violent felon, therefore, you should terminate the pursuit.

**Note:** A supervisor will be monitoring the radio when a pursuit is initiated. ***If the supervisor calls off the pursuit, all patrol cars will terminate the pursuit immediately.*** Any officer who continues the pursuit past that point will be subject to disciplinary action. Any officer who continues a pursuit after it has been called off may be subject to ***criminal*** and ***civil*** penalties if the pursuit results in a vehicle accident or injuries.

### Department Guidelines Relating to Vehicle Pursuits (P.G. 212-39)

When a pursuit is initiated, there are guidelines that must be followed. Failure to comply with these rules will result in disciplinary action (and possibly criminal and civil penalties):

- ***Unmarked Department vehicles will limit pursuits.*** In practice, this means that unmarked cars should engage in pursuits only under the most serious circumstances, and that they should turn pursuits over to more easily identifiable marked units at the first opportunity.
- ***Department vans and scooters (2 and 3 wheel) will not be used in pursuits.***
- Like unmarked cars, ***two wheel motorcycles will limit pursuits*** and terminate pursuit when four-wheel Department vehicles have joined the pursuit.



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- **Only two vehicles (primary and secondary) and supervisors will pursue the subject** and transmit over the radio. Other vehicles will maintain alert and stay off the radio (unless emergency).
- The **secondary vehicle will stay at least five car lengths behind** the primary vehicle and will **not pass** (unless primary is disabled or requests).
- The following tactics are prohibited and will not be used in an attempt to stop a vehicle:
  - Ramming or placing a moving Department vehicle in a position to be struck by the pursued vehicle;
  - Driving alongside the pursued vehicle;
  - Roadblocks (unless specifically directed by supervisory personnel).

As you can see, the Department takes this very seriously. This is a densely populated city in which, at almost any time of day or night, there are more than 10 million residents, visitors, or workers. You simply cannot engage in high-speed pursuits in this environment without endangering yourself, innocent citizens, and the person you are pursuing – who, more often than not, is an irrational and panicked kid who is doing something stupid, rather than a serious career criminal. When we direct you not to pursue except in the rarest and most serious circumstances – which should be so serious that you believe beyond any doubt that you will be putting life in imminent danger unless you apprehend the subject immediately – we are requiring you to honor your highest responsibility: to protect life. Smart cops know that this is more important than anything else you do.

### MOTOR VEHICLE ACCIDENTS

The response to, and handling of, vehicle accidents are a common occurrence on patrol. The severity and location of a vehicle accident will dictate the procedures you will follow. In those instances where an accident is relatively minor, your basic responsibilities will encompass rendering aid, minimizing hazards caused by the accident, directing traffic, conducting an investigation, preparing reports and assuring that vehicles are moved to a safe location. While performing these tasks, you must **remain alert to the danger of moving traffic**.





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When a vehicle accident involves ***fatalities or seriously injured persons who are likely to die***, your responsibilities at the scene multiply. The basic steps still apply at serious accidents, such as rendering aid, taking safety precautions, etc. The fundamental difference is that the accident location will be ***considered a Crime Scene***. Also, the formal investigation shifts to specially trained investigators. These investigators are members of the service trained as accident technicians or assigned to the ***Accident Investigation Squad (AIS)*** of the Highway Unit.

The specific procedures to follow when you become aware of, or observe a vehicle accident, will be discussed in this section. Additionally, you will learn the steps to take when you find that one of the parties, involved in an accident, has fled the scene without fulfilling the legal reporting requirements.

Many factors are to be considered when deciding how to best apply the Patrol Guide vehicle accident procedures to each of the accidents you respond to. You can expect to encounter vehicle accidents under many diverse circumstances. Consider that accidents; involve one (1) or more vehicles (parked and / or moving); can be minor or serious, with fatal injuries or none at all; extensive or minor damage can occur; good or adverse weather conditions and a host of other situations. These and other factors will dictate the actions you will take at the scene.

### Vehicle Accidents – General Procedure (P.G. 217-01)

Whenever you respond to a vehicle accident, check with the parties involved for injuries and render necessary aid. Some injuries are not apparent; therefore ***ask and don't assume*** there are none.

As noted, any accident scene involving ***deaths or serious injuries likely to cause death*** must be treated as a ***crime scene***. The integrity of the scene will not be disturbed unnecessarily.

If the accident is minor and it is impeding traffic and/or causing a hazard, the vehicles may be moved. This can be accomplished if the vehicles can be driven and the persons involved are not injured to the extent that they should not be moved. Have the vehicles moved to a safe location (e.g., safety zone, shoulder or location off of an expressway). This will assist in minimizing the hazards to all involved. A good idea would be to first obtain the required documentation from the operator ***before*** the vehicles are moved. Be sure that the vehicle operators are given clear instructions and that those instructions are understood before they move their vehicles. This will alleviate confusion and assure all parties stop at the



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same location. If necessary, stop traffic to allow the safe movement of the vehicles.

Upon your arrival and during the time you are at the scene, you must constantly keep **safety** in mind. Stay alert at all times. Use the **turret lights, flashers, light bar, reflective traffic vest, cones and flares** (if available), and any other items available to increase your visibility and safety. Check behind you for moving vehicles before opening the RMP doors. Be especially careful when on a curve, top of a hill, or when traffic is moving on both sides of the accident. This may occur when the vehicles are located in the center portion of a roadway or intersection. Also, caution the operators and occupants of the vehicles involved to remain out of the roadway. When it becomes necessary to enter the RMP trunk, be aware that the trunk lid may obstruct the view of the turret lights from oncoming traffic.

As you can see, there are many duties to perform before any paperwork is initiated. In view of this, additional units may be requested to assist you in directing or diverting traffic, aiding the injured or transporting additional safety equipment (flares, cones, etc.).

When it becomes necessary to request assistance at an accident (ambulance, ESU, additional RMPs, etc.), especially on highways, use the radio to inform those units of the best route to the scene. The first unit on the scene should advise other responding units which approach would be faster, considering any traffic delays caused by the accident. There may be occasions when the only way emergency vehicles can reach the scene on an expressway will be to enter the roadway from an exit ramp. This means that these vehicles will be traveling in the opposite direction of traffic. Therefore it is imperative that careful communications are maintained with these units.

When directing traffic at accident scenes involving multiple lane roads, highways, bridges, elevated roadways, etc., move only one lane at a time, holding the other lane(s). This will minimize traffic delays, congestion, and confusion resulting from the accident. Controlling the flow of traffic will also decrease chances of other accidents occurring even at some distance from the scene.



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### Flare/Cone Patterns

When responding to an accident in **low visibility weather or at night, use lights and flares** (maintained in trunk of the RMP). **In other instances, traffic cones should be utilized to divert traffic.** On high-speed highways, bridges, or tunnel, place the first cone at least 200 feet from the accident. Your front row of flares and cones should be placed on an angle so that traffic merges into the lane away from the accident or disabled vehicle. Cones should be placed eight to ten feet apart. Flares should be two to three feet apart for the front line. Once the front line of flares and cones has been set up, flares will be placed along the lane. These flares should be placed approximately fifteen to twenty feet apart and should continue all the way up to the accident scene or disabled vehicle.

After the pattern is complete, move the RMP and place it approximately two car lengths behind the disabled vehicle and turn the front wheels of the RMP towards the curb; if your safety is in jeopardy, request additional units for assistance. In extremely hazardous situations, it may be necessary for you to temporarily shut down the roadway in order to establish your flare pattern safely.

**Note:** Light poles generally are spaced 100 feet apart, and can be used as a guide to determine the distance.

### Investigation of Motor Vehicle Accidents

The Patrol Guide requires **you to determine the cause of vehicle accidents** by inquiry and observation. Apply the questioning techniques you have learned in past lessons (e.g., separate the parties before questioning, don't ask leading questions, be objective, etc.).

**Note:** Accident investigations involving a fatality or a motorist who is seriously injured and likely to die will be conducted by Highway Unit personnel only. Members of the service will render any necessary assistance at the scene but will **not** take an active role in photographing, measuring, or diagramming an accident scene in order to determine the cause of an accident.

Once you've completed your interview, check to see that the information you've received is consistent with the damage and conditions at the scene (be aware of the possibility of insurance fraud). The Police Accident Report (MV104AN) must be prepared for each vehicle accident. It contains a section that requires the officer's opinion as to the factors that contributed to the accident. These factors must be based on the investigation you conduct.



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### Preparation of Reports

After all safety precautions have been taken and all victims attended to, prepare the top portion of **Accident Information Exchange/ Acknowledgement of Found Property (PD301-092)**; enter the address of the precinct of occurrence and give it to the operators. Advise operator, if incapacitated, that another participant in the accident, or the owner of the vehicle, must complete the form. If no other participant is available to complete the form, then a uniformed member on the scene will prepare it.

Upon notification of **any** vehicle accident, you are required to prepare a **Police Accident Report (MV104AN)**. The mandated preparation of Police Accident Reports (PAR) is **not** predicated upon property damage estimates, and should not be confused with the circumstances under which motorists are required to report the facts on a **Report Of Motor Vehicle Accident (MV104)** as per section 605 of the New York State Vehicle and Traffic Law (explained below).

The PAR is a multi-captioned form, and may seem somewhat confusing at first. With some practice, it will become one of the more simple reports you are required to prepare. It is very important that the PAR is properly prepared. Proper preparation will ensure:

1. Fair and just settlement of any claims resulting from the accident;
2. Accurate documentation by the Department of Motor Vehicles of drivers who may pose a danger to other motorists and pedestrians;
3. Statistical information that can be used for developing traffic laws, and safety and prevention programs;
4. Identification and assessment of road hazards and implementation of corrective measures;
5. That unscrupulous motorists cannot alter the PAR to commit insurance fraud.

The PAR (MV104AN, a form adapted specifically for use in New York City) requires two types of entries: written entries in the body of the report and numbers entered in boxes on the sides of the report. There are certain major points that the officer must always remember when filling out a PAR:



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- Prepare the PAR using the license, registration and insurance card of all drivers involved (copy exact information);
- The following vehicles do not require insurance identification cards:
  - a. Taxis, buses and other rented vehicles;
  - b. Vehicles operating under the authority of the Public Service Commission and ICC;
  - c. Government owned vehicles;
  - d. Certain farm vehicles.
- If an injury was involved, note whether the airbag (if any) inflated and deployed;
- Place **Identification Tag** on aided **if unconscious and removed to hospital**;
- **Personal injury bicycle accidents NOT involving motor vehicles are reported on Aided Report Worksheets, not PAR's**;
- If accident involves an arrest for Driving While Intoxicated/Impaired, a copy of the **PAR** will be attached to court papers and delivered by the arresting officer to the Assistant District Attorney in the complaint room;
- To **reduce fraud**, certain steps must be taken:
  - All boxes in the "all involved" and "persons killed or injured" section must be lined out and initialed (if not used);
  - All persons named on the PAR should be properly identified through photo identification (if they cannot, it must be noted in the "officer's notes" section);
  - VIN's must be noted on the front and back of the PAR and identified through observation of the dashboard VIN, as well as the VIN on the driver-side door;
  - Insurance fraud indicators (discussed later) should be noted in the "officer's notes" section of the PAR.



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## Auto Related Crimes and Procedures

### Truck/Bus Classification

The **Truck & Bus Supplemental Police Accident Report Form** (MV-104S) must be submitted for each qualifying vehicle involved in a qualifying vehicle accident. The MV-104S is used to report information about certain trucks, tractor-trailers and buses involved in accidents, as required by the U.S. Department of Transportation, Federal Highway Administration and the NYS Vehicle & Traffic Law. There are two (2) conditions that the officer must consider when determining if form MV-104S is required, **both of these conditions must be met.**

### An MV104S Must Be Prepared With a P.A.R. When An Accident:

Involves at least one (1) **qualifying vehicle:**

1. A truck, tractor, truck-trailer or tractor-trailer having at least **six tires** in contact with the road surface;
2. Any vehicle displaying a **hazardous material** placard, regardless of the number of tires in contact with the road surface; and or
3. A bus with **seating for 16 or more persons including the driver.**

**AND**

**Severity of Accident:** The accident must result in at least one of the following conditions for any person or any vehicle involved.

1. At least one person **killed;**
2. At least one person **injured severely enough to require transportation** from the scene for immediate medical treatment;
3. At least one vehicle required to be **towed** away from the scene due to disabling damage (**other than flat tire**); or
4. At least one vehicle required to be provided intervening assistance due to an event that required that the vehicles be moved, uprighted, or otherwise **assisted by emergency equipment other than a flat tire.**



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## Auto Related Crimes and Procedures

If an accident involves **both** conditions (***at least one qualifying vehicle AND at least one of the qualifying severity criteria***), an MV-104S must be completed and submitted for each qualifying vehicle. You should staple all the completed Supplemental Forms (MV-104S) to the associated Police Accident Report.

### Civilian Requirements for Accident Reports

V.T.L. Section 605 requires the preparation of an accident report by any person operating a motor vehicle involved in an accident that results in:

- Death; **or**
- Any injury; **or**
- At least \$1,000 worth of property damage.

The report must be filed within ten days of the accident. Failure to report an accident as required, or failure to give correct information in connection with such report, is a misdemeanor. Additionally, failure to file such reports constitutes grounds for suspension or revocation of the operator's license or registration for any vehicle.

### LEAVING THE SCENE OF AN ACCIDENT

People who are at fault for accidents sometimes avoid responsibility for their actions by fleeing the scene. Operators of motor vehicles who flee the scene of an accident seriously hamper the ability of police to investigate the nature and cause of the accident. The New York State Vehicle and Traffic Law describes offenses that apply to individuals who leave the scene of an accident. Upon response to a vehicle accident involving property damage, physical injury or a fatality, police officers must be familiar with both the New York State Vehicle and Traffic Law and the Patrol Guide as they relate to leaving the scene of an accident.

### New York State Vehicle and Traffic Law Sections 600 & 601

Any person operating a motor vehicle knowing that property damage or personal injury has been caused as a result of an incident involving the motor vehicle, shall stop and identify him/herself to the party sustaining the damage. The operator of the motor vehicle is required to stop to display his or her license and proof of insurance. In cases where the party sustaining damage is not present at the place where the damage occurred, then he/she shall report the same as soon as physically able, to the nearest police station.



# POLICE STUDENT'S GUIDE

## Auto Related Crimes and Procedures

The following VTL sections are applicable in the above situations:

- Section 600-1(a) **Leaving the Scene of an Accident (property damage only)** - Traffic Infraction
- Section 600-2(a) **Leaving the Scene of Personal Injury Accident - Misdemeanor**

Additionally, any person operating a motor vehicle that strikes and injures any horse, dog, or cat shall stop and attempt to locate the owner or custodian of such animal. The operator of such vehicle must also take any other reasonable or appropriate action so that the animal may have necessary medical attention. The following VTL section would be applicable under these circumstances:

- Section 600-2(a) **Leaving the Scene of Personal Injury Accident (Death/S.P.I.) - Felony**

### In Cases Where A Motorist Has Left The Scene Prior To Police Arrival:

- Transmit a description of the auto (if known) and
- Prepare a Complaint Report for "leaving the scene of an accident."

### If The Perpetrator Is Caught While Fleeing The Scene:

- **Property damage only:** a summons may be issued in lieu of a complaint report;
- **Injury sustained** - an arrest will be effected and a complaint report prepared.

### DEPARTMENT VEHICLE ACCIDENTS (P.G. 217-06)

In the event that a police department vehicle is involved in an accident, the patrol supervisor will respond and conduct the investigation. **The vehicle should be moved only if its location is hazardous and likely to cause additional accidents.** It is important to understand the officer's duties at a department vehicle accident scene prior to the arrival of the patrol supervisor:





# POLICE STUDENT'S GUIDE

## Auto Related Crimes and Procedures

1. Request ambulance, if necessary;
2. Request operator, occupants and witnesses to remain pending arrival of patrol supervisor;
3. Obtain name, address, home and business telephone numbers of persons involved and witnesses;
4. Request patrol supervisor, precinct of occurrence, to respond;
5. **Prepare Report of Motor Vehicle Accident (MV104), not a PAR**, in all cases;
6. If incapacitated, the patrol supervisor will prepare the **Report of Motor Vehicle Accident**, in addition to other forms.

The Police Department, the City Law Department, or their designee, pursues claims against private entities that are at fault in Department vehicle accidents. Details concerning the cause of the accident including the names of witnesses favorable to the City will be carefully documented on **all** Department forms. In cases that involve an accident with the city and there is no injury or vehicle accident (Police breaking the door of a private home to gain entry in an emergency), an **ACCIDENT REPORT – CITY INVOLVED REPORT (P.G. 217-04)** will be prepared.

### Line of Duty Injury

In the case of a department vehicle accident where a **police officer sustains an injury** (or any case that involves a police officer sustaining an injury), the police officer must **remain at the scene (unless emergency), request the patrol supervisor to respond, request any witnesses to await the supervisor and notify the Desk Officer.**

### PROCEDURES RELATED TO TOWING (P.G. 209-28 & 209-29)

#### Tow Trucks

The NYC Department of Consumer Affairs must license tow trucks conducting business within New York City. Unfortunately, many tow trucks are not properly licensed and do not adhere to the applicable laws. You should be aware of the procedures to follow when they encounter an unlicensed tow trucks.



# POLICE STUDENT'S GUIDE

## Auto Related Crimes and Procedures

**Tow Truck** - Shall mean a vehicle that is equipped with a crane, winch, tow bar, push plate or other device designed to pull, push or raise a vehicle from the front or rear.

**Towing** - A tow truck being driven or operated on public streets ***whether or not it is actually transporting another vehicle***. Towing shall include the offering to transport a vehicle by means of a tow truck.

Motor vehicle accidents often require the use of private tow trucks to remove vehicles from the scene. There are several hundred tow companies in NYC, all in direct competition with each other. Often the difference between getting the tow (and possible collision work associated with the repair of the vehicle involved) or not is a matter of seconds. With this goal in mind, many tow drivers will race through our streets without regard to the traffic rules and subsequently create a safety hazard for all of us.

In an effort to end these dangerous situations, the Department of Consumer Affairs has implemented a Directed Accident Response Program (D.A.R.P.). The intent of this program is to provide an orderly and efficient way of dispatching tow trucks to the scene of accidents and reduce the potential for serious accidents caused by tow trucks chasing accidents. Members of the service are required to comply with these procedures as well as enforcing the pertinent laws and procedures relating to the issuance of summonses and Reports of Violations to tow operators who do not comply with the D.A.R.P. provisions.

### **Directed Accident Response Program – D.A.R.P. (P.G. 217-09)**

This program authorizes private towing companies, on a strict rotation basis, to remove vehicles involved in accidents, ***other than accidents occurring on bridges, arterial Highways or in tunnels. (Only Franchise Tow can tow off highways)***.

Twenty-six tow zones have been designated for this program. The Police Department is responsible for maintaining a list of towing companies participating in each zone and for notifying such companies in strict rotation order when towing services are required at the scene of an accident.

**Note: *Tow trucks are not permitted to respond to accident scenes unless called.***



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## Auto Related Crimes and Procedures

When requesting a DARP tow truck via radio notify the dispatcher of the **color, body type and license plate number**, (ex: *BLUE / SEDAN / 123 Adam Boy Charlie NEW YORK*). **DO NOT TRANSMIT the make, model or year** of the disabled vehicle involved in the accident.

### Cases When a Tow Truck, Other Than DARP, May Remove A Vehicle Involved In An Accident:

1. Vehicle Gross Weight must be 15,000 lbs. or more;
2. Arrest evidence vehicles (Police Department Tow);
3. A vehicle held as investigatory evidence (Police Department Tow);
4. Vehicles subject to Rotation - Tow for stolen/abandoned vehicles (explained later);
5. Government vehicles.

Any tow truck licensed by the Department of Consumer Affairs bears a white metal plate medallion with dark orange lettering, 4 inches wide by 6¼ inches high, affixed to the driver's side of the vehicle. Each tow truck has been issued a tow truck "Identification Card" which includes the VIN, DMV plate, and Department of Consumer Affairs medallion assigned to the truck as well as an indication of which program, if any, the truck is permitted to participate in. The original (not photocopy) must be carried in the vehicle and presented upon request.

The medallion number must also be recorded on each side (driver and passenger) of the tow truck in numbers at least 12 inches in height (six inches on a flatbed). All other numbering and lettering must be at least 1.5 inches in height. This includes the address of the company, the rates, and the DCA telephone number for complaints.

Tow truck operators are required to have a NYS Drivers License with a tow truck endorsement. Section 501(d) (viii) of the VTL requires that a driver's license bear a "CT" endorsement in order for the holder to operate a tow truck. Operators of tow trucks are also required to have, in their possession, Department of Consumer Affairs tow truck driver's license. Tow trucks to which an exemption sticker has been issued do not require the driver to possess a DCA tow truck driver's license, but still require the driver to possess the NYS driver's license with a "CT" endorsement.



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## Auto Related Crimes and Procedures

### Unsolicited Tow Trucks

If there is probable cause to believe that the ***tow operator responded without being requested, issue a Personal Service Summons***, (Administrative Code Section 20-518 (b) (2) - Unsolicited Response) and ***prepare a Report of Violation*** (LD6).

If there is probable cause to believe the ***tow operator solicited any of the involved parties, issue an additional summons*** (Admin. Code Section 20 515 (b) soliciting for tow).

You may not prevent a tow company from towing any vehicle if the motorist agrees, but the appropriate summons ***must*** be served and a Report of Violation must be prepared.

### Administrative Code Sections Concerning Towing In NYC

1. ***Sec. 20-496 (a) Licensing Tow Cars (Unlicensed Tow Truck)***  
A tow truck permit issued by the Dept. of Consumer Affairs will be affixed in a conspicuous location to a tow truck required to be licensed. ALL D.A.R.P. tow trucks MUST be licensed.
2. ***Sec. 20-496 (b) Licensing Operator (Unlicensed Tow truck)***  
All tow truck operators must be licensed by Dept. of Consumer Affairs and must present their licenses upon request.
3. ***Sec. 20-515 (b) Soliciting***  
Prohibits soliciting for towing at the scene of any vehicular accident.
4. ***Sec. 20-515 (a) Radio***  
Prohibits maintaining anywhere (truck or base station) a radio receiving set capable of receiving messages transmitted on police frequencies, except in a tow truck for which there exists a current permit issued by the Police Commissioner.



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## Auto Related Crimes and Procedures

### Final Disposition for D.A.R.P.

If the assigned tow company is ***not on the scene within 30 minutes*** of being assigned by the Communications Section, the uniformed member will request the Communications Section to cancel the initially requested tow company and assign the next tow company in the rotation. The uniformed member will ***prepare a Report of Violation (PD672-151)*** for the tow company that was cancelled and advise the dispatcher when resuming patrol.

Inform the motorist(s) involved of the name of Tow Company responding. Supply the motorist(s) involved with the telephone number of the Directed Accident Response Program operator and instruct the motorist(s) to call after 30 minutes if the tow truck has not arrived. Instruct the motorist to be prepared to give the Directed Accident Response Program operator both the vehicle plate number and the location of the accident.

**Note:** Enter tow company information on **Police Accident Report (MV104AN)** only when the vehicle is towed and the tow company is known.

Uniformed members advising the radio dispatcher of a final disposition from the scene of an accident **must** utilize one (1) of the following disposition codes as it pertains to that particular accident situation:

- 10-99T4 Vehicle Accident (No tow required)
- 10-99T5 Vehicle Accident (D.A.R.P. tow service)
- 10-99T6 Vehicle Accident (Other tow service)
- 10-99T7 Vehicle Accident (D.A.R.P. and other tow service)
- 10-99T8 Vehicle Accident (Highway-authorized tow service)
- 10-99T9 Vehicle Accident (D.A.R.P. requested, waited thirty [30] minutes, made second [2nd] request, resumed patrol)

Uniformed members of the service must refrain from using any other final disposition code when a vehicle accident is involved **except** when, upon arrival, the vehicle(s) is not at the scene and there is no information available concerning how it was removed. In this instance, Code Signal 10-90Z [Gone on Arrival] will be utilized.



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## Auto Related Crimes and Procedures

### Franchise Tow (P.G. 214-31)

Certain tow companies, known as **Franchise Tows** or **Authorized Tows**, are licensed by the Department of Consumer Affairs and hold contracts with the City to cover various arterial highways, expressways, parkways, tunnels and bridges to remove vehicles left on the side of the road. **Only these companies may respond to remove vehicles from various parts of the highways.** Unless disabled motorists hire their own private tows, they must allow franchise tow to remove the automobile from high-speed highways. They cannot leave the vehicle on the side of the highway, it must be removed.

### Processing Vehicles in Police Custody

There are several other instances where a patrol officer will come in contact with automobiles that require a tow truck to remove the vehicle from the scene. Unlike DARP, where the vehicle is removed to a private location, most vehicles removed by the police department must be secured by department personnel at police facilities. This requires the vouchering of the automobile. Many of the same vouchering procedures apply when vouchering an automobile. The main difference is the preparation of a **Property Clerk's Motor Vehicle/Boat Invoice** in lieu of the **Property Clerk's Invoice** (used to record all other types of property).

The location to which a vehicle is towed or driven and what type of tow vehicle will be required depends on how the vehicle is categorized. In some cases, the location where the vehicle was found must be considered when deciding which type of tow is to be used. Four types of tow vehicles are affected by the procedures contained in this chapter:

1. Rotation Tow (RO-TOW);
2. Police Department Tow;
3. Department of Sanitation Tow;
4. Franchise Tow.



# POLICE STUDENT'S GUIDE

## Auto Related Crimes and Procedures

The procedures outlined have been established to afford the Department a workable system to:

- Remove and protect unoccupied recovered stolen and abandoned vehicles from public thoroughfares before they are stripped or seriously damaged;
- Provide a means to dispose of unoccupied recovered stolen and abandoned vehicles found in such a dilapidated condition as to be of no apparent value (Derelict Vehicles);
- Process vehicles which are evidence or have investigative value to the Police;
- Provide a system to take vehicles into custody for "Safekeeping" when the operator is arrested or incapacitated due to illness or injury;
- Take an unoccupied vehicle into custody when you are unable to determine the vehicle's true ownership due to lack of proper vehicle documentation and there is insufficient cause for an arrest.

### **Rotation Tow Program (P.G. 218-21)**

The Rotation Tow ("RO -TOW") Program enables you to remove certain **unoccupied** vehicles from public streets utilizing privately operated tow companies. These companies provide tow trucks and a safe location for vehicles to be stored until they are returned to their owners or sold at a public auction.

Several participating tow companies are available to handle RO -TOW qualified vehicles within the confines of each command. A list of the participating companies covering a command is kept at the precinct desk. This list is normally attached to the **Rotation Tow Log** that is maintained by the Desk Officer. Tow companies are placed on this list in the order that they enter the program.

- Companies provide towing & storage for vehicles until vehicle is returned to owner or sold at auction;
- Tow companies are on a rotating list maintained by each command;



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- Franchise tow has exclusive rights to certain limited access highways and may be Ro-Tow participants. If the services of a franchise tow company are required, they will not lose their place on the Rotation List;
- When a Ro-Tow company refuses a job:
  1. If company states they have no storage space, next company on list is called;
  2. If company refuses after knowing identification of vehicle, prepare a “**Report of Violation**” (LD-6).

The following ***unoccupied*** vehicles qualify for rotation tow:

- Vehicles with auto alarm ringing and unable to disconnect;
- Recovered Stolen Vehicles;
- Apparently Abandoned Vehicles;
- Vehicle with missing or illegible VIN;
- Vehicle with an expired NYS Registration over 60 days or Registration Sticker missing;
- Vehicle that is blocking a driveway.

***The following*** autos do not qualify, and **are not handled by, Ro -Tow procedures:**

- Derelict autos - ***Department of Sanitation***, unless required as evidence;
- Owner on scene recovers vehicle prior to arrival of NYPD;
- Large truck or limited use motorcycle - ***Special tow*** required, be guided by desk officer;
- Vehicle is held for an investigation - ***Department Tow***;
- Vehicle is held for forfeiture proceedings - ***Department Tow***;
- Vehicle was used in the commission of a crime - ***Department Tow***;
- Vehicle is on a highway (high speed), bridge, or tunnel - ***Franchise Tow***;
- Vehicle seized in an arrest - ***Department Tow***;
- Vehicle is held for safeguarding (48 hours) - ***Department Tow***;
- Vehicle is evidence - ***Department Tow***;
- Vehicle is held to determine true owner (occupied vehicle) - ***Department Tow***.





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***If a vehicle's VIN is missing; Illegible; or not on record, enter the following statement in the Remarks section of the Property Clerk's MV/Boat Invoice the following statement: "deliver to property clerk's auto pound within 48 hours for confidential VIN check and return to owner."***

### Abandoned Vehicle

A motor vehicle shall be deemed to be abandoned if it is left unattended:

- With ***no license plates*** affixed, for more than ***six hours***, on any highway or other ***public place***;
- On a public street or area which is not otherwise restricted by posted signs, including a residential area, in excess of ***seven consecutive days***;
- For more than ***96 hours*** on the ***property of another*** without the permission of the owner.

### Rotation Tow – Owner Notification

This sticker is affixed to Ro-Tow qualified vehicles, i.e., Recovered Stolen and Apparently Abandoned. Notify the registered owner as soon as possible after the vehicle is recovered.

1. If telephone number of registered owner is available, make at least ***one attempt*** at a phone notification. Enter in the command's Telephone Record:
  - Date & time of such an attempt; and
  - Invoice number that the recovered vehicle is listed on; and
  - Name of person contacted if notification attempt is successful.
2. If final insurance settlement was received:
  - Enter name of Insurance Co. on Invoice, in box captioned "Lien Holder or True Owner," and notify insurance company if claim settled.



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3. Advise the insurance carrier or registered owner (if claim not settled):
  - Recovered vehicle may be reclaimed at the tow operator's storage facility or the Property Clerk's Auto Pound upon proof of ownership and payment of authorized fees;
  - Address & telephone number of storage facility or Pound.

In all cases where the registered owner or insurance carrier did not recover the vehicle, both must be notified in writing, utilizing the **Rotation Tow-Owner Notification** (PD571-1210). This is required even if a telephone notification has already been made.

### Sanitation Tow (P.G. 2124-29)

The Department of Sanitation removes all automobiles deemed derelict by police officers. A **derelict vehicle** is a motor vehicle that is so dilapidated, burned out, stripped, or vandalized as to be of no apparent value other than scrap.

***Derelict vehicles will be taken into custody by this department (NYPD) only when required by evidence.***

### Police Department Tow (P.G. 219-09)

NYPD tow trucks are used in the following situations:

1. ***Investigation or Required as Evidence***

Vehicles must be seized and invoiced as investigatory evidence when criminal investigation is required and no arrest has been made.

Certain vehicles ***may be seized*** and classified ***investigation*** when:

- a. ***Crime Scene Unit*** examination of the vehicle is requested;
- b. Highway Unit ***MUST*** conduct an investigation at the scene of a highway accident/vehicle accident and ***someone was seriously injured and likely to die or is dead;***
- c. ***Investigation of a vehicle by any unit other than the Property Clerk is required.***

When you are involved in any of these situations, you must remain at the scene to safeguard the auto until Department Tow is on the scene.



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## Auto Related Crimes and Procedures

Whenever possible, the above investigation will be conducted at the command concerned.

### 2. **Safeguarding**

When vehicles come into police custody and must be safeguarded because the owner/operator is unable to remove it to a safe place; this vehicle will be classified as **safeguarding**.

- a. If the vehicle cannot be driven, the officer concerned will prepare the Property Clerk's Motor Vehicle Boat Invoice and request a police tow truck to remove the vehicle to the Property Clerk's Auto Pound.
- b. If the vehicle can be driven, a member of the service will remove it to the command, an Invoice will be prepared, and the vehicle will be safeguarded at the precinct of arrest for forty-eight (48) hours. The vehicle will be parked at a designated location near the command and the rotor or coil wire will be removed and attached to the Invoice.

### 3. **Forfeiture Proceedings (P.G.208-26)**

To retain custody of vehicles seized during the course of an arrest or investigation as the proceeds of crime when the vehicle involved has been:

- a. Used as a means of furthering a crime;
- b. Used as a means of transporting or concealing illegal Substances;
  - i. Where the vehicle has been used in the unlawful transportation of controlled substances/marijuana or gambling devices and/or records; or
  - ii. Where the vehicle has been used as a means of facilitating the sale or possession of controlled substances/marijuana, furthering illegal gambling, committing any other criminal activity.
- c. Unlawfully obtained or stolen and the true owner cannot be identified.



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In addition, Department tow may be utilized to tow a disabled Department Vehicle, such as an RMP that has is stalled and cannot operate under its own power. In such cases, you must remain at the scene to safeguard the RMP. Department tow can be used to assist ESU to lift heavy articles such as a safe or a boat. Department tow is also utilized to tow vehicles in path of parades, gatherings or emergencies. The tow trucks are normally assigned to a parade route to remove vehicles prior to the start of the parade. In the event of a demonstration or an emergency where vehicles must be moved, Department Tow will be utilized.

### **Vehicle Seizure at Time of Arrest (P.G. 218-48)**

Whenever a vehicle is taken into custody where the vehicle operator was arrested for a crime, members of the service will:

1. Prepare a Property Clerk Motor Vehicle/Boat Invoice (comply with P.G. 218-19);
2. Prepare Vehicle Seizure Form (PD571-1218), including arrest number;
3. Insert precinct vehicle seizure number obtained from the Command Vehicle Seizure Index (PD571-091) on the Vehicle Seizure Form in the caption indicated;
4. Issue pink copy of Vehicle Seizure Form to the defendant;
5. Deliver to Desk Officer for signature;
6. Fax completed Property Clerk Motor Vehicle/Boat Invoice along with Vehicle Seizure Form to Vehicle Seizure Unit, Legal Bureau;
7. Provide Assistant District Attorney with the green copy of completed Vehicle Seizure Form;
8. Forward the following in the next day's A.M. Department mail to the Legal Bureau:
  - Original (white) copy of Vehicle Seizure Form
  - Copy of Property Clerk Motor Vehicle/Boat Invoice
  - Copy of signed criminal court complaint
  - Copy of Police Accident Report (MV104AN), if applicable

To summarize, therefore, you are likely to come into contact with five different tow programs when you leave the Academy:

### ***Police Department Tow***

- Used for ***evidence vehicles and seized vehicles***



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## Auto Related Crimes and Procedures

### **Sanitation Tow**

- Used for **derelict vehicles**

### **Rotation Tow**

- Operated by private contractors that contract with the city for **towing and storage of certain vehicles**. The lists of these contractors are kept in precincts are called by the Desk Officer in list order.

### **Franchise Tow**

- Has the exclusive right to tow on limited access roads (such as **parkways and expressways**) and on **bridges and tunnels**. These companies may also be in the Rotation Tow program.

### **DARP Tow**

- Handles all **accidents on public roads** (other than high-speed roads, bridges, and tunnels).

### **N.Y.S. Registration Plate Removal Program (P.G. 214-30)**

This program enables officers to remove **New York State license plates** from vehicles after they have been **expired for more than 60 days** and/or no Registration Stickers displayed. Plates are given to the Desk Officer, who will either return them to the owner or have them destroyed.

A **N.Y.S. Registration Plate Removal Program Sticker** is green in color with black print and must be **affixed to the driver's side window** (if this window is broken, it must be posted in another conspicuous location). This sticker is used when the registration plates of a vehicle are removed by a Police Officer because the registration sticker is missing.

A **Registration Plate Removal Notice (Pd571-120)** is mailed to the registered owner of the vehicle to which plates have been removed and the registered owner must comply with this notice within five days.

A **Warning Notice - Vehicle in Police Custody Sticker** is affixed to vehicles in police custody where no other sticker is appropriate. The captions must be completed and the "**Reasons for Custody**" category must be completed



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appropriately. If the Ro-Tow Program sticker is unavailable, this sticker may be used as a replacement. **Do not** affix this sticker until processing for fingerprints has been completed (if applicable).

### HIDDEN COMPARTMENTS

As our anti-crime initiatives become more intense and sophisticated, criminals respond by devising elaborate and complicated methods to disguise their operations. Whether it is remote controlled panels in the floors and walls of stash apartments, or hidden compartments in the vehicles, they use clever tricks to carry out their trade. Recently, vehicles that have been impounded at the Property Clerk's Auto Pound have been found to be altered and have secret hidden compartments, or **traps**. These traps have ranged from the crude and obvious to the highly sophisticated and nearly undetectable. They have been found to contain contraband ranging from the small – a few ounces of heroin, a ski mask, or a two shot derringer – to the very large: kilos of cocaine, large amounts of cash, and fully automatic rifles. These traps are installed in areas of the automobile that are not normally accessible or are installed in such a way as to appear to be a normal part of the car when in fact they are actually behind a false wall or floor. These traps are usually discovered when an inventory search is done of a vehicle that is vouchered as evidence.

### Common Trap Locations

- **Trunk:** *the floor of the trunk and the area behind the rear seat are the most common areas of concealment.* Investigators should remove the trunk rug and examine the area underneath it for evidence of alterations or body work;
- **Dashboard:** This type is very common, especially for **gun traps**;
- **Glove box:** The glove compartment can easily be removed so that items can be hidden behind it. **Check for missing screws** in the glove box assembly;
- **Door panel:** Many **two-door, large-frame, vehicles** have been found to contain this type of trap;
- **Floor:** This type of trap is **most common in minivans**. The average height of the floor under the seats should only be three to four inches. Almost all the “trapped” minivans encountered by the Department have had their traps located in the floor;



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- **Armrest:** Most **common on the driver's side, but includes front and rear seat armrests**, as well. These can be manual or electric. When approaching a vehicle use caution and watch the occupants for unusual movements, which might indicate the hiding of drugs or the hiding or retrieval of a gun from such a trap;

**Note:** Keep in mind that the presence of one trap does not exclude the possibility of multiple traps of different types in the same vehicle.

### SUMMARY OF AUTO PROCEDURES

#### Recovered Stolen

- Prepare *Property Clerk's Motor Vehicle/Boat Invoice Worksheet*
- *Activity Log* entry
- Notify D.O. - D.O. notifies tow company
- Affix RO-TOW sticker to glass facing street
- Obtain information from NYSPIN, via *FINEST*
- D.O. will notify owner via phone and US Mail and cancel any alarm
- NEVER summons or remove plates

#### Recovered Stolen – Derelict

- Prepare *Property Clerk's Motor Vehicle/Boat Invoice Worksheet*
- Remove plates
- Prepare *Complaint Follow-Up* (only if reported stolen within NYC)
- Affix "*Warning - Vehicle in Police Custody*" sticker to window facing street
- Deliver plates and paperwork to D.O., who will notify Sanitation
- **Never summons** - Plates must be removed



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### Apparently Abandoned

- Prepare *Property Clerk's Motor Vehicle/Boat Invoice Worksheet*
- *Activity Log* entry
- Notify D.O. - D.O. will notify NYSPIN via FINEST to prevent transmission of alarm
- Prepare *Complaint Report Worksheet* if Stolen in NYC and not yet reported
- Prepare Ro-Tow I.D. sticker
- Prepare Summons
- D.O. notifies owner via phone/letter
- Remove plates if:
  - Expired Registration Sticker over 60 days, or
  - Sticker Missing

### Apparently Abandoned – Derelict

- **No** *Property Clerk's Motor Vehicle/Boat Invoice Worksheet* prepared
- *Activity Log* entries
- Desk Officer will request Sanitation to remove the vehicle
- Remove plates and summons, if applicable

### Basic Rules Regarding Tow

- Ro-Tow only applies to **unoccupied** vehicles
- Derelict vehicles **never** qualify for Ro-Tow
- ALL Ro-Tow & recovered stolen vehicles require a Property Clerk's Motor Vehicle/Boat Invoice
- **Stolen vehicles are never summonsed**
- Derelict vehicles go to Sanitation, but not with plates
- NYPD makes final determination if vehicle is or is not derelict.
- Issue no more than three summonses to any vehicle parked in violation at the same location on the same day.
- Do not issue additional summonses to a vehicle displaying three or more summonses already issued at that location. Instead, investigate status of vehicle registration (stolen, expired) and tow if applicable.
- **Summonses will not be issued to abandoned or derelict vehicles**





# **POLICE STUDENT'S GUIDE**

## **Auto Related Crimes and Procedures**

### **CONCLUSION**

The automobile permeates every aspect of policing and will encompass much of your patrol time. You will spend many tours handling vehicle accidents, removing abandoned or derelict autos, and taking complaints for stolen vehicles (while stopping a few cars in between for traffic infractions). Knowledge and familiarity of auto related procedures come with years of experience. The information outlined in this chapter provides the basic foundation of the information needed to effectively do your job. With it, you will better develop into a seasoned police officer and effectively help our communities in the reduction of crime and raise the level of the quality of life in our city.



# POLICE STUDENT'S GUIDE

## Auto Related Crimes and Procedures

### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this chapter – ***Auto Related Crimes and Procedures***. These procedures must be read in conjunction with this chapter. Questions for the 3<sup>rd</sup> Trimester Exam may come from these procedures:

- 207-11 Preliminary Investigations, Recording and Transmission of Alarms for Stolen Vehicles
- 207-13 Lost/Stolen Vehicle Plates, Licenses and Other Department of Motor Vehicle Documents
- 208-26 Forfeiture Proceedings for Seized Property
- 208-40 Intoxicated or Impaired Driver Arrest
- 208-41 Persons Under Twenty-One (21) Operating a Motor Vehicle After Having Consumed Alcohol
- 208-53 Arrest Processing – Aggravated Unlicensed Operation of a Motor Vehicle
- 209-28 Unlicensed Tow Truck Operators
- 209-29 Seizure Of Unlicensed Tow Truck
- 212-39 Vehicle Pursuits
- 214-29 Derelict Vehicles Bearing New York State Registration Plates
- 214-30 Removal of Expired New York State Registration Plates
- 214-31 Removal of Vehicles from Parkways, Highways and Expressways
- 217-01 Vehicle Accidents – General Procedure
- 217-04 Accidents – City Involved
- 217-06 Department Vehicle Accidents
- 217-09 Directed Accident Response Program



# POLICE STUDENT'S GUIDE

## Auto Related Crimes and Procedures

- 218-21      Rotation Tow
- 218-48      Vehicle Seizure at Time of Arrest
- 219-09      Department Tow

### REFERENCES

Alpert, Geoffrey P., "Questioning Police Pursuits in Urban Areas," *Journal of Police Science and Administration* 15 (1987) 298-306.

Alpert, Geoffrey P., and Patrick Anderson, "The Most Deadly Force: Police Pursuits," *Justice Quarterly* 3 (1986) 1-13.

Alpert, Geoffrey P., and Lorie A. Fridell, *Police Vehicles and Firearms: Instruments of Deadly Force* (Prospect Heights IL: Waveland Press, 1992).

California Highway Patrol, *Pursuit Study*, Sacramento: California Highway Patrol, 1983.

Fyfe, James J., "Controlling Police Pursuits," pp. 114-123 in James J. Fyfe, ed., *Police Practices in the '90s: Key Management Issues*, (Washington DC: International City Management Association, 1989).

International Association of Chiefs of Police, *Model Policy -- Vehicular Pursuit* (Alexandria VA: International Association of Chiefs of Police, 1989).

State of New Jersey, Department of Law and Public Safety, Division of Criminal Justice, *New Jersey Police Vehicular Pursuit Policy*, with attachments (Trenton NJ: New Jersey Attorney General, 1993).



# POLICE STUDENT'S GUIDE

## Detecting and Deterring Fraud

### PART 1: IDENTITY FRAUD: AN EVOLVING MENACE

#### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW THE MATERIAL IN THIS CHAPTER?

Identity Theft and Identity Fraud are criminal acts that, until recently, went virtually unreported and unnoticed. Experts estimate that the financial industry loses billions of dollars nationally each year. Because New York City is the financial capital of the world, it has become one of the most severely affected cities in the nation. These crimes have become so prevalent that a high ranking NYPD official referred to Identity Theft and Fraud as “an evolving menace.”

In the late 1990's the corporate world began to recognize these crimes as financially detrimental and government agencies compiled statistical data on the still relatively under reported crimes. Computers and the internet created a volatile mix that further facilitated stealing identities. Still, this was thought of as just an “economic crime,” to be investigated by federal agencies and specialized government divisions.

The terror attacks of September 11, 2001 added a new twist to the way we think about Identity Theft and Fraud. The world realized that identity theft can mean more than losing money; it was revealed that most of the 19 hijackers used false or stolen documents at one time or another. These individuals used false identification to commit mass homicide and terrorism; two hijackers actually boarded the planes under false names.

In response to this incident, Identity Theft became a highly recognizable crime. Insurance companies now insure individuals against it, most organizations changed their identification procedures, and many states have enacted Identity Theft laws. In 2002, New York State passed the Identity Theft Bill (chapter 619). Prior to the enactment of this bill, New York State had no law pertaining specifically to Identity Theft.

This chapter will cover the recently enacted laws, as well as other laws pertaining to impersonation and fraud. It will also outline ways that a patrol officer can identify, respond to, and deter these crimes.

#### Identity Theft Vs Identity Fraud

For the purpose of this chapter, it is important to understand the distinction between Identity Theft and Identity Fraud. Identity Theft is the **actual charge** pertaining to the Fraudulent and unauthorized use of another person's information to assume the identity of that person. Identity Fraud is **not a charge** per se, under any New York State statute. Identity Fraud happens when a person



# POLICE STUDENT'S GUIDE

## Detecting and Deterring Fraud

creates an identity -either unjustifiably from a real person or ***fictitiously***- and assumes that identity. A person that commits Identity Theft also *engages* in Identity Fraud. However, not every instance of Identity Fraud *involves the crime* of Identity Theft.

### OFFENSES INVOLVING THEFT OF IDENTITY

#### Definitions (NYS PL 190.77)

***Personal identifying information:*** any name, number, code or information that may be used alone or in conjunction with other such information to assume the identity of another person. Aside from the common identifiers (name, address, social security number), this includes computer passwords, personal identification numbers, unique biometric data (fingerprint, voice print, retinal image), copy of signature, and mother's maiden name. (See Penal Law section 190.77 for a complete list).

***Personal identification number:*** any number or code which may be used alone or in conjunction with any other information to assume the identity of another person or access financial resources or credit of another person.

#### Identity Theft – Misdemeanor (PL 190.78)

A person is guilty of identity theft (misdemeanor) when he or she knowingly, and with intent to defraud, assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using ***personal identifying information*** of that other person, and thereby:

1. obtains goods, money, property or services or uses credit in the name of such other person or causes financial loss to such person or to another person or persons; ***or***
2. commits a ***class A misdemeanor*** or higher level crime.

#### Identity Theft - Felony (NYS PL 190.79, PL 190.80)

A person is guilty of identity theft (felony) when he or she knowingly, and with intent to defraud, assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using ***personal identifying information*** of that other person, and thereby:



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1. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that **exceeds five hundred dollars; or**
2. causes financial loss to such person or to another person or persons in an aggregate amount that **exceeds five hundred dollars; or**
3. commits or attempts to commit a **felony** or acts as an accessory to the commission of a felony; **or**
4. commits the crime of identity theft in the third degree as defined in section 190.78 of this article and has been **previously convicted** within the last five years of certain identity theft and larceny crimes (see PL 190.79 & 190.80 for complete list of crimes).

### **Unlawful Possession of Personal Identification Information - Misdemeanor (NYS PL 190.81)**

A person is guilty of Unlawful Possession of Personal Identification Information (misdemeanor) when he or she knowingly possesses a person's:

- financial services account number or code,
  - checking/savings account number or code,
  - brokerage account number or code,
  - credit card account number or code,
  - debit card number or code,
  - automated teller machine number or code,
  - personal identification number,
  - mother's maiden name,
  - computer system password,
  - electronic signature, or
  - unique biometric data (fingerprint, voice print, retinal image),
- knowing such information is intended to be used in furtherance of the commission of a crime defined in the Identity Theft chapter of the Penal Law.

### **Unlawful Possession of Personal Identification Information – Felony (NYS PL 190.82)**

A person is guilty of Unlawful Possession of Personal Identification Information (felony) when he or she knowingly possesses **two hundred fifty or more of the above items** knowing such information is intended to be used in furtherance of the commission of a crime defined in the Identity Theft chapter of the Penal Law.



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## Detecting and Deterring Fraud

**Note:** Identity Theft laws are intended for persons who attempt to commit financial crimes and terrorist acts, or other serious unlawful acts. They are not intended to be enforced against underage persons who attempt to purchase alcohol or cigarettes, or attempt to enter age restricted locations (e.g., bars and clubs).

### Receiving Complaints of Identity Theft

Complaints involving Identity Theft can be complex in nature, stemming from a myriad of variables and permutations. The member of the service encountering such a complaint must realize the possibility that this complaint can potentially encompass numerous crimes. As a result, the **Crime Complaint Reporting System Reference Guide (Rev. 12/04)** will be used to classify Identity Theft related crimes. Significant clarifications and changes have been made to the **Crime Complaint Reporting System Reference Guide** to instruct the member of the service in the proper classification of Identity Theft related crimes. It must be noted that the "Seven (7) Major Felony Rule" P.G. 207-01, "*Complaint Reporting System*" will still be applicable.

When receiving a complaint of identity theft, the officer should remember to be thorough but sensitive. In addition to following the normal procedure for taking a complaint, the officer should ask specific questions, such as:

- How was the crime first discovered?
- Does the victim live inside or outside NYC?
- What are the entire account numbers of all affected accounts (if applicable)?
- Where was the fraudulent application/identification presented (if known)?
- Are there any unfamiliar addresses or unusual names on any of the victim's financial reports or applications?
- Does the victim have any suspicions about who the perpetrator may be?

**Note:** In some Identity Theft cases, the perpetrator turned out to be a relative, friend or coworker of the victim.

These specific questions will help the investigators in the primary stages of the investigation. They may help the investigator establish a trend, as well as help the investigator uncover fraudulent complaints. Some criminals will overcharge a legitimately held credit card account and then claim that their identity was stolen. Asking these specific questions may expose the fraudster during the follow-up investigation.



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But for the legitimate victims, this is a devastating experience. Investigating officers should be sensitive to the victim. Many victims of Identity Theft (as with most crimes) feel scared and confused. But with Identity Theft the victim may begin to feel isolated, they may lose trust in the system. Unlike getting money or valuables taken from a victim once, Identity Theft victims feel as if waves of crimes are being committed against them routinely. Every new bill arriving in the mail is more stress; every phone call is a potential debt collector seeking retribution. It may take months or even years for the devastating effects of Identity Theft to dissipate. These victims also feel as if the police are disinterested with this (non-sensational) crime and uncaring to their needs. Furthermore, because of the many fraudulent claims, banks and creditors treat the victim as if they were the criminal. Due to these presumptions, many victims of Identity Theft are reluctant to even report this crime.

### ***Complainants' Report of lost or Stolen Property/Identity Theft***

Once the preliminary information is obtained and it is determined, through the use of the ***Crime Complaint Reporting System Reference Guide***, that the complainant is a victim of Identity Theft:

- Instruct and assist the victim in preparing pages 1 and 2 of the ***Complainants' Report of lost or Stolen Property/Identity Theft***;
  - Ensure that complainant signs both waivers on page 1 and 2
  - If necessary, assist complainant in contacting credit card issuers for required information
- Prepare a Complaint Report and classify the crime according to the reference guide and the cover sheet of ***Complainants' Report of lost or Stolen Property/Identity Theft***
- Forward all paperwork to the Desk Officer for review

**Note:** Refusal to sign the waiver does not preclude an officer from preparing a Complaint Report. Note refusal in the details of the Complaint Report

### ***Suggestions to the Victim***

Once the report is taken, the reporting officer should reinforce the fact that this is a serious crime and that it will be investigated. Then the officer should tell the victim that certain proactive steps should be taken to ensure that the criminals do not further the commission of this crime.





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## Detecting and Deterring Fraud

The officer should advise the victim to:

- Call the toll-free fraud number of any one of the three major credit bureaus to place a fraud alert on their credit report. Fraud alerts can help prevent an identity thief from opening additional accounts in victims' names. As soon as the credit bureau confirms the fraud alert, the other two credit bureaus will automatically be notified to place fraud alerts, and all three credit reports will be sent to the victim free of charge.

### **Equifax**

PO Box 74024  
Atlanta, GA 30374  
800.525.6285  
[www.equifax.com](http://www.equifax.com)

### **Experian (TRW)**

PO Box 9532  
Allen, TX 75013  
888.397.3742  
[www.experian.com](http://www.experian.com)

### **TransUnion Corp**

PO Box 6790  
Fullerton, CA 92834  
800.680.7289  
[www.transunion.com](http://www.transunion.com)

- Close the accounts that victims know or believe have been tampered with or opened fraudulently.
- Gather as much information on the fraudulent accounts or identities and present it to the detectives during the follow-up investigation.
- File a complaint with the FTC at [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft) or call 1-877-IDTHEFT (1-877-438-4338). Consumer's complaints help make the FTC database a better resource for this Department and all other law enforcement agencies.

## Investigating Identity Theft and Identity Fraud

Generally, investigations of Identity Theft will be handled by specialized units within the Department. But, there are proactive measures a patrol officer can take to identify perpetrators of Identity Theft. Furthermore, it is incumbent that patrol officers be knowledgeable about Identity Fraud. As mentioned, dangerous criminals (including terrorists) often conceal their identity to evade law enforcement. It should be a patrol officer's priority to properly identify individuals who they take enforcement action against.

### **Personal Identifiers**

There are three types of personal identifiers (ways to identify a person).

1. **Tokens:** A token is something physically carried that identifies the individual (driver's license, identification card, passkeys, etc.).
2. **Knowledge-based:** The person is identified through specific personal knowledge (knowing mother's maiden name, place of birth, social security number, etc.).



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## Detecting and Deterring Fraud

3. **Biometrics:** Biometric identifiers encompass all unique biological indicators (fingerprints, retinal image, DNA, etc.).

Alone, each of these identifiers meets minimum standards for identification. For rigorous identification standards, a compilation of these three identifiers would be necessary.

For example, a patrol officer is only required to establish identity through the display of a valid form of identification (token) to issue a summons. However, officers should never assume that a person is who they say they are. If there is any doubt about the identity of an individual who may be issued a summons, the violator should be brought into the station house. While at the station house, the officer should attempt to identify the individual through knowledge-based identifiers (calling the violator's relatives and asking specific knowledge-based questions), or by obtaining further "tokens" (having a friend or relative bring other forms of identification to the station house). If the identity of the individual is still in doubt, then the violator should be processed as an arrest and fingerprinted (biometrics).

### ***Search and Debrief of Arrested Individuals***

When searching any arrested individual (incident to a lawful arrest), officers should be aware of certain signs of Identity Theft and Identity Fraud. These signs include:

- Multiple credit cards with different names;
- Social security numbers written on paper;
- Credit card numbers and expiration dates written on paper;
- Person's name, address, and date of birth written down;
- Multiple identification cards with different names;
- Identification cards of individuals other than the arrestee;
- Blank checks in another person's name;
- Credit card skimmers (defined later);
- Multiple blank cards with magnetic strips.

**Note:** A current scam involves criminals using reformatted hotel key cards to store stolen credit card information. These hotel key cards are used at locations that require no human interface (i.e., gas pumps, metrocard dispensers, etc.). Officers should be alert to this type of activity.



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If an arresting officer comes upon this type of evidence, he or she should notify a supervisor. The officer **should not** attempt to question the individual on the evidence without conferring with a supervisor or a member of the Detective Squad. **Miranda warnings** must always be read when interrogating a suspect in custody.

### CRIMINAL IMPERSONATION

Generally, the crime of criminal impersonation involves the act of pretending or representing oneself to be another (with **knowledge** that such representation is **false**) in order to **obtain a benefit**, or to **injure** or **defraud** another. This crime is usually committed when attempting to commit other crimes such as burglary, robbery, larceny, etc. In such cases, the other crime – burglary, larceny, etc. – should also be charged. In the context of these offenses, the word **defraud** means to cheat or deprive another of something by deception. Criminal Impersonation was created before the Identity Theft bill was passed. As such, some of the Criminal Impersonation charges may seem similar to Identity Theft.

#### Criminal Impersonation - Misdemeanor (NYS P.L. 190.25)

There are three (3) ways in which Criminal Impersonation - misdemeanor can be committed:

**1. Impersonating another person (other than a public servant)**

A person may be charged with this offense when he or she impersonates another (non public servant) and, while in the assumed character, commits an act in such assumed character with intent to obtain a benefit, or to injure (physically or monetarily), or to defraud another.

**2. Represents an organization**

A person may be charged with this offense when he or she pretends to be a representative of some person or organization **and** commits an act in this pretended capacity with intent to obtain a benefit, or to injure (physically or monetarily), or to defraud another.

**Example:** Pretending to be with the American Cancer Society, Pete approaches Dan and asks for a donation. When Pete tells him the donation is for cancer research, Dan gives him \$100; Pete uses the money to take his wife out to dinner.



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### 3. **Public Servant:**

This offense may be committed in any of the following ways. The individual:

- Pretends to be a **Public Servant;** **or**
- Wears or displays without authority any uniform or badge by which such public servant is lawfully distinguished; **or**
- Falsely expresses by his or her own words or actions that he or she is a public servant or is acting with approval or authority of a public agency or department;

**and**

He or she does so with intent to induce another to submit to such pretended official authority, to solicit funds, or otherwise cause another to act in reliance upon that pretense.

It is important to note that a person pretending to be a public servant can be charged with criminal impersonation **only** if he or she does so with intent to induce another person to act in accordance with his or her pretense of official authority.

**Example:** Alvin rents a police uniform from a costume company to wear to a masquerade ball. Could he be charged with criminal impersonation? No, he could not. Alvin is wearing the uniform only as a costume and not with the intent to induce anyone to believe he really is a police officer.

**Example:** During a campus riot, some students put on police uniforms and attempt to direct police reinforcements away from the scene of the riot. Is this a case of criminal impersonation? Yes. The students dressed in the uniforms with the intention of inducing legitimate police officers to follow their direction.

### **Criminal Impersonation - Felony (NYS P.L. 190.26)**

A person may be charged with this offense when he or she:

1. **Impersonates a Police Officer and such pretense is for the purpose of committing or attempting to commit a felony:** The Penal Law subdivision defining this offense states that it occurs when a person pretends to be a police officer or wears or displays without authority; any uniform, badge or other insignia or facsimile thereof, by which such police officer is lawfully distinguished or expresses by his or her words or actions that he or she is acting with the approval or authority of any police department **and** acts with intent to induce another to submit to such pretended official authority or otherwise to act in



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## Detecting and Deterring Fraud

reliance upon said pretense and in the course of such pretense commits or attempts to commit a felony.

**Example:** Joe finds a police officer's shield. He knocks on Mrs. Teller's door, shows her the shield and tells her she must leave the house immediately. After Mrs. Teller leaves, Joe enters and takes all of her jewelry. Joe can be charged with Criminal Impersonation, felony, because he pretended to be a police officer and Mrs. Teller submitted to that authority by leaving the house where Joe then committed a felony (burglary).

Remember that a police officer is considered a public servant, but a public servant is **not always a police officer**. In order to charge the felony, Criminal Impersonation, a person must imply that he is a police officer or working under the authority of a police department.

**2. Impersonates a physician and orders a prescription:** Pretending to be a duly licensed physician or other person authorized to issue a prescription for any drug or any instrument or device used in the taking or administering of drugs for which a prescription is required by law, he communicates to a pharmacist an **oral prescription** which is required to be reduced to writing pursuant to Public Health Law Section 3332.

**Note:** If the person were to produce a prescription in writing the charge would be forgery (this offense is discussed in greater detail below).

### Investigation of Police Impersonation

The impersonation of law enforcement personnel is a very serious matter. It is crucial that you understand the law and your obligation to properly gather information and document these crimes for investigators and prosecutors. Whenever you encounter information regarding a possible crime that involves police impersonation, you **must** notify the Internal Affairs Bureau.

Patrol Guide section 207-14 states, in part: **The Police Impersonation Investigation Unit** (PIIU) will investigate all robbery/police impersonation complaints and other serious crimes involving police impersonation. The precinct Detective Squad will be responsible for other criminal impersonation complaints. In all cases of suspected police impersonation, a notification to Internal Affairs Bureau Command Center is required and a log number will be assigned.



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## Detecting and Deterring Fraud

### False Personation - Misdemeanor (P.L. 190.23)

A person may be charged with false personation, a misdemeanor, when **after being informed of the consequences of such act**, he or she knowingly misrepresents his or her actual **name, date of birth, or address** to a police officer or peace officer with the intention of preventing such police officer or peace officer from ascertaining such information.

**Example:** John Ellis is stopped by P.O. Murray for disorderly conduct – violation. P.O. Murray wants to issue him a summons for this offense and asks for identification. Attempting to avoid the summons, John states that his name is Roy White. P.O. Murray warns him that a misrepresentation of his name will result in a misdemeanor charge of false personation. John insists his name is Roy White. After attempting to verify this, Officer Murray discovers that “Roy White” is really John Ellis and places him under arrest for false personation.

## FORGERY AND FORGED DOCUMENT IDENTIFICATION

### Forgery – Misdemeanor (NYS PL 170.05)

A person commits Forgery, misdemeanor, when:

- With the intent to defraud, deceive, or injure another person,
- He or she falsely makes, completes, or alters,
- A written instrument.

This section of law is a “catch all” for every act of Forgery not amounting to the felony categories (Penal Law. 170.10, 170.15). The crime of Forgery is complete when the written instrument is made or altered with fraudulent intent. The actual use of the instrument such as a check, will, letter, deed, etc., is not necessary.

It is not Forgery for a person to sign the name of another person to a written instrument with permission, or in the honest, but mistaken, belief that he or she had the authority to do so.

**Note:** It should be noted that forgery is still committed even if the forged name is not a real one. When used with the intent to defraud or deceive, a wholly fictitious name may still constitute the crime of forgery.



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### Forgery – Felony (NYS PL 170.10, 170.15)

A person commits forgery, felony, when:

- With intent to defraud, deceive, or injure another person,
- He or she falsely makes, completes, or alters a written instrument (forgery, misdemeanor) **and**
- The written instrument is, or purports to be, any one of the following:
  - A) A deed, will, contract, assignment, commercial instrument, **credit card**, or other instrument that may affect a legal right, interest, obligation, or status.
  - B) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public servant.
  - C) A written instrument officially issued or created by a public office, public servant, or governmental instrumentality.
  - D) Part of an issue of tokens, public transportation transfers, certificates or other articles, manufactured and designed for use as symbols of values usable in place of money of the purchase of property or services.  
(i.e., **Metrocard**)
  - E) A prescription of a duly licensed physician or other person authorized to issue the same for any drug or instrument or device used in the taking or administering of drugs for which a prescription is required by law.

**Example:** A person steals a prescription pad from a doctor's office and forges a prescription for himself and fraudulently signs the doctor's name.

### Criminal Possession of a Forged Instrument – Felony (NYS PL 170.25, 170.30)

A person is charged with this offense when he or she possesses any of the above forged instruments (A-E), including a forged **credit card** or **debit card**. If he or she possesses two or more forged instruments, each of which purports to be a credit card or debit card, he or she is **presumed** to possess them with the knowledge that they are forged and with intent to defraud, deceive or injure another.



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## Detecting and Deterring Fraud

### Investigating the Possession of Forged or Fraudulent Documents

If during the course of a routine investigation, or during the lawful search of a prisoner, you come across an item that you believe to be forged or fraudulent, notify your supervisor immediately. The following graphics and examples will help you to better understand and identify fraudulent materials. There are specific Department guidelines that must be followed when such items are discovered. These guidelines will also be spelled out below.

#### ***Motor Vehicle Documents (Verifying Identification)***

##### ***What to look for:***

##### **The photo:**

- Glance back and forth from the identification card to the person's face (for at least 10 seconds). This allows you the opportunity to compare the likeness. It also allows for a reaction by the person stopped.
- A person with a fake or altered identification will most likely show signs of physical stress if they feel that the ID is being questioned.

##### **The numbers:**

- The numbers should be consistent. The typeset of the DOB should match the typeset of other numbers.
- Check the expiration date of the identification. An expired card is not a valid form of identification because it may be a duplicate of a valid ID.
- A duplicate identification indicates that another person may hold the same license. When a person reports a license lost, many times the same exact license is reissued (including the same ID number).
- The last number of the 8 digit code on the bottom right corner of a NYSDL represents the amount of times a license was duplicated.

##### **The card:**

- Compare the identification with your own, checking consistency, texture, lettering, etc.
- Check for signs of alterations, especially the rear of the license. Many counterfeiters will focus on the front of the ID and poorly duplicate the back.





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***If the validity is questionable:***

### **Ask questions:**

- Ask for a second piece of identification. Persons with fake identification usually do not carry back-up ID.
- Quiz the cardholder about basic information on the card, such as age, middle initial, zip code, etc. Usually a person will attempt to memorize the DOB but will not be able to compute the fictitious age.

### **Run a license check:**

Have a computer car respond to your location if no other method is available. Run the license using the state and ID number to check for validity. In some cases an ID number check will not reveal NY suspensions or warrants. The name and DOB of the person should be run under a NY check to uncover any suspensions or warrants. When running a name check, enter variations of the name and DOB (e.g., run the name with and without the middle initial, reverse the first and last names, switch the month and day of birth, etc.). This information may have been entered incorrectly into the system and will not appear when searching for the original name.

### **New Jersey Driver's License**

Persons using fraudulent identification will, many times, use out-of-state identification, hoping that the challenging officer is unfamiliar with that form of identification. Unlike NYS licenses, New Jersey Driver's Licenses are still laminated and, in some instances, issued without a photo (making them a likely candidate for forgery). If a computer is not available, use the attached memo book insert (as one tool) to verify the license (see appendix).

### **International Driver's License**

In recent years several scams have been uncovered involving "International" driver's licenses. There is no such license. There *is* a document known as an "International Driver's Permit." This document is used ***in conjunction*** with a normal license (when driving outside of the driver's native country). It is basically a document that translates a driver's license into several other languages.

If a police officer confronts a driver that produces an "International" driver's license and cannot produce a valid license, the officer should thoroughly investigate the status of the person's driving privilege (i.e., suspended or revoked license). If the investigation proves negative, the properly identified motorist may



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be issued a summons for driving without a license. If the motorist can not be properly identified, he should be placed under arrest.

### ***Arrests Involving Fraudulent DMV Documents***

When arresting an individual for possession of forged or altered motor vehicle documents, follow Patrol Guide procedure 208-54, which outlines the specific charges and procedures as follows:

#### ***Possession of a forged/altered operator's license***

**Criminal Possession of a Forged Instrument, 2<sup>nd</sup> Degree (felony)**, should be charged ***only*** when:

- The operator possesses more than one (1) false license; **OR**
- The false license was used for a purpose *other* than driving (e.g., to pass a bad check, etc.); **OR**
- The operator possesses the false license(s) under circumstances showing an intent to sell the license(s); **OR**
- The operator possesses a false license and one (1) or more other false forms of identification.

Also, recent investigations have determined that a large number of New York State Driver Licenses and Identification Cards have been fraudulently produced and distributed over the last several years. Investigation has further revealed that many of these forged documents were obtained by individuals who knowingly submitted false paperwork, credentials, etc. to the Department of Motor Vehicles (DMV) and then bribed the DMV employees to accept them.

To assist in the prosecution of any motorist or individual arrested and found to be using or carrying a fraudulent NYS Driver License/Identification Card, the DMV's Internal Affairs Office (DMV-IA) has established a telephone number for queries: **(518) 473-3342**. Police officers should contact the DMV at this number whenever a computer check of a NYS Driver License/Identification Card reveals the designation "Fraud Document." The arrested motorist or individual may be charged with **Criminal Possession of a Forged Instrument 2<sup>nd</sup> Degree (felony)**.

If the arrested motorist or individual was operating a motor vehicle at the time the License or Identification Card was presented, also charge **violation of Vehicle and Traffic Law Section 392 (unclassified misdemeanor)**. This provision makes it a crime to operate a motor vehicle upon the public highway while displaying or using any document that he or she knows has been obtained by making a false statement in an application for, or making a material alteration



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on any document issued by the Commissioner of Motor Vehicles, or unlawfully using a validating device on such a document.

To determine whether other charges may apply, confer with the DMV-IA Unit. Personnel assigned to DMV-IA may be able to provide information as to how the arrested motorist or individual obtained the fraudulent Driver License or Identification Card.

Arresting officers should contact the Precinct Detective Squad for assistance in the interrogation of the person in custody (after Miranda warnings are given) in an effort to independently obtain information about the forged document's origin. Any such information should be conveyed to the Assistant District Attorney assigned to the case.

If it is determined that the arrested motorist or individual gave or offered to give a DMV employee, or "middleman," money or another benefit, for the purposes of obtaining the License or Identification Card, the following additional charges may be appropriate: **Bribery 3<sup>rd</sup> Degree (Penal Law 200.00)**, and **Sale or Purchase of a Stolen, False or Fraudulent License, Identification Card, Certificate of Registration, or Number Plate (Vehicle and Traffic Law 392-a)**.

If it is determined that the that the arrested motorist or individual completed and filed a License or Identification Card application with the DMV, and the DMV office (where the application was filed) is located in the same county where the arrest was made, the following additional charge may be appropriate: **Offering a False Instrument for Filing 1<sup>st</sup> Degree (Penal Law 175.35)**.

### ***Possession of another's license***

If a person who is operating a vehicle offers someone else's license as proof of identity, charge **Vehicle and Traffic Law, Section 509(1)**, Driving Without a License; **and Vehicle and Traffic Law, Section 509(6)**, Driving While Using Another's License. These offenses are traffic infractions for which "B" summonses may be issued. *Make the two (2) summonses returnable to the Traffic Violations Bureau.* An investigation should also be conducted to determine if the crime of **Identity Theft** was also committed.

### ***Possession of an altered "valid" license***

If the driver offers as proof of identity a valid license issued *to him/her* but which has been altered, (e.g., expiration date changed, etc.) charge **Vehicle and Traffic Law, Sections 392 and 509(1)**. Vehicle and Traffic Law, Section 392, is a misdemeanor for which a "C" summons may be issued. Vehicle and Traffic Law, Section 509(1) is a traffic infraction for which a "C" summons may be issued. *Both*



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*summonses should be made returnable to the local Criminal Court.*

### ***Possession of a forged/altered registration***

A suspect who presents a registration card with a forged or altered registration (e.g., address known to be false, etc.) may be issued summonses for **Vehicle and Traffic Law, Sections 392 and 401(a)**, Unregistered Vehicle. Vehicle and Traffic Law, Section 392, is a *misdemeanor* for which a "C" summons may be issued. Vehicle and Traffic Law, Section 401(a), is a *traffic infraction* for which a "C" summons may also be issued. *Both summonses should be made returnable to the local Criminal Court.*

### ***Possession of forged/altered inspection sticker***

A person operating a vehicle with a forged or altered inspection sticker may be charged with **Vehicle and Traffic Law, Section 306(e)**, an unclassified misdemeanor. *A "C" summons may be issued and made returnable to the local criminal court.*

### ***Possession of a forged/altered insurance card***

An operator who produces an insurance card indicating that insurance is in effect when such coverage does *not* exist is to be charged with Vehicle and Traffic Law, Section 319(2), an unclassified misdemeanor. *A "C" summons may be issued and made returnable to the local criminal court.*

### ***Possession of a forged/altered New York state department of motor vehicles in-transit vehicle permit number plate (paper license plate)***

An operator who drives with a forged or altered In-Transit Permit may be charged with **Vehicle and Traffic Law, Sections 392 and 402(1)**. Vehicle and Traffic Law, Section 402(1), is a traffic infraction for which a "C" summons may be issued. *Both summonses should be made returnable to the local Criminal Court.*

In all instances in which a fraudulent or altered motor vehicle bureau document, such as a license or registration, is evidence of an offense, it should be invoiced as evidence pursuant to Department procedures. Under no circumstances will such a document be returned to the arrested motorist or individual. Summonses should not be issued for the above offenses to defendants who are not properly identified or who otherwise fail to qualify. Police officers should ensure that when issuing multiple summonses to an individual for offenses occurring during a single incident and one of the summonses is returnable to Criminal Court, then all summonses should be made returnable to Criminal Court.



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### ***Fraudulent or Forged Credit Cards***

When, during the course of a lawful search, a police officer comes upon a credit card that appears to be fraudulent, he or she should notify the supervisor. Depending on the circumstances, several of the above charges may apply (i.e., Identity Theft, Forgery). A thorough investigation should be conducted. The special Fraud Squad and the Missing Persons desk maintain a list of 24 hour authorization numbers for various credit card companies. The credit card company involved will provide a representative to testify in court. The following illustrations will assist in the identification of the most common credit cards.

***This section intentionally left blank***



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### MasterCard Card Security Features

The account number embossed on the face of the card should be exactly the same as the 16-digit account number printed on the signature panel and encoded on the magnetic stripe (the number displayed on the terminal and/or printed on the sales draft).

There is an ultraviolet M and C on the face of the card visible when placed under a black light.

All MasterCard account numbers begin with a 5. The characters and numbers embossed on the card should be clear and uniform in size and spacing.

A four-digit number may be pre-printed on the card. It must match the first four digits of the account number.

The Valid Date lists the last date on which the card is valid. Some cards may have an Effective Date as well.

The MasterCard security character is embossed on the same line as the valid dates.

The signature on the signature panel should reasonably compare with the signature on the sales draft.

A hologram with interlocking globes showing the continents should appear three dimensional and move when the card is tilted. The word MasterCard will appear in the background of the hologram. The letters "MC" are micro-engraved around the two rings.

The 16-digit account number is indent printed in reverse italics on the signature panel and is followed by a 3-digit card validation code (CVC2).

The word "MasterCard" is printed in multi-colors at a 45° angle on a tamper-evident signature panel.

### NOVUS Card Designs Card Security Features

The word NOVUS will appear on the front of the card when held under an ultraviolet light on cards issued after 8/1/95.

**Other NOVUS Card Designs**  
The cards shown below will bear the same security features outlined at left.

All NOVUS account numbers begin with a 6. The characters and numbers embossed on the card should be clear and uniform in size and spacing.

The expiration date indicates the last month in which the card is valid.

The special embossed **M** appears on the same line as the Member Since and Expiration Date. On all cards issued before 8/1/95, you may instead see a Dean Witter, Discover and Co. or Sears Financial Network logo.\*

Repetitive fine line printing of the card name as shown on the top face of the card (i.e.: Discover, Private Issue, Bravo, etc.) will appear on the back or, for some brands, on both sides of the card.

Cards issued after 8/1/95 will have a tamper resistant signature panel with an overprint of NOVUS at a 45° angle. Until 8/98 you may see an overprint of DISCOVER or until 9/96 an overprint of SEARS FINANCIAL NETWORK.

A hologram which features three distinct images:  
 • NOVUS coin  
 • Single, large Dean Witter, Discover and Co. logo  
 • Multiple, smaller Dean Witter, Discover and Co. logos  
 As the hologram is rotated under light, the full colors of the rainbow can be seen.

The account number embossed on the face of the card should be exactly the same as the account number printed on the signature panel and encoded on the magnetic stripe.

The account number on the signature panel appears in reverse indent printing. It is followed by a 3-digit validation code (on all cards issued after 8/1/95).

Invalid after 9/96. \*Security Character. The Sears Financial Network logo is always embossed. The Dean Witter, Discover and Co. logo is always silkscreened. Invalid after 8/98.



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### Visa Card Security Features

The account number embossed on the card must match the account number printed on the sales draft. The last grouping of embossed digits should extend into the hologram.

All VISA account numbers begin with a 4. The characters and numbers embossed on the card should be clear and uniform in size and spacing.

A four-digit number printed on the card (above or below the account number) should match the first four digits of the account number.

The Valid Date lists the last date on which the card is valid. Some cards may have an Effective Date as well.

The "Flying V" is embossed on the same line as the valid dates.

A hologram showing the Visa Dove should appear to move when the card is tilted. A genuine hologram is a photographic image that appears to be three-dimensional when rotated. Most counterfeit cards contain a one-dimensional printed image on a foil sticker.

Tamper-evident signature panel with "VISA" printed at an angle in blue and gold or blue only.

Tiny characters called Micro Printing form a border around the Visa logo which appears above or below the hologram. Visible by using a magnifying loupe, it is made up of the first four digits of the account number and other characters.

The signature on the back of the card must match the signature on the sales draft. All Visa cards must be signed before they are valid.

### AMERICAN EXPRESS Card Security Features

When examined under an ultraviolet light, the letters AMEX and a phosphorescence in the portrait of The Centurion becomes visible.

American Express cards are not transferable. Only the person whose name is embossed on the card is entitled to use it.

All American Express account numbers begin with 37. The characters and numbers embossed on the card should be clear and uniform in size and spacing.

The card may not be accepted for use prior to the valid date or after the expiration date.

The portrait of The Centurion is printed with a high degree of clarity and detail such as the portraits on US Currency.

The Card Identification Number is an inventory control number that, together with the Card-member account number, can be associated internally to assure the validity of the Card.

With this statement on the card, American Express sets forth the right to "pick-up" the card at any time.

Erasure or tampering with the signature panel will cause the waved print background to appear white or smudged.

A duplicate account number is etched into the back of the card to ensure the card number appearing on the front of the card has not been altered.



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### ***Credit Card Skimmers***

Officers should be aware that a criminal does not have to actually possess a person's credit card to use it unlawfully. The card itself is worth nothing. It is the information on the card that is useful. This information can be "skimmed" off the card by way of a credit card skimmer. The information is then encoded onto any card that contains a magnetic strip (hotel key cards, store credit cards, school identification cards, etc.). Many times this information is stolen during a legitimate transaction. The dishonest employee will "skim" the card while he or she is processing the legitimate transaction. The illustration below identifies the most common types of credit card skimmers.



### ***ATM Skimmers***

Recently, new devices have surfaced that utilize skimmers and video cameras to steal the information encoded on an ATM card, while also stealing the personal identification number (PIN) for that card. The device is attached to an ATM machine; the skimmer is designed to look like a part of the actual machine, and the video camera that records the PIN is disguised as a pamphlet dispenser. This information is usually relayed to remote receiver. Officers should be aware of persons (on foot or in vehicles) utilizing laptop computers or electronic monitoring devices while loitering around ATMs or banks. The following graphic illustrates the above scam in action:





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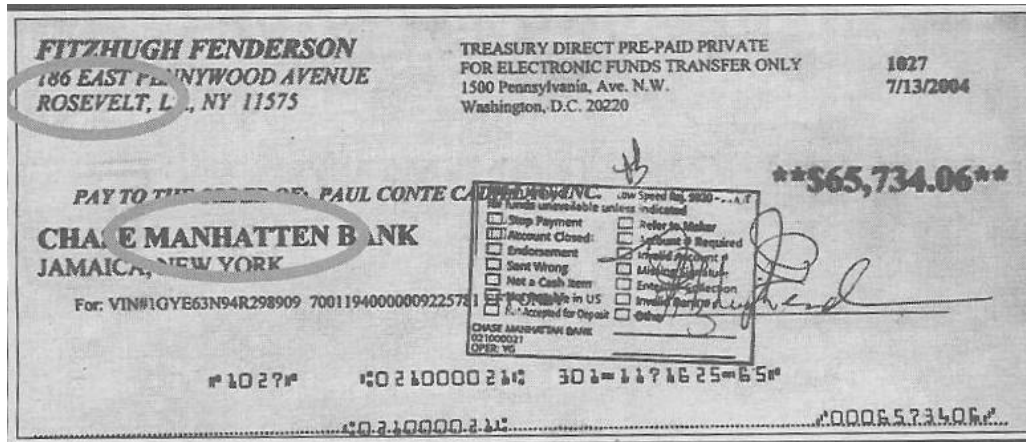


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### Check Fraud

If an officer comes across a person in possession of personal checks, bank checks or certified checks, close attention should be paid to the details of the check. Recent arrests have uncovered persons in possession of forged checks with obvious misspelling. The below graphic will illustrate an example of this type of forgery.



### ADMINISTRATIVE CODE VIOLATIONS

In addition to the Penal Law offenses of Identity Theft, Criminal Impersonation, and Forgery, impersonation offenses have been addressed in other state and city laws. These include the New York City Administrative Code, which is enforceable only in New York City. These Administrative Code misdemeanors are enforceable by police officers. A personal service summons may be issued to a violator, if appropriate. These offenses are:

#### Unlawful Use of Police Uniform or Emblem - Misdemeanor (Section 14-107):

It is unlawful for any person, not a member of the police service, to represent him/herself as such by use of any fraudulent design upon persons or property. It is also unlawful for any person to have, use, wear or display, without authority from the Police Commissioner, any uniform, shield, buttons, wreaths, numbers or other insignia or emblem which resembles that worn by members of the service.

This offense includes the wearing of police uniforms and symbols by people who are not police officers, as well as the use of police insignia and symbols on vehicles and other property.



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**Note:** Possession of miniature shields does not require police department approval. The possession of a mini shield is lawful. To use it unlawfully is an offense.

### Unlawful Use or Possession of Official Police Cards - Misdemeanor (Section 14-108)

Any person who has in his or her custody or possession any official police department identification card, working press card, emergency repair service card, press photographer's vehicle card, newsreel camera vehicle card, emergency service card or any other official card used by the police department or any copy or reproduction of the same, without permission of the Police Commissioner, is guilty of this offense. This section also includes persons who, with intent to make, reproduce or alter official police cards, have in their possession any implements or material used for such purposes.

**Note:** The evidence in this offense may be such to warrant additional charges of forgery, possession of a forged instrument, criminal impersonation, etc.

### Unauthorized Display of Badges, Plates, Cards, Etc.

Additionally, Patrol Guide Section 212-81 prescribes the proper police action to take when you observe the unauthorized display of police badges, parking plates, police cards, or insignias.

<b>UNAUTHORIZED DISPLAY OF</b>	<b>POLICE ACTION</b>
BADGE, AND PERSON DISPLAYS OR PURPORTS TO BE A PUBLIC SERVANT WITH INTENT TO HAVE PERSON SUBMIT TO AUTHORITY.	*ARREST, SECTION 190.25-3, PENAL LAW. *SEIZE BADGE AS EVIDENCE.
PLATE, SIGN INSIGNIA OF POLICE OR FIRE DEPARTMENT DISPLAY ON A VEHICLE	*SUMMONS, SECTION 396, VTL. *SEIZE ARTICLE AS EVIDENCE.
OFFICIAL POLICE CARDS, E.G., PRESS, SPECIAL VEHICLE IDENTIFICATION, ETC.	*CONFISCATE, ASCERTAIN HOW OBTAINED, AND DELIVER ARTICLE AND REPORT OF CIRCUMSTANCES TO DESK OFFICER.
FORGED POLICE CARD.	*ARREST, ADMINISTRATIVE CODE SECTION 14-107 *SEIZE CARD AS EVIDENCE.



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You must remember that this procedure serves as a guide. A ***thorough investigation*** should always be conducted as the possibility of other serious offenses may be present. For example, does the vehicle that displays an unauthorized parking plate belong to a police impersonator wanted for robberies? Was the plate stolen from a police officer? Is the plate the work of a counterfeiter? Do not take anything for granted, if you have doubts as to the validity of items used to identify members of this and other law enforcement departments, request the patrol supervisor to respond.

### CONCLUSION

Many criminals steal identities for monetary gain, but others steal or mask their identities in order to commit violent crimes like Robbery, drug trafficking and terrorism (Eder, 2004). Understanding such a criminal's motive not only supports your ability to reduce crime, it creates a safer society for citizens and officers alike. Never take any person on their word, always verify the subject's claims with personal identifiers. George Kelling, co-author of the "broken windows" doctrine, recently stated that, just as the subway robber jumps the turnstile to commit his crimes, "Terrorists have to commit minor crimes (including Identity Theft, credit card theft and Forgery) to commit major acts of terrorism. This makes them vulnerable to local law enforcement." A chance encounter with one of these criminals coupled with a thorough investigation could lead to a significant arrest and possibly thwart another terrorist attack.



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## Detecting and Deterring Fraud

### PART 2: PREVENTING INSURANCE FRAUD AND FALSE REPORTING

#### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW THE MATERIAL IN THIS CHAPTER?

Fraudulent reports to the police are a common occurrence. From the prank call to 911 to the elaborate schemes to defraud the government, patrol officers frequently come across fraudulent claims. Unfortunately, the patrol officer rarely enforces the laws that control these actions. The officer will, many times, disregard these false reports or mistakenly take the report due to lack of training in the area of identifying fraud. One of the biggest mistakes a patrol officer can make while taking a report for a crime is to assume that the "victim" is telling the truth. This is not to say that all victims of crimes intentionally mislead the police. But officers must realize that, when reporting incidents related to insurance claims (i.e., stolen or damaged property, injuries, etc.), statistics disclose that *one in three Americans feel it is acceptable to make fraudulent or exaggerated claims to collect insurance money*. By becoming familiar with current fraud schemes, as well as the laws to combat them, officers can prevent fraud, reducing the amount of fraud and false complaints. This, in turn, reduces inaccurate crime statistics (which fosters citizens' fears) and the daily workload for the police, as well as the insurance rates that all New Yorkers must pay.

#### Interview and Investigation Techniques

The first step in thwarting these false claims is to properly interview all victims and witnesses and to thoroughly investigate the incident on the scene. Interview questions and proper investigation procedures will be specifically covered in each section of this chapter. These sections include *auto accident investigation, auto theft investigation, property theft investigation, and personal injury investigation*, as they relate to insurance fraud.

What the patrol officer must realize is that, when interviewing victims, the art of interviewing is closely related to the art of interrogation. In fact, "any discussion of interviewing techniques almost always applies to interrogation techniques." The ultimate goal of both styles of questioning is *the truth*. If, during the course of an interview, statements are made that seem contradictory or untrue, the officer must clarify the situation and uncover the truth, not just "take the report." If, at some point during the interview, the victim becomes a suspect, the officer must remember that a ***custodial interrogation*** cannot be conducted without first advising the person of their Miranda rights.



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### CRIMES RELATED TO INSURANCE FRAUD

#### Insurance Fraud- Definition of Terms (NYS PL 176.00-176.05)

**"Insurance policy"** has the meaning assigned to insurance contract by subsection (a) of section one thousand one hundred one of the insurance law except it shall include reinsurance contracts, purported insurance policies and purported reinsurance contracts. **"Statement"** includes, but is not limited to, any notice, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, x-ray, test result, and other evidence of loss, injury or expense. **"Personal insurance"** means a policy of insurance insuring a natural person against any of the following contingencies:

- **loss of or damage to real property** used predominantly for residential purposes and which consists of not more than four dwelling units, other than hotels, motels and rooming houses;
- **loss of or damage to personal property** which is not used in the conduct of a business;
- **losses or liabilities arising out of the ownership, operation, or use of a motor vehicle**, predominantly used for non-business purposes;
- **other liabilities for loss of, damage to, or injury to persons** or property, not arising from the conduct of a business;

**"Commercial insurance"** means insurance other than personal insurance, and shall also include insurance providing disability benefits pursuant to article nine of the workers' compensation law, **insurance providing workers' compensation benefits** pursuant to the provisions of the workers' compensation law and any program of self insurance providing similar benefits.

A **"fraudulent insurance act"** is committed by any person who, knowingly and with intent to defraud presents...any written statement as part of...an application for the issuance of...an insurance policy...which he knows to:

- a) contain materially false information concerning any fact material thereto; **or**
- b) conceal, for the purpose of misleading, information concerning any fact material thereto.

#### Insurance Fraud- Misdemeanor (NYS PL 176.10)

A person is guilty of insurance fraud -**misdemeanor** when he commits a fraudulent insurance act (looseleaf Law, 2004).



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### Insurance Fraud- Felony (NYS PL 176.15 – 176.30)

A person is guilty of insurance fraud **-felony** when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one thousand dollars.

**Note:** The crime of Insurance Fraud is rarely charged by the patrol officer. A person is usually charged with this crime after an extensive investigation conducted by city and state investigation units and by private insurance agencies. Patrol officers will most likely charge a fraudster with the crimes outlined below.

### Making a Punishable False Written Statement- Misdemeanor (NYS PL 210.45)

A person is guilty of making a punishable false written statement when he knowingly makes a false statement, which he does not believe to be true, in a written instrument bearing a legally authorized form notice to the effect that false statements made therein are punishable.

A person can only be charged with this crime if they complete a written instrument that **warns of the consequences of making a false statement**. The following Department forms are applicable to this charge:

- **Vehicle Theft Preliminary Investigation Report**
- **Vehicle Theft Supporting Deposition**
- **Complainant's Report of Lost or Stolen Property**

This crime cannot be charged when a person falsely reports a crime or occurrence for which only a **Complaint Report, Police Accident Report, or Aided Card** was prepared. In these instances the crime of **Falsely Reporting an Incident** will be charged.

### Falsely Reporting an Incident- Misdemeanor (NYS PL 240.50)

A person is guilty of falsely reporting an incident- **misdemeanor** when, knowing the information reported, conveyed or circulated to be false or baseless, he gratuitously reports to a law enforcement officer or agency:



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- a) the alleged occurrence of an offense or incident which did not in fact occur; or
- b) an allegedly impending occurrence of an offense or incident which in fact is not about to occur; or
- c) false information relating to an actual offense or incident or to the alleged implication of some person therein.

**Note:** The crimes of *Falsely Reporting an Incident* and *Making a Punishable False Written Statement* can be charged regardless of the fact that the false report was not motivated by insurance fraud.

### AUTO ACCIDENT FRAUD

Auto accident fraud requires one key element. It is not a car, or a driver, or even an accident; it is a **Police Accident Report**, also known as a **PAR**. For a "victim" to receive payment (for injury or damage) from an insurance company, he or she needs this report. The patrol officer is the only person who prepares this report. This means that, to complete this crime, the fraudster must trick the officer into believing his story. Many times a legitimate accident will occur, and the fraudster will be a, normally, law abiding citizen, who now sees an opportunity to make some money. These people lie to the officer and exaggerate claims of injury or damage. This is why proper interview and investigative techniques must be adhered to. Following proper procedure will ensure that unscrupulous motorists are not able to *doctor* the **Police Accident Report**. Knowledge of common scams ensures that these individuals are identified at the point of "impact" and their schemes frustrated before any reports are prepared.

Typical automobile accident insurance scams involve dishonest motorists who stage motor vehicle accidents and submit false insurance claims. In one scenario a vehicle with prior body damage is driven to a location. The occupants of this vehicle call police to the location claiming that an accident has occurred and that the other vehicle has left the scene (they also complain of injuries). In fact, there never was an accident. A variation of this scenario involves occupants who conspire to purposely crash their vehicle into another. Once again there is a claim of injuries. Another favored ploy involves an unscrupulous motorist obtaining a photocopy of the **Police Accident Report** and *doctoring* it in some fashion. This altered version is then photocopied and submitted to the insurance company.





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### Investigation and Interview

In order to reduce staged motor vehicle accidents, reporting of false injuries, and other automobile accident-related insurance frauds, officers should survey the scene carefully and be alert for some of these more **common insurance fraud indicators**:

- Minor accident/low impact collision yet **all vehicle occupants are claiming injuries**.
- The injured passengers are not acquainted with the driver and/or each other;
- Older model vehicles involved in accident with multiple vehicle occupants claiming injury;
- No debris at the scene despite significant damage to the vehicle(s). This is an indication that the accident and /damage took place elsewhere;
- The driver's description of the accident does not coincide with the damage to the vehicles;
- Differing accounts of the accident are given by the driver and passengers;
- The vehicle driver is eager to assume blame for the accident;
- The driver, injured occupants, and/or witnesses use a post office box as an address.

Include such fraud indicator information in the "Accident Description -Officer's Notes" caption of the Police Accident Report. ***In addition, when fraud is suspected, notify the Intelligence Division and provide all pertinent information.***

The suspicious accident an officer encounters is likely to be part of a large conspiracy conducted by a criminal organization. The Intelligence Division analyst will forward the information received to the Special Frauds Squad for review. Special Frauds will transmit this information to the National Insurance Crime Bureau (NICB) where it will be disseminated to the appropriate insurance company investigators. If criminality is established, the case can then be referred to the Special Frauds Squad or the Auto Crimes Division for investigation.

### Preparing the Police Accident Report

The omission of information on **Police Accident Reports** hinders insurance investigations and criminal prosecution. With this in mind, you must legibly complete *all* relevant captions on the **Police Accident Report**.



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Remember to obtain the Vehicle Identification Number (VIN) from the dashboard and door of each vehicle involved in motor vehicle accidents and list it in the "Accident Description/Officer's Notes" caption of the **Police Accident Report**.

Entries made in the "**All Involved**" section of the **Police Accident Report**, boxes "A through G" must be complete and accurate, particularly as they pertain to documenting the seating position, names, and injuries of all passengers in the vehicle(s) at the time of the accident. It is imperative that *all* passengers riding in the vehicle(s), regardless of their condition, be accounted for. After listing this information, you must **draw a straight line through every unused box of the section and initial it**. You will repeat the same process on the reverse side of the **Police Accident Report** in the "**Persons Killed or Injured in Accident**" section, boxes "A through G". This will prevent unscrupulous motorists, who obtain a photocopy of the **Police Accident Report**, from altering the original information recorded.

Auto accident fraud may be the most prevalent type of fraud in the city. The perpetrators of this crime range from common citizens to organized fraud rings. Another type of auto fraud that shares the same motive and perpetrator characteristics is auto theft fraud.

### AUTO THEFT FRAUD

Auto theft fraud is committed by all types of individuals, from doctors and lawyers to organized crime figures. The motives of these individuals are normally financial, either to gain money through insurance fraud or alleviate the financial burden that the automobile places on the individual. Other times, an individual may report his or her car stolen to hide the fact that the auto was used in a crime. These individuals will attempt to report the auto stolen soon after the crime. Therefore, their scheme is not as well thought out as an owner who intentionally "dumps" his or her car. In an **owner dump**, the individual will dispose of his or her auto –by selling, destroying, abandoning, or hiding- and then report the auto stolen. There are several variations to this scheme, but the intention is the same; the fraudster will attempt to convince the police to take a report for the stolen auto that has not actually been stolen.



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### Investigation and Interview

Reports of stolen autos must be investigated at the scene. They cannot be taken over the phone or at the station house. If a person arrives at the stationhouse to report a stolen auto, they will be transported back to the scene for investigation. When surveying the scene, be aware of common signs of fraud. The following is a list of questions that patrol officers should be asking themselves at the scene of a suspected stolen auto:

- Are there signs of theft at the scene (broken glass or a discarded door lock)?
- Was the vehicle parked in its usual location when stolen?
- Is there a vehicle parked in the spot where the car was last seen; if it was a recent theft, is the new car's hood still warm? (A cold hood could be a sign that this auto has been parked in the spot for an extended period of time).
- When at a shopping mall, supermarket parking lot: does the person have packages?
- Is the person alone? Did he or she call someone for a ride before calling the police?

When you are conducting an interview of a person who has reported a stolen vehicle, emphasis should be put on details; remember, ***about 1 in 3 Americans believe it is acceptable to commit insurance fraud.*** When an individual reports his or her vehicle stolen, the responding officer will give the complainant a copy of a ***Vehicle Theft Preliminary Investigation Report and Vehicle Theft Supporting Deposition*** to prepare and sign. The complainant signs this report and, if the report is false, the individual can be charged with the above defined crime of "Making a Punishable False Written Statement."

Listed below are general guidelines to follow while interviewing a victim. These questions will help to determine if a person may be committing insurance fraud.

- Is the person unusually calm, unconcerned or extremely nervous?
- Is the person giving vague or inconsistent facts?
- Is the auto leased and have excessive mileage?
- Is the person able to relate exactly where the vehicle was parked?
- Was the vehicle for sale prior to loss?
- Is the person in possession of the keys? (Many fraudsters will give the vehicle keys to the person who is disposing of their car or dump the vehicle with the keys still in the ignition. If the person does not have the keys in their possession, this is a strong indication of fraud).



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## Detecting and Deterring Fraud

### Preparing the Complaint Report

When preparing the **Complaint Report**, ensure that it contains a complete and accurate description of the vehicle. The reporting person should be identified and the specific time of the theft pinpointed as closely as possible. The report should indicate if any ownership documents (especially registration certificates) were in the vehicle at the time of the loss. The report must contain the correct VIN. If you are suspicious of a report, make notes and notify the Patrol Supervisor, Precinct Detective Squad, or Auto Crimes Unit.

**Note:** As stated earlier, some people will report their car stolen after it was used in a crime (leaving the scene of an accident, hit and run, robbery, etc.). Review all computer records to ensure that the auto was not recently involved in a police incident.

### Investigating a Recovered Stolen Auto

Although officers are trained to recognize fraud at the point of the initial complaint, it is still difficult to uncover all fraudulent claims. Many times the signs of fraud are more prevalent when the vehicle is subsequently discovered. When an officer comes upon a recovered stolen auto, an investigation should be conducted and fraud signs should be noted on the Complaint Follow-up (if necessary), Motor Vehicle Invoice, and activity log. Common signs of an "owner dumped" vehicle include:

- Autos recovered by the owner or friend of the owner;
- Autos recovered with keys still in the ignition;
- Recovered auto is late model with high mileage;
- Auto recovered with destroyed odometer (possibly to cover high mileage);
- The steering lock mechanism is not broken;
- The ignition system is not damaged;
- Auto recovered with excessive vandalism (ensuring a total loss);
- Vehicle is completely burned out with recent body damage;
- Vehicle is recovered soon after report and has recent damage;
- Vehicle is recovered soon after report at the scene of a crime;
- License plate does not match vehicle;
- The VIN is not riveted to the dash or does not match the registration.



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## Detecting and Deterring Fraud

### Preparing the Motor Vehicle Invoice

When preparing the **Property Clerk's Motor Vehicle Invoice** for a recovered auto, the officer must be specific and note all damage and any signs of fraud. Noting all damage will preclude any corrupt auto body shops from accentuating the damage on the recovered auto (the greater the damage the higher the insurance settlement). Accurate invoices will hinder this "after-the-fact" type of fraud. Noting any signs of fraud will assist any public or private investigation into this incident. Specific notes should be made regarding:

- The condition of the ignition;
- The condition of the engine and transmission;
- Missing parts that were carefully removed as opposed to parts that were torn from wires or hoses;
- Any receipts in the vehicle relating to auto repairs;
- Any missing VIN plates or identification stickers.

A crime that is closely related to auto theft fraud is property theft fraud. In both instances a person is falsely claiming that property was stolen. Once again, the major underlying motivator is money.

### PROPERTY THEFT FRAUD

Property theft fraud usually occurs after a legitimate theft has occurred. The victim of the theft realizes an opportunity to exaggerate his or her losses and collect a large sum of insurance money. Other scams may include false claims of theft to avoid payment on lost or broken leased merchandise. This merchandise includes, but is not limited to, cable converters, cellular phones, computers, and computer peripherals. The problem lies in the fact that these objects are also common targets for thieves. The patrol officer must then thoroughly investigate the crime to determine if there was a legitimate theft or if fraud may be involved.

### Investigation and Interview

When responding to a call of a past larceny or burglary, patrol officers must be aware of the above motivating factors that may cause the victim to exaggerate or falsely report a crime. When surveying the crime scene (along with normal procedures) keep in mind the following questions as they relate to fraud:

- Are there signs of forced entry or theft?
- Is the victim claiming excessive loss, yet the home does not look ransacked?



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## Detecting and Deterring Fraud

- Were the items ripped from the wall, TV, Phone line, etc., or were they carefully removed?
- Are remaining items placed back? (e.g., converter is stolen but TV is not moved, computer is stolen but desk is not moved).
- Is there missing dust where the items were supposedly stolen or is there an even layer across the area?
- Does the stolen property include large amount of cash?

When interviewing the victim, be direct but understanding. The patrol officer's duty is not only to uncover the truth, it is to restore calm and remove fear. Yet, certain questions should be asked that will help identify signs of fraud. The patrol officer should ask questions such as:

- Were the stolen items leased or insured?
- If cable converter, is cable account active?
- Were the stolen items recently purchased?
- Does the property owner have receipts for the items? (This question could be asked under the guise of information gathering on identification numbers for the items).

The officer should note if the owner of the property is being vague or not forthcoming with information, or if the victim's information is inconsistent with prior statements or common facts.

### Preparing the Complaint Report

When preparing a Complaint Report, ensure that all victim information is inserted, including all phone numbers. Also, ensure that all lost/stolen property is properly itemized in the report. Although it is not required, many precincts utilize the Complainant's Report of Lost or Stolen Property when preparing a report of lost or stolen property. This report is prepared by the victim and lists all the items that the victim claims were lost or stolen. The report itself **warns of the consequences of making a false statement**. This not only possibly deters a person from committing fraud, but it also allows the police to charge the fraudster with "Making a Punishable False Written Statement" if fraud is uncovered.

### Lost/Stolen Identification Scams

Recently, several scams have been uncovered where persons falsely claim to have lost personal identification documents in order to use the police report to acquire new or duplicate documents or to avoid prosecution for crimes committed using that personal identification. Any claims of lost identification should be cross referenced with names of wanted individuals. Although the



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person is claiming that their identification is lost, and that they have lost all valid proof of their identity, the officer still must establish valid identification prior to preparing the report.

**Note:** Recent scams have involved illegal aliens who claimed to have lost their passport, alien registration card, or naturalization papers. This is done in attempt to avoid deportation. Any claim of a lost or stolen passport, alien registration card, or naturalization papers should be referred to the detective squad prior to the preparation of a complaint report.

### PERSONAL INJURY FRAUD

Personal injury fraud, while not as prevalent, as auto insurance fraud, is still a common practice among fraudsters. Personal injury fraud or bodily injury fraud is perpetrated by persons who fake or exaggerate an injury to collect insurance benefits or collect payment through a lawsuit filed against a business or municipality.

Some of the most common types of injury scams include:

- **Slip and Fall** - Slip and fall scams are among the most widely practiced types of insurance fraud. This scam involves a “victim” who intentionally slips and falls on a person’s or business’ property, then attempts to sue the owner of the property for pain and suffering. A variation of this scam, known as the “**The Big Trip**,” occurs when a person “trips” on a broken or obstructed sidewalk or stairway.
- **The Fake Break** – Scammers will use a recent injury to accentuate a bogus claim.
- **The Chew and Sue** - The scammer will claim that ill-prepared food caused physical injury.

### Investigation and Interview

When responding to a report of a person in need of medical attention, be aware of the above scams. In addition to normal procedures, officers should note any indicators of injury fraud. Some indicators include:



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- Injured person is unusually knowledgeable about insurance terminology and procedures;
- Injured person refuses to be properly identified;
- Injured person is transient;
- An "independent" witness is quick to support the injured person's claim;
- The owner of the establishment claims that the victim is lying;
- Independent witnesses contradict the victim's allegations.

### ***Workman's Compensation Fraud***

Workman's Compensation is designed to help persons who were legitimately injured during the course of their employment. Many programs pay out up to 100 percent of the person's pay. This makes workers compensation insurance an "appealing target" for fraudsters.

When responding to a person injured on the job, patrol officers should be aware of the following signs of fraud:

- The accident occurred early in the morning on Monday or the first day of work, indicating that the injury may have happened before the person reported to work;
- The accident occurred in a place that the employee does not normally work;
- The employee was recently hired;
- The injured person refuses to make a statement;
- There are no witnesses to the injury

### **Preparing an Aided Report**

Due to the fact that New York City endures numerous lawsuits related to personal injury, special procedures have been introduced to assist the City's attorneys in preparing a case when the City may be involved in a personal injury. Therefore, when an officer prepares an **Aided Report** for an aided case where the City may be involved the officer must:

- Check the "City involved" caption of the **Aided Report**;
- Enter the agency code, **official diagnosis**, and witness' name, address and telephone number (if available) in the "Details" section of the **Aided Report**.





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### CONCLUSION

The above fraud crimes are committed due to motive and opportunity. The patrol officer's job is to decrease the opportunity and un-motivate the criminal. This is accomplished through a thorough investigation. The key to a thorough investigation of an incident that may contain fraud is the proper completion of the associated report and the proper interview of any and all witnesses and victims at the scene. The patrol officer must also remember that the above fraud indicators are not all inclusive, nor are they, alone, positive indications of fraud. If an officer suspects fraud in at the scene of an incident, he or she should contact the Patrol Supervisor or Precinct Detective Squad.

### AGENCIES THAT INVESTIGATE FRAUD

#### New York City Police Department

- **Special Frauds Squad- 212-348-2497-** Must be notified for incidents related to credit cards and confidence games. A duplicate copy of the **Complaint Report** for these crimes must also be sent to the Special Fraud Squad.
- **Intelligence Division- 212-765-4300** – Should be notified if an officer suspects fraud during the course of an auto accident investigation. The information will eventually be disseminated to the National Insurance Crime Bureau.
- **Auto Crime Division- 718-217-8515-** Investigates incidents involving auto insurance fraud, specifically auto theft fraud. Officers suspecting auto theft fraud should notify the Precinct Detective Squad, who will confer with the Auto Crime Division.
- **Fraudulent Accident Investigation Squad** – Investigates insurance fraud related to auto accidents. The squad is separated into two units. One unit covers Brooklyn, Queens, and Staten Island – **718-875-6287**. The second unit covers The Bronx and Manhattan -**718-822-5280**.
- **The Police Impersonation Unit-** Investigates all robbery police impersonation complaints and other serious crimes involving police impersonations. The precinct Detective Squad will be responsible for other criminal impersonation complaints. In ALL cases of suspected police impersonation, a notification to Internal Affairs Bureau Command Center at-**212-741-8401** is required and a log number will be assigned.



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### New York City District Attorneys

All five District Attorneys maintain units that specifically investigate fraud. To contact a specific fraud unit within the District Attorney's office, contact the D.A.'s main phone number within the borough of investigation.

### State Agencies

- ***New York State Insurance Department, Insurance Fraud Bureau-*** Investigates insurance fraud throughout the state. The New York City office can be reached at **212-480-6074**.
- ***New York State Attorney General, Auto Insurance Fraud Unit-*** Conducts long term investigations on organized auto insurance fraud rings, including staged accident rings, medical mills, and corrupt law firms.

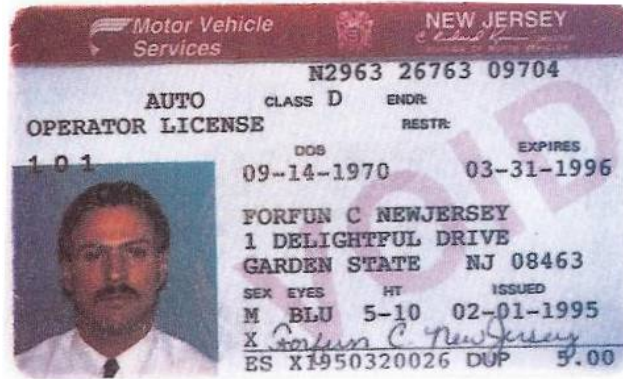


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### APPENDIX

#### NEW JERSEY DRIVERS LICENSE NUMBER SYSTEM



SAMPLE LICENSE NUMBER **N2963 26763 09704**

SAMPLE LICENSE NAME **FORFUN C NEWJERSEY**

{N2963} LAST NAME FIRST LETTER OF LAST NAME

{26763} MIDDLE INITIAL CODE FOR LAST TWO DIGITS

A	61	J	71	S	82
B	62	K	72	T	83
C	63	L	73	U	84
D	64	M	74	V	85
E	65	N	75	W	86
F	66	O	76	X	87
G	67	P	77	Y	88
H	68	Q	78	Z	89
I	69	R	79	NONE	00

{09704} MONTH & YEAR OF BIRTH + EYE COLOR

Note: Females will have 50 added to actual month (51 -62)

Example: February will be 52 instead of 02

#### EYE COLOR CODES

1- BLACK                      2- BROWN                      3- GREY

4- BLUE                      5- HAZEL                      6- GREEN

7,8,9- SPECIAL CODES



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# POLICE STUDENT'S GUIDE

## Community Policing and Problem Solving

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT COMMUNITY POLICING?

During the 1970s, police departments throughout the United States began a reassessment of their patrol styles. In an effort to restore public confidence and to demonstrate interest and care while enforcing the law, police departments experimented with community policing. Although critics claim that community policing is nothing more than a rehashing of the beat patrol concept – in which the local officer gets to know his or her beat well – it is more than that. Community policing is the systematic blending of citizen concerns and police resources dedicated to aggressive crime prevention and improvement of the community's quality of life. Community policing is a dynamic concept that involves the community in helping the police solve problems, and that requires the individual police officer to seek input from the community. It encompasses the philosophy of power sharing. Former New York City Police Commissioner Lee P. Brown defined community policing as:

"A partnership between the police and the law-abiding citizens to prevent crime, to arrest those who choose to violate the law, to solve recurring problems where we tend to go back to the same places over and over again, and to evaluate the results of our efforts. The whole objective is to improve the quality of life in the neighborhoods throughout the city."

Your responsibilities will include forming and maintaining a relationship with members of the community in an effort to address their needs and, in turn, to gain the assistance and trust of the citizens you will work for and with.

### PROBLEM SOLVING

The New York City Police Department has made a significant commitment to community policing. ***Its structure is that of the community oriented patrol program, and its principal mode of operation is one of problem solving.*** The police officer, in cooperation with the community, is now able to identify problems and to provide solutions for those problems.

In this role, we will expect that, instead of treating recurring problems on your post or in your sector as unrelated and as occurring in a vacuum, you will look for the connections among them, and will then try to identify and address their causes. If, for example, you find yourself repeatedly responding to the same complaints about the same noisy teenagers on a street corner, it might be a good



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## Community Policing and Problem Solving

idea to try to identify and work with some community institution – a church, a school, a park – that might be able to make available a recreation center or other place where the kids can congregate without disturbing the neighbors.

Despite the Department's commitment to community policing, it is not always easy to engage in the problem solving it involves. Because of other demands, like responding to radio calls, it often is impossible to find the time necessary to engage in problem solving. Still, it should be a priority to do so. No other police department responds to the volume of calls for service that are dispatched in New York City. Research has shown, however, that the number of radio calls is reduced by the implementation of problem solving skills, making community policing an important and effective tool. Therefore, it is important to understand the process and skills necessary to become a problem solver. This is explained below:

### The **SARA** Model

As with any skill, some people seem to be better problem solvers than others. The most successful of these seem to have a natural ability to get to the root of the problem and work out an effective solution. But successful problem solvers are not born with this skill. Instead, their experience and education teaches them the techniques they use so effectively. If followed, the problem solving process can assist anyone in formulating solutions to obstacles at hand.

Many of the scholars and experts who have written about problem solving describe this method as the **SARA** Model. It uses the following steps:

**Scanning:** Scanning the work environment in order to discover and identify problems.

**Analizing:** Analyzing the problems that were identified during the scanning step.

**Responding:** Designing and implementing a response tailored to solve each problem.

**Assessing:** Assessing and evaluating the degree to which each problem has been addressed by the response, **and** modifying the approach where necessary.



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## Community Policing and Problem Solving

### SCANNING: DISCOVERING AND IDENTIFYING PROBLEMS

Sometimes problems are obvious. However, there are times when an investigation is required to identify the real problem you're dealing with. In the simplest terms, a **problem is *anything that can have a negative effect in the community you are working in; it is something that causes harm to members of the community, or a potential source of disorder.*** The problems we encounter are generally a source of great concern to residents of the community, and they are not likely to dissipate on their own. Almost always, they require us to take some corrective action.

#### Looking for and Discovering Problems

Police officers can learn about community problems in a wide variety of ways. These include:

- Personal observation and interaction while on patrol. An important part of community policing is talking with people. In some places, researchers have found, police officers very rarely speak to citizens except when they are on radio calls, issuing summonses, or investigating suspicious behavior. When you demonstrate your interest in the people on your posts or in your patrol car sectors by taking the time to talk with them, you will learn about their concerns and how you might work to address them. This process will later prove critical to your success in dealing with people during crises and emergencies. If the people in such situations – like crime and accident victims or witnesses with important information – have already come to know you because you have reached out to them or their neighbors, it will be much easier for you to accomplish your job.
- Talking to other police officers and members of the precinct staff.
- Reviewing department records, not just complaint reports, but also any record that can help to identify or shed light on a problem.
- Communications (citizen complaints) received, either directly at the precinct or referred through channels, are a good source of information on matters that were important enough for the community to bring to our attention.
- Reading the local press. Local newspapers are major sources of information about problems in the community.



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## Community Policing and Problem Solving

**Identifying Problems.** Is it an incident or a problem? Every incident that is reported to you, either through a complaint report or by a citizen calling it to your attention, should be thoroughly reviewed. One of the first questions you must ask is whether it is an incident or a symptom of a problem. It may be a one-time occurrence arising from circumstances not likely to reoccur. On the other hand, the incident, like the tip of the iceberg, may be symptomatic of a larger problem.

**Verifying Problems.** Stating the problem as you see it, to the various community groups, will confirm or clarify your assessment.

**Taking Interim Action.** When an incident or a problem is brought to your attention, you should take some immediate interim action if appropriate. This could involve enforcement, issuing warnings, referrals or other short term responses.

### ANALYZING

Problem analysis is simply finding out what the problem is all about. This is important because problems differ in important details and must be fully understood if a workable solution is to be found. Analysis is aimed at identifying and understanding the factors that give rise to the problem, contribute to its persistence, or prevent its correction. Once identified, all of these factors become potential targets for change as part of a strategy designed to correct the problem.

#### Factors to Consider

Problems generally arise from the interaction of people. For example, someone does something that causes fear or actual harm to someone else. Sometimes, the initial action causes a reaction from the person(s) affected by it. To begin to understand a problem, we must begin looking at who the actors are, what they do, how they react, and what the effects of these actions are.

**Actors:** Some problems may only involve a few people. Others may involve entire communities. It is important to identify who is involved in a problem (the actors) and in what way.

**Offenders:** While a problem may result from a physical condition (e.g. garbage accumulation), there is generally an offender, the person or persons whose actions cause the harm or fear. Who are they? What are their primary characteristics? Why do they act as they do?





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**Victims:** Victims are the persons who are harmed by the actions of the offender. Who are they? What are their characteristics? Do they belong to a particular group that is being targeted? Have they been made aware of specific dangers in certain areas?

**Third Parties:** In many situations, there are other people involved, also known as third parties. Some of them may likely be witnesses, supporters of the victims, or supporters of the offender. Who are they? How are they involved? What are their interests? Are they actually helping to create - or aggravating - problems between others in order to serve their own purposes?

**Actions:** Looking at what took place involves more than just focusing on what each of the actors did. It involves looking at the whole physical and social context of the incident(s).

**Physical Settings:** The physical setting of a problem is the location in which it occurred or exists. Important questions to resolve on this point are:

- What is the physical setting in which the incident(s) took place? Is it indoors? Outdoors? Is it in a place in which some other agency or institution – the Housing or Transit Authorities; the Social Service Department – can be of help?
- Are there environmental hazards that contribute to the problem (e.g. absence of street lighting, obstacles obstructing pedestrian visibility, abandoned buildings, etc)?
- Is there something connected to the locations that contribute to the incidents (e.g., environmental hazards, focal points of community activity such as subway entrances, etc)?

**Social Context:** The social context of a problem involves the people who cause or are affected by it. Special considerations here include:

- To what groups (social, ethnic, religious, criminal, etc.) do the offenders and victims belong? Is there a history or long-term misunderstanding among them that may explain the current situation? Are they in conflict?
- What interests motivate the offenders?
- What actions by the victims contribute to their vulnerability?



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## Community Policing and Problem Solving

**Sequence of Events:** You should focus on the following:

- What specific events create the problems?
- What do the offenders do? To whom? With whom? How? When? Why? Where?
- What are the sequences of events that produce the problem?

**Results of Events:** Focus on:

- What are the effects of the action?
- How do they react?
- Who else witnesses the action?
- How do the witnesses react?

**Responses or Reactions:** How do persons or institutions react to the actions or problems?

**Institutions:** This involves the public, private, and community organizations affected by the problem, including those who might be called upon to help solve it. Depending on the problem, these might include the NYPD and other government agencies; churches, synagogues, temples, and religious organizations; schools; local resident and merchant associations. Questions to consider here include:

- How do public and private agencies (including the police) view the problem?
- What have they done about it?
- With what results?
- What might they be interested in doing now?



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## Community Policing and Problem Solving

**Communities:** This includes residents, merchants, and those who do business in an area. Consider:

- How do the residents of the neighborhood view the problem?
- What have they done about it?
- With what results?
- What might they be willing to do now?

### Determining Problem Seriousness

This step should involve some collaboration, and some input from different people. Often, what seems like a minor annoyance to some can be a cause of great potential violence to others. A barking dog chained day after day in somebody's backyard, for example, may eventually cause a neighbor – who works nights and is losing sleep – to act against the dog and/or its owner. Whenever possible, you should get more than one point of view on community problems.

Collaboration is important for another reason, as well. Many of the problems you will encounter for the first time will be new to you, but they – or other problems much like them – may not be new to others. Often, these problems have surfaced in the past, either where you work or in other places, and, sometimes, in slightly different form. Before you make any decisions about how important a problem is and what to do about it, you are well-advised to consult with others about it. These others might include senior officers, supervisors, and other citizens with whom you have already built relationships. In determining problem seriousness, you should consider the following:

- Is this a serious problem requiring a response? If not, why not?
- If it is a serious problem, how can the community and relevant institutions become aware of its seriousness?
- If it is not a serious problem, what should be done about it?
- Is anyone aware of the total cost of the problem to society?



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## Community Policing and Problem Solving

Concern and cooperation can sometimes be gained if people are made aware of the impact of the problem on their well being as individuals or as a community. The negative effect of the condition can be physical, psychological, economic, or societal.

### RESPONDING

In designing a response to a community problem, several objectives must be kept in mind:

- The strategy chosen must go beyond the incident and address the underlying problem. ***Interim actions address incidents; solutions address problems.*** In the example given at the beginning of this chapter, responding to the noisy kids on the corner is an *interim action*; locating a recreation center that the kids can use is a *solution*.
- The strategy should be aimed at providing a long-term solution to the problem.
- The solution should provide a substantial improvement for the residents of the community, reducing both harm and fear of future harm. The strategy should also be aimed at reducing police workload by eliminating the problem.

### Types of Solutions

Eliminating the problem by using the best solution may not always be possible. Instead, we sometimes must be satisfied with:

- Reducing the frequency of incidents arising from the problem, and/or;
- Reducing the harm to the public from such incidents, and/or;
- Improving the public's perception of the way the police handle the problem. This is not an invitation to do a public relations job. Be honest with the people and let them know what the Department is trying to do about the problem. In doing this, remember that, if you don't know the answer, don't make one up.
- Clarifying responsibility for the problem and advising the public.



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## **Community Policing and Problem Solving**

### **Developing a Strategy**

In the sections on identifying and analyzing problems, you were told to gather information on a number of factors – identity of actors, physical settings, social context, etc. – as possible intervention points in designing a solution to the problem. Each should now be considered in developing a strategy to deal with the problem:

- Altering the behavior of the actors: offenders, victims and third parties.
- Changing other dimensions of the problem: physical setting, social context, sequence of events, and results of events.

### **What Types of Solutions Can Be Employed?**

There is no one certain solution that will be effective every time when trying to formulate a plan of action. However, some of the types of solutions that have been successfully used in the past are listed below. This is not all-inclusive or detailed, and is provided only to acquaint you with some possible approaches to think about when trying to solve a problem. In using them, don't limit your approach to any single tactic. Instead, try to see how a number of different approaches can be combined to have a long lasting effect on the problem.

- Identifying high-risk offenders, locations or victims, and targeting them for special attention.
- Supporting existing relationships of social control – parents, churches, schools, community organizations, as a means of influencing and controlling behavior of persons responsible for creating problems.
- Organizing and assisting the community to get directly involved in solving their problems.
- Addressing social and economic conditions that may be contributing to problem behavior.
- Coordinating the police response with the responses of other governmental agencies. Is there something the Fire Department, the Buildings Department, the Education Department, or the Sanitation Department can do to help?
- Communicating with the public.



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## Community Policing and Problem Solving

- Enforcing relevant laws intensively to address a particular problem.
- Increasing police presence and intervention.
- Changing the physical environment to reduce the likelihood that problems will occur.

### Get Help in Developing a Solution

Problem solving is not a one person undertaking. Seek and get all the help you can. Among those who can be helpful are:

- **Other Police Personnel:** Other members of the command and specialized units can contribute both to the understanding of a problem and to its solution. Among these are RMP crews, Community Affairs Officers, Crime Prevention Officers and Anti Crime personnel.
- **Public and Private Agencies:** Persons working in other public or private agencies can contribute to the development of a strategy to deal with a problem.
- **Community Organizations:** Members of community organizations, civic organizations, block associations, tenant organizations, merchant groups, etc. can all be of assistance in both developing and contributing to the solution of a problem.
- **Individual Citizens:** Discuss the problem with local residents, both those directly concerned and those who may be helpful in developing a solution.

### Identify the Obstacles That Must Be Overcome

What are the barriers to affecting a solution to the problem? Who will be against it? How do we get their cooperation? Are there legal barriers or policy considerations that must be overcome? What is the cost of correcting the problem? Can the necessary resources be obtained?

### Develop a Plan of Action

This step involves several components:



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## Community Policing and Problem Solving

- **Establish Goals and Define Objectives:** Determine what changes you want to ultimately accomplish - the goal, as well as the changes in behavior of the citizens, the police and/or other interested agencies which must be brought about in order to achieve the goal or the objectives. Objectives should be as specific as possible. They should set a standard, or set of standards, by which success can be measured.
- **Specify the Steps to Accomplish the Goals:** Determine what must be done, by whom, and when to make the plan work.
- **Identify the Resources Needed to Make the Plan Work:** Get all the help you can. There are a number of resources that an officer should consider in developing a problem solving strategy. Sometimes all of the resources will not be available, but they should always be considered.
  1. The most available resource is, of course the officer. What is your role in implementing the strategy?
  2. Precinct resources: How can other precinct personnel, RMP units, Anti-Crime, etc., assist in implementing the strategy?
  3. Other Department resources: What other Department units can be of help in dealing with the problem? Can their help be obtained? Who will coordinate?
  4. Other city or private agencies;
  5. Community organizations;
  6. Individual citizens.
- **Develop a Timetable:** Determine how the plan is to be carried out, the order in which the activities need to be performed, and establish a timetable for its implementation.

### Consider Alternative Plans

Consider different ways of approaching the problem. Review each of these tentative plans in terms of its benefits and liabilities. Sometimes the best plan cannot be implemented, either because it is not possible to get the resources necessary to carry it out, or for some other reason. Consider each, and then select the best option available to you.



# **POLICE STUDENT'S GUIDE**

## **Community Policing and Problem Solving**

Don't be limited by traditional police responses. There is nothing wrong with enforcement as a tactic, but it has limitations, and with some problems it just doesn't work. Be creative and go at the problem from several different directions.

Don't limit your response to one tactic. Think in the long term. If the initial strategy is successful in eliminating or reducing the problem, what else is necessary to keep from losing the benefits you have obtained? How do you keep it from reoccurring?

### **Implementing the Response**

If all the steps leading up to implementation have been successfully completed, the plan should be implemented as scheduled. In doing this, several things should be kept in mind.

- You should stick as closely as possible to the strategies that were agreed upon in designing the plan and gaining concurrence for it.
- Be flexible. If the initial strategies do not seem to be working, or if conditions change, don't be afraid to modify your response accordingly. However, if others are involved, keep them abreast of changes in direction.
- Provide for as much feedback as you can during the plan's implementation.
- Keep records as you go along. Make entries in your activity log; keep a file of the complaint reports arising from the problem.

### **ASSESSING**

Assessing the effectiveness of the response is an essential part of the problem solving process. Without evaluation, we can never be sure if the strategy we have implemented is having the desired effect, or indeed any effect on the problem.

Evaluation begins on the day that the strategy is implemented. Evaluation deals with more than just results. Information gathered for evaluation purposes can tell us many things such as:

- Is the solution being implemented? Has the plan been implemented as designed? Are other people doing their part?
- Do the initial results indicate a need to modify the plan of action?





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- Do the initial results indicate the need to look for an entirely new solution?
- Does the plan appear to be working?

### Developing Evaluation Measures

To determine if the plan of action is having an effect in dealing with the problem, we must develop measures which show if the strategy is working or not. These measures should be designed to show the effect of the strategy on the goals of the plan:

- Has the strategy eliminated the problem?
- Has the frequency of incidents been reduced?
- Has the harm from the incidents been reduced?
- Has the police handling of the problem been improved, and does the public perceive this?
- What were the effects of the strategy on the actors and other dimensions of the problem?
- What was the effect of the strategy on the institutions and organizations involved or concerned?
- Was the plan sufficient to deal with the problem?
- What type of feedback has been received from those affected or involved?
- What are the appropriate measures for determining the effectiveness of the plan?

There are a number of techniques that may be used to evaluate the effectiveness of the plan. All are designed to determine if the plan was effective in accomplishing its goals. Whichever method of evaluation is chosen, its underlying goal is to determine if anything has changed as a result of the implementation of the plan. **At this point, you should gather and evaluate the same kinds of information that led to their identification of the plan in the first place.**



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## **Community Policing and Problem Solving**

- Your personal observations while on patrol. Has anything changed? Does the strategy seem to have alleviated or eliminated the problem?
- Talk to other police officers working in the area and members of the precinct staff. Do they have any information on the problem? Do they observe any change in its magnitude?
- Review police department records. Are there any changes in the number of incidents, their severity, their frequency, etc.?
- Conduct crime analysis. Has the crime pattern changed (i.e., hours of occurrence, location, etc.)?
- Talk to representatives of other governmental agencies. Do they have new information on the problem? Has their perception of the problem changed?
- Talk to representatives of local civic organizations (e.g. block associations, merchants associations, etc). Do they have new information on the problem? Has their perception of the problem changed?
- Talk to the people who live and work in the area. What can they contribute to your understanding of the success or failure of the strategy?

Keep in mind that the basic purpose of gathering this information is:

- To determine the levels of success or failure of the plan.
- To determine the reason for the success or failure of the strategy.

### **Draw Conclusions from the Data You Have Gathered**

Did the plan succeed? If so:

- Make sure that the plan was implemented as designed. If it was, chances are that the solution worked and you should continue monitoring the situation to prevent recurrence.
- If the problem was solved but you discover that the plan was not really implemented as designed, try to find out what really affected the problem so that you can use that information in the future for similar problems.



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## **Community Policing and Problem Solving**

### **If the Plan Failed to Affect the Problem, Determine:**

- Whether the plan was actually implemented as designed? If it did not generate an answer, you should go back to the problem analysis to determine a new approach.
- If the plan was not implemented as designed, try to find out why. Can it be implemented? If not, go back to problem analysis and work on developing a new solution.

### **Begin Again If Necessary**

Not every strategy designed to solve a problem will be successful. When evaluation discloses that the designed response was not totally successful in addressing the problem, the problem solving process should begin anew.

- Focus on what you have learned through experience and evaluation. Review what you have done and what results those actions produced.
- Is the original description of the problem valid? Did you identify the real problem or problems? Would you still define the problem in the same terms, given what you have learned through attempting to deal with it? If not, how should the problem be redefined?
- Go through problem analysis again. See if anything you learned changes the way you analyze the problem.
- Design a new response. Review what you learned from the evaluation of your first plan and make necessary changes. If necessary, change your focus. If you can't make the problem go away entirely, what can you do to reduce it?

The foregoing steps can be adapted for use in solving all types of problems. Begin to use them to solve problems that you encounter on patrol if time permits. Use some of these techniques to make yourself a more efficient police officer, better able to serve the community.

## **COMMUNITY POLICING AND SMALL BUSINESS**

Community policing has proven to be the most efficient way of policing in such a culturally diverse city as ours. A major part of the community we serve consists of small businesses, owned and operated by virtually every group found in the city. The small business owner/operator is a vital link in the problem solving



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## **Community Policing and Problem Solving**

approach to community policing. A small business owner/operator can often be the primary provider of information pertaining to a community problem. The owner/operator may also be able to identify the actors, (victims, offenders and witnesses) or provide feedback regarding the solutions. Therefore, it is essential that we understand the issues/problems facing small business today.

Many small business owners may feel they are overregulated by the city, state, and federal government, and are not consulted regarding the legislation, operation, growth, and expansion of small businesses. Proposed legislation is often not analyzed for its impact on the small business community prior to passage and enactment (e.g. taxes, new zoning regulations, parking regulations/restrictions). They are subject to code violations from the Department of Buildings, the Fire Department, the Sanitation Department, and the Department of Health, etc. Therefore it is imperative that you, a representative of government, establish a relationship that works towards their goals. Remember, they have a vested interest in the community; it is up to you to seek their opinions and concerns about how to improve the overall quality of life.

One such concern is the presence of illegitimate competition. The proliferation of unlicensed peddlers and illegal activities of licensed/unlicensed vendors/peddlers citywide has created unfair competition and a multitude of problems for small business, property owners, and local merchant/business groups. Incidents such as burglaries, larcenies, and undesirable customers make it difficult for the small business owner to operate profitably.

Small business owners are truly the backbone of the community. They can be a valuable resource and a source of information that may make your problem solving endeavors easier. A community's vitality can be measured by the success and failure of the small business owner.

### **CONCLUSION**

Community policing has become the modern day style of policing in today's society. The New York City Police Department has adapted this approach of policing, utilizing it in its patrol force. The department has bridged the gap between the police and the community resulting in a positive and effective form of policing.



# **POLICE STUDENT'S GUIDE**

## **Community Policing and Problem Solving**

### **CASE STUDY #1**

There is a park on your beat. Instead of being used for its intended purpose (children playing, etc.), it is exclusively being used by drug dealers to carry on a flourishing illegal business. Despite increased summonses and arrests by beat cops, the problem continues. What might be a better approach to solving the problem?

### **CASE STUDY #2**

There is a large apartment building on your post in which, a representative of the tenant association informs you, ten apartments are being used as drug dealing locations. What would you do to solve the problem?

### **CASE STUDY #3**

The local grammar school is surrounded by abandoned buildings and empty lots. The buildings and lots are being used by local drug addicts as *shooting galleries* and for other drug activity. During school recess, many of the students spend their time picking up used needles, showing them to each other and the teachers. What can you do to solve the problem?

### **CASE STUDY #4**

An abandoned lot on your beat is being used as a garbage dump. Piles of trash, refuse and debris make the lot an eyesore to residents of the community. What can you do to solve the problem?

### **CASE STUDY #5**

An intersection on your post has become an accident-prone location. There has been a recent increase in vehicular and pedestrian accidents. What can you do to solve the problem?





# **POLICE STUDENT'S GUIDE**

## **Community Policing and Problem Solving**

### **PROBLEM SOLVING/COMMUNITY POLICING WORKSHOP**

#### **PROBLEM 2:**

There are a number of restaurants and nightclubs on your beat. On any Thursday, Friday, or Saturday evening, vehicles are often double and triple parked, causing traffic jams and other parking difficulties. The Community Board has notified the Commanding Officer of the Precinct on numerous occasions about this situation. There have also been numerous verbal and physical assaults resulting from this parking condition.

- A. What offenses, if any, have taken place?
  
  
  
  
  
  
  
  
  
  
- B. Traditional Approach:
  
  
  
  
  
  
  
  
  
  
- C. Non-Traditional Approach:
  
  
  
  
  
  
  
  
  
  
- D. What Patrol Guide procedure(s), if any, applies to this case?



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## **Community Policing and Problem Solving**

### **PROBLEM SOLVING/COMMUNITY POLICING WORKSHOP**

#### **PROBLEM 3:**

At a local playground adjoined by two elementary schools, groups of people congregate between 1200 and 1500 hours, drinking alcohol from brown paper bags. They pass around what appears to be little pills and other forms of medication. For the past five months, the Community Board has brought this situation to the attention of the Precinct Commanding Officer.

A. What, offenses if any, have taken place?

B. Traditional Approach:

C. Non-Traditional Approach:

D. What Patrol Guide procedure(s), if any, applies to this case?







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## Community Policing and Problem Solving

### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this chapter – ***Community Policing and Problem Solving***. These procedures must be read in conjunction with this chapter. Questions for the 3<sup>rd</sup> Trimester Exam may come from these procedures:

P.G. 212-62

Community Policing Unit (General Guidelines)

P.G. 212-63

Community Policing Duties and Responsibilities



# POLICE STUDENT'S GUIDE

## Quality of Life Policing

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT QUALITY OF LIFE POLICING?

Most people, including the police, long thought of police work strictly in terms of **law enforcement**. Certainly, it is critical that we enforce laws when they are violated, but it is at least equally important for us to do everything possible to see that they are not violated in the first place. Large numbers of arrests occur only when we have not succeeded in **preventing** crime and the victimization it involves. Indeed, every arrest can be viewed as evidence of a failure to prevent a crime.

When we prevent crimes against people and property, we protect life and people's investments, which represent the fruits of their hard work. When we prevent crimes against public order, we make the City more civil, peaceful, friendly, and less threatening. This encourages people to come to and stay in the City because the **quality of life** is high.

For us, **quality of life** means making sure that people enjoy their neighborhoods and other areas of the City without fear that they will be victimized or exposed to the kinds of threatening or offensive conditions that scare people off. It typically involves working with the community to identify and eliminate minor incivilities, to preserve the peace, reduce fear, and maintain order. Often, this requires us to address offensive **conditions** rather than major **individual crimes**. It has taken us a long time to come to grips with this because, for generations, we and the prosecutors had been oriented almost exclusively to spectacular and high profile cases, and paid little attention to the thousands of **little** offenses – noisy street corner groups, loitering prostitutes, drunks, drug abusers, abandoned cars, graffiti, and the like – that make a neighborhood a place to be avoided, and that can eventually cause it to be abandoned. Our recent history shows that we have been more effective than any other police agency in solving big cases. At the same time, we have also created and implemented new strategies that have greatly improved the City's quality of life and brought new vitality to areas that were in great decline. This is a different and far more vital city than it was a generation ago, and this Department's efforts have had much to do with that positive change. Many of these efforts have focused on preventing and taking enforcement action against the **minor** offenses that, when committed by the hundreds, have a terrible impact on the City's quality of life. You need to know a bit of this history and, more important, you need to know how to do your part to see that the positive changes continue.



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## Quality of Life Policing

### ORIGINS OF QUALITY OF LIFE POLICING

In 1975, New York City suffered a major fiscal crisis that forced the layoffs of this Department's 3,000 junior police officers. Over the next few years, all of these officers were offered the opportunity to return to the Department, and most did. While this was occurring, the top executives of the City and the Department rethought the mission of all the City's agencies. This process led to recognition that one of the reasons the City was suffering was that many of its people had become afraid to use its streets and other public places. Even in areas where crime rates were low, people had come to believe that the graffiti-ridden streets and subways were dangerous. Consequently, they abandoned them to street thugs, who did, in fact, drive crime rates upward. To deal with this, the Department created **Neighborhood Stabilization Units**, teams of newly rehired (laid-off) officers. These NSUs performed highly visible foot patrols and were received very favorably by citizens. Although the NSU officers only infrequently made arrests or took major enforcement actions, it was clear that they had begun to restore order to the City's streets, and to reestablish citizens' confidence that the City was a safe place to live and do business. The NSUs demonstrated the great value of highly visible uniformed patrol in improving the City's quality of life and the public's confidence that the streets and other public places were desirable and safe places to be.

#### Broken Windows

This thinking was clarified in a very influential article published in the *Atlantic Monthly* magazine in 1982. In this piece, political scientist James Q. Wilson and criminologist George L. Kelling introduced the **Broken Windows** theory. They argued that, when low level quality of life offenses were tolerated in a community, more serious crime would follow. Broken windows, abandoned buildings, public drinking, litter, and loitering caused law abiding people to believe that their neighborhoods were dangerous and out of control. When this happened, people stayed in their houses or moved out of the neighborhood entirely, leaving criminals free to roam.

The major reasons for this, Wilson and Kelling argued, was the traditional police view described above. Historically, police had targeted crimes that frightened most people, such as sudden violent attacks by strangers, or were reactive in addressing crime. Another source of fear that threatened most people, but was not aggressively pursued were panhandlers, drunks, addicts, rowdy teenagers, prostitutes, window washers (*squeegee-men*), and the mentally ill.

This made sense, the prospect of a confrontation with an unruly teenager or a drunken panhandler can be as fear inducing for a defenseless person as the prospect of meeting an actual robber. To a defenseless person, the two confrontations have a lot more in common than policy makers had previously recognized. When people in a housing development were asked where the most dangerous spot was, they mentioned



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## Quality of Life Policing

a spot where youths gathered to drink and listen to music, despite the fact that not a single crime had occurred there. In response to this type of fear, many people avoided one another and urban decay resulted. The **Broken Windows** theory encouraged police to aggressively pursue violators of lower level crimes with aspirations of catching potential violators of more serious crimes before they actually occurred, thereby reducing the crime rate and restoring confidence in decent citizens. This was a significant clarification of ideas that, as the NSU experience suggested, the NYPD had been contemplating for some years.

### Environmental Psychology

In addition to the NSUs and Broken Windows, this Department's Quality of life policing efforts have another foundation in **environmental psychology**, a field that examines the interrelationship between environments and human behavior. The field defines the term *environment* very broadly, to include all that is natural on the planet, as well as social settings, built environments, learning environments and informational environments. It is very useful because it helps us to study human nature in ways that make it possible to assure that environmental conditions help people to be decent and creative. The field of environmental psychology recognizes the need to be problem-oriented, using, as needed, the theories and methods of related disciplines (e.g., psychology, sociology, anthropology, biology, ecology).

Several themes help to define this relatively new field:

- **Attention:** Understanding human behavior starts with understanding how people notice the environment. Some of this process is involuntary, as when people's senses are alerted because they are in neighborhoods they regard as dangerous. Other forms of attention are voluntarily, as when people go to particular places (parks, downtowns) specifically because they want to see and be stimulated by them. Thus, involuntary attention often involves negative feelings that the police should try to change (e.g., "I live on this street and, without even thinking about it, have to be alert because it is dangerous around here") while voluntary attention involves positive feelings that police should try to make available to people (e.g., "I love to come home because my neighborhood is such a pleasant, friendly, and safe place"). This, obviously, is something the police should attempt to influence.
- **Preferred environments:** People tend to seek out places where they feel competent and confident, places where they can make sense of the environment while also being engaged with it. When police work improves public environments, it directly addresses this concern.



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- ***Environmental stress and coping:*** Some characteristics of the environment cause a great deal of stress. These include noise, temperature extremes, prolonged uncertainty, and lack of predictability. These may cause physical illness, helplessness, fatigue, and an absence of caring for others. Coping with this may involve a number of options. Humans can attempt to move to more supportive environments (like leaving the city for the country); or simply by enduring the stress and escaping it from time to time (unwinding in *restorative* settings like parks, natural areas, or simple privacy). They can also seek to interpret or make sense of a situation in ways that reduce its stressful effects by, for example, making jokes about it. To the extent that police work improves public environments, it reduces the need for citizens to be constantly in high stages of alert.
- ***Participation:*** Environmental psychology is committed to enhancing citizen involvement in environmental design, management, and restoration efforts. This requires the police to reach out to communities, to engage them in building and maintaining their own environments.

All of this requires resources and, in the early 1990s, the City began efforts to increase the size of the NYPD so that it could work to achieve these purposes. Even before the merger of the Transit and Housing police into the NYPD, the City allocated funds to expand the Department by 6,000 officers, so that it could provide the high visibility presence that was required to improve the City's quality of life.

### **Police Strategy #5: *Reclaiming the Public Spaces of New York***

Police Strategy # 5, *Reclaiming the Public Spaces of New York*, was issued by the New York City Police Department in 1994. The strategy stated that this policy would emerge as the primary focus of efforts now being undertaken by the NYPD to reduce crime and fear in the city. By working systematically and assertively to reduce the level of disorder in the city, the Department proposed to act to undermine the premise on which more serious crimes seem possible and even permissible.

The primary objective of Police Strategy # 5 was to move New York City toward a "decent society," a society of civility where people are free to pursue education, entertainment, enterprise, and contribute to an atmosphere of mutual respect for their fellow citizens. The secondary objective of this strategy was to improve the quality of life for city residents and to reduce disorder. This strategy draws a direct connection between levels of disorder and "real crime." By aggressively enforcing the quality of life offenses we can ultimately reduce more violent crimes.



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## Quality of Life Policing

Police Strategy # 5 empowered precinct commanders to respond to disorderly and persistent quality of life conditions. This strategy is successful because:

- It provides attorneys to work as quality of life counsel with precinct commanders and aids commanders in addressing vexing, difficult, and persistent quality of life conditions;
- It develops precinct-level expertise in decoy operations and conducts sustained operations against those who would patronize street prostitutes;
- It gives borough commands and precincts the equipment and resources to conduct sustained operations to reduce unnecessary noise created by motorcycles;
- It authorizes precinct commanders to convene meetings with all bar and club owners in neighborhoods affected by the sale of liquor to minors, and explains the laws regarding underage sale of liquor;
- It authorizes deployment of uniformed supervisors to inspect establishments that sell liquor and conduct undercover operations against premises selling alcohol to minors;
- It emphasizes enforcement of existing laws against harassment, assault, menacing, disorderly conduct and damage to property that apply to panhandlers as well as other people;
- It focused on enforcement efforts against unlicensed vendors and required licensed vendors to operate within legal constraints;
- It sought to enforce existing anti-graffiti laws that seek sentences of community service, requiring violators to engage in clean-up efforts and expand penalties;
- It steps up enforcement efforts (summons and arrests) for repeat violators who urinate in public, throw empty bottles on the street, or otherwise litter or are involved in even relatively minor damage to property; and
- It institutionalizes the successful approaches against **squeegee cleaners** so that precinct commanders can take sustained actions against this behavior.



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## Quality of Life Policing

### QUALITY OF LIFE OFFENSES

Quality of life offenses include, but are not limited to, prostitution, drug use, alcohol, noise, graffiti, traffic violations, and panhandling. The Patrol Guide outlines the procedures and methods used by the Department to target quality of life violations:

- **PG 214-01: The "Padlock Law" Program** authorizes the Department to commence a hearing against a business establishment when two or more separate arrest incidents (related to the establishment) result in one criminal conviction of a public nuisance offense.
- **PG 214-02: The Narcotics Eviction Program** is a cooperative effort between the Department and the respective District Attorney's Office with a goal of evicting drug dealers from dwellings and commercial locations through the initiation of proceedings in civil court. When a member of service, (other than a member assigned to the Narcotics Division), affects an arrest for any narcotics related offense, or finds narcotics/drug paraphernalia within a building, that member of service is required to prepare a COMPLAINT REPORT WORKSHEET, in addition to any other required reports.
- **PG 214-03: The Graffiti Reward Program** authorizes the Mayor to pay a reward of up to \$500 to private citizens who give information through a hotline number that leads to the apprehension, prosecution, or conviction of any person who violates the Administrative Code provisions regarding graffiti vandalism. When members of the service respond to a report of graffiti vandalism, they should arrest the violators if they are still present. In the event an arrest is made, normal arrest processing procedures should be followed.
- **PG 214-08: The Chronic Abuser Alarm Procedure** is geared toward eliminating police response to locations when three or more alarms, within a three month period, were determined to be unnecessary or unfounded. Upon response to an alarm condition (signal 10-11), and when the investigation discloses transmission of the alarm is unnecessary or unfounded, prepare a **Notice Of Unnecessary Alarm** to a person qualified to accept service or place original in mailbox or under door. Report the disposition (10-90N) to the Communications Section, and deliver the remaining copies of NOTICE OF UNNECESSARY ALARM to desk officer.
- **PG 214-10: Unlawful Posting of Signs** prevents the unlawful posting of signs on public streets. Upon observing an unauthorized sign posted on a gutter, lamppost, telephone pole or tree within the boundaries of a public street or highway, serve a summons for Administrative Code Section 10-119 to any person observed posting a sign and remove the sign. Place the sign in the trash.





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- **PG 214-11: Enforcement Activities Regarding Obscenity (Penal Law Article 235) And Public Display of Offensive Material (Penal Law Article 245.11)** establishes guidelines relating to the enforcement of laws regarding the public display of sexually explicit or offensive material. Whenever a uniformed member of service observes or receives a complaint regarding the public display of sexually explicit or offensive material, an immediate notification to the patrol supervisor should be made. No enforcement action should be taken without the specific direction of the Legal Bureau.
- **PG 214-12: Unlawful Evictions** protects the rights of persons who are being evicted or who have been unlawfully evicted from their dwelling unit. Additionally, this includes interruption or discontinuance of essential services (heat, electricity, water). When a uniformed member of service has probable cause to believe that a person has been unlawfully evicted from his or her dwelling unit, the officer should prepare a summons, for each offense, in cases where the violator is properly identified and the occupant is permitted to re-enter the dwelling; or effect an arrest where the violator cannot be properly identified or refuses to permit the occupant to re-enter the dwelling.
- **PG 214-13: Evictions, Repossessions and Civil Process** outlines the procedures necessary to preserve the peace when involved in the enforcement of eviction warrants or other civil processes. The only assistance that the police may render to a marshal is the general mandate of the New York City Charter to preserve the peace and protect life and property.
- **PG 214-14: The Driveway Tow Program** allows vehicles to be towed when blocking a driveway. Upon being directed to respond to a blocked driveway assignment, the member of service assigned should ascertain if the unoccupied vehicle is reported stolen and comply with appropriate procedures, determine if the registered owner of vehicle is also owner/lessee of premises involved, issue a summons for the violation of Obstructed Driveway (Traffic Regulations 4-07 [c] [1]) if the vehicle is not reported stolen and the owner/lessee is not involved. The owner/lessee of premises involved has the option of removing a vehicle by a licensed tow operator of his choice after a summons has been issued. If the owner does not exercise an option, PG 218-21 Rotation Tow, should be followed and a PROPERTY CLERK'S MOTOR VEHICLE/BOAT INVOICE WORKSHEET must be prepared.



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- **PG 214-22: Weekly Street Conditions Survey & Daily Observations of Highway Conditions Requiring Corrective Action** outlines the guidelines to notify agencies concerned of Highway/Community conditions under their jurisdiction that require corrective action. Upon making an observation or receiving information regarding highway/community conditions requiring corrective action, a uniformed member of service should take corrective action (if possible), make an ACTIVITY LOG entry of condition and location, notify the telephone switchboard operator for entry of the condition, identity of complainant, and the identity of the reporting officer on the HIGHWAY CONDITION RECORD (PD 311-151).
- **PG 214-23: Unnecessary Noise Violations** sets forth the guidelines to enforce provisions of the New York City Administrative Code prohibiting unreasonable noise:

### Unreasonable Noise, Not Involving Sound Reproduction Device

When a uniformed member of service hears, observes, or receives a complaint of unreasonable noise not involving a sound reproduction device, he should interview complainants/violators about the noise complaint and determine if the noise would be unreasonable to the ordinary person. If the violation cannot be corrected by warning the violator, an Environmental Control Board Notice of Violation should be served, if the violator is eligible, for Administrative Code § 24-218, and the facts should be reported to the desk officer.

### Unreasonable Noise, Involving Sound Reproduction Device

When a uniformed member of service hears, observes, or receives a complaint of unreasonable noise involving a sound reproduction device, he should interview complainants/violators about the noise complaint and determine if the noise would be unreasonable to the ordinary person. If the violation cannot be corrected by warning the violator and the violator is sixteen (16) years of age or older and otherwise eligible, serve a summons for violation of Administrative Code § 24-220(a) returnable to Criminal Court and enter in the information section of the summons, "Respondent did operate sound reproduction device at a level unreasonable under the circumstances thereby causing annoyance to persons in the vicinity," and seize the device and process as evidence. If the violator is at least seven (7) and less than sixteen (16) years of age, a JUVENILE REPORT (PD 377-151) shall be prepared instead of a summons and the sound reproduction device will not be seized.

- **PG 214-24 and PG 214-25: VEHICLE ALARMS** outlines the enforcement action when a vehicle alarm is activated and does not cease to sound within three (3) minutes or when an audible status indicator is operated on a vehicle.



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When uniformed members of service is notified or becomes aware that a motor vehicle alarm has been activated and the owner is not present, they should make an ACTIVITY LOG entry of the time when the audible alarm was first observed. They should then attempt to locate the owner of the vehicle. The owner of a vehicle with an anti-theft alarm installed is required to prominently display the telephone number of his local precinct inside the vehicle when parked on a public street, highway, or in a parking lot open to the public. In addition, each patrol precinct maintains a Motor Vehicle Alarm File that lists the name, address, telephone number, and license plate number of residents who have had anti-theft vehicle alarms installed and notified the precinct. The member of service should contact the desk officer of precinct concerned and request that owner be notified to disconnect the alarm. If the owner is not located and access to the engine or passenger compartment is possible, the member of the service should attempt to disconnect the alarm wire from the battery cables. If either compartment is not accessible, the Emergency Service Unit should be requested. An ACTIVITY LOG entry will be made of efforts to deactivate the alarm and any damage to the vehicle that resulted from such efforts. A hand-written notification to the owner of the vehicle should be placed under the windshield wiper explaining action taken, if personal notification is not made. This procedure only applies to vehicle alarms. A member of service should not attempt to deactivate building alarms, however a summons may be issued if the building alarm does not deactivate within fifteen (15) minutes.

If the alarm is still audible after three minutes and all reasonable steps have been taken to disconnect the alarm, the member of service concerned may prepare an Environmental Control Board NOTICE OF VIOLATION AND HEARING for violation of Administrative Code § 24-221 (d) (alarm), or § 24-221 (e) (audible status indicator) in the box captioned violation code, enter "N-I 2."

In the box captioned *Mailable Penalty Schedule*, enter "\$175.00." In the box captioned maximum penalty for violation, enter "\$700.00." The following statement should be entered verbatim in the box captioned details of violation: "At time and place of occurrence, deponent observed the audible alarm of the above described vehicle operate for a continuous period of time in excess of three minutes" or "At time and place of occurrence, deponent observed an audible status indicator in operation on the above described vehicle." If the member of service concerned is unable to disconnect the alarm or audible status indicator, the vehicle should be placed in the Rotation Tow Program (PG 218-21) and the fact that the vehicle was towed as a result of a ringing alarm or audible status indicator operation will be placed on the PROPERTY CLERK'S MOTOR VEHICLE/BOAT INVOICE WORKSHEET.



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### REPORTING NON-EMERGENCIES: THE 311 SYSTEM

The public has had a growing dependence on the 911 system. According to U.S. *News and World Report*, more than 50 percent of all incoming calls to 911 were not emergencies. Civilians used the 911 system as a means to correct problems ranging from barking dogs to garbage removal. Responding to these non-emergency calls strained the 911 system, resulting in backlogs, frustrated callers, and deadly consequences due to the delay in responding to emergency calls.

The U.S. Department of Justice's Office of Community-Oriented Policing Services (COPS) recognized the need for a non-emergency system. In response to a request by COPS, the Federal Communications Commission designated 311 as a national non-emergency number in 1997. The 311 system was implemented in 1996 in Baltimore, Maryland. The city received a grant from COPS to establish a Non-Emergency Telecommunication Pilot Project. The Baltimore 311 system had a dramatic impact on the city's 911 service. In a report to COPS in the year 2000, the city's police department noted several improvements: the average response time for 911 calls was reduced by 50%, the average time between incoming 911 calls increased from 70 to 143 seconds, and the percentage of time operators were busy on calls, was reduced from 59 percent to 41 percent.

In 1999, Houston, Texas followed Baltimore's lead. In conjunction with a private company, the city of Houston designed and installed a computer system to automate management of incoming requests via telephone, e-mail and surface mail. The system dispatched the work orders to the appropriate departments and tracked the order through completion. Many cities throughout the country adopted the 311 program.

In his 2002 State of the City address, Mayor Bloomberg announced the 311 initiative in New York City. He emphasized the Administration's commitment to bringing government to the people and that the new 311 system would vastly improve the way that New York City government functions. On March 9, 2003 the 311 system became operational. Through the 311 Citizen Service Center, a caller can gain information, report non-emergencies requiring correction, and make suggestions to the mayor. The following are some examples:

- Report loud noise;
- Report a pothole or street light that needs to be fixed;
- Inquire whether alternate side of the street parking is in effect;
- Make inquiries regarding operating hours of public buildings;
- Information about employment within the city;
- Inquire about garbage collection;
- Rotation Tow and blocked driveways.



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The New York City 311 Citizen Service Center is open 24 hours a day, seven days a week, and is staffed by a live operator. Tracking numbers are provided so that callers can follow-up on the status of their requests. Callers can be assisted in 170 languages. The system can be accessed outside of New York City by dialing (212) NEW YORK. Telephone Device for the Deaf (TDD) Services are available by calling (212) 504-4115.

### How a Quality of Life Job is Dispatched

After a call is made to a 311 phone operator, the operator will determine whether the call is a quality of life issue. The call will then be entered into the system and forwarded to the appropriate agency. If the call is one of an emergency nature, the caller will be connected with a 911 operator for appropriate service. In every precinct, transit district, and police service area, there is a computer capable of receiving 311 calls, located at the precinct desk. The desk officer is responsible to monitor the computer. In the event a 311 job is sent to the precinct, transit district, or police service area, the desk officer will have the telephone switchboard operator dispatch the job to the appropriate sector, foot post, or specialized precinct unit (i.e. CPU, SNEU, Anti-crime, etc.). The police officer's duties and responsibilities regarding 311 is explained in the Police Communications Section.

## TOOLS FOR ENFORCEMENT

### Criminal Court Summons

The Criminal Court Summons is a useful aid to police officers in the struggle to create a better society for the citizens of New York City. Public consumption of alcohol, urinating in public, and many other quality of life offenses can be addressed through the issuance of a criminal court summons. ***A warrant check must be conducted prior to issuing a Criminal Court ("C") Summons.*** In the event that the defendant has an outstanding warrant, a criminal court summons will not be issued and an on-line arrest will be made.

### Intelligence Reporting (P.G. 212-12)

Upon suspecting or receiving information about the involvement of a person or any other entity in ongoing criminal activity, and when unable to effect a summary arrest, a police officer should obtain as much information as possible, including names, vehicle descriptions, times of the day, descriptions of persons, etc. Notify the Intelligence Division at 1-877-4INTELL or 718-834-4301 of all pertinent information. The Intelligence Division Log number and the identity of the Intelligence Division member notified should be recorded in the police officer's Activity Log.



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If gang activity is observed, in addition to the above procedure, PG 212-13 mandates that the patrol supervisor is notified, a notification to the Intelligence Division is to be made immediately, and a Complaint Report and/or an On Line Booking System Arrest Worksheet is prepared as appropriate.

### **Traffic Intelligence Report (P.G. 212-14)**

When a traffic condition is observed and is not immediately correctable by available resources, a Traffic Intelligence Report should be prepared. The report should include the specific type of condition, times, place(s) of occurrence, and any corrective measures taken or recommended. The reverse side of the Traffic Intelligence Report should contain a detailed description and a diagram if applicable. Traffic reports are also prepared for construction sites. The completed Traffic Intelligence Report must be submitted to the traffic safety officer, command of occurrence, before the end of tour or to the Highway Unit concerned if the condition was observed on a limited access highway.

### **Traffic Enforcement**

Traffic enforcement has great potential to save lives in New York City. There are certain consequences associated with New York's fast paced life style such as gridlock and vehicle accidents. On a per capita basis among large cities, New York City has one of the lowest rates of traffic fatalities in the country. In 2001, 186 people were killed in traffic accidents, this in addition to the many pedestrian fatalities. In 2001, 206 people were killed in pedestrian accidents, resulting in the Department's enforcement philosophy to focus on aggressive driving.

The current speed limit on our city streets is 30 miles per hour unless a different speed is posted. Studies show that when there is an accident involving a car and a pedestrian, a decrease in vehicle speed from 40 to 30 miles an hour increases the likelihood that the pedestrian would survive from 40 to 70 percent. In 2001, 544,080 traffic summons were issued to violators of the New York State Vehicle and Traffic Law along with 4,134 arrests made for DWI offenses (driving while under the influence of alcohol and/or controlled substances). A city with fewer cars speeding and driving chaotically will be a city with an improved quality of life for all citizens.

As part of our overall strategy on enhancing traffic enforcement on the city's interior roads, the Department also concentrates on a wide range of other traffic violations that endanger the safety of pedestrians and of other drivers. Far too many vehicles in New York City disregard traffic signals. By expanding the Red Light Violation Monitoring Program, the Department escalates enforcement so that when someone decides to disobey a red light, he or she will be issued a summons. In addition, red light cameras have been installed at intersections with high levels of traffic



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incidents, which will assist enforcement personnel in the ongoing task of maintaining public safety. These cameras photograph the license plate of a car as it passes the red signal and a summons will subsequently be mailed to the registered owner of the vehicle. Although this is not a Personal Service Summons (issued to the owner of the vehicle, who may or may not be the driver) it still alerts the motorist to the fact that such behavior will not be tolerated. Every breakdown in the rules of the road contributes to a climate of disorder, a climate in which drivers, pedestrians, and bicyclists begin to fear each other rather than one of mutual respect that makes our streets safe for everyone.

When pedestrians see drivers disregard red lights or make illegal turns, they are much more likely to disobey the rules themselves (refer to the broken windows theory in this lesson). And when pedestrians disobey the rules, they contribute to an atmosphere that tells drivers not to pay attention to the rules. As part of the final component in traffic enforcement, this Department aggressively pursues enforcement by increasing the number of checkpoints and reminders, making this issue a top priority.

### **Environmental Control Board**

The Environmental Control Board (ECB) is New York City's most broad-ranging administrative tribunal adjudicating violations of the City's laws and rules as brought before it by various city agencies empowered to monitor the city for compliance with the law. The Environmental Control Board's jurisdiction encompasses sanitation and vendor violations, important environmental issues such as air, water, and noise pollution among other very serious health and safety concerns.

The Environmental Control Board will conduct hearings and levy fines against violators of the various statutes that exist in the code. The Police Department is empowered to issue this agency's form of a summons known as a NOTICE OF VIOLATION & HEARING. The Environmental Control Board is governed by a 13-member board comprised of seven members including the Commissioner of Department of Environmental Protection, the Commissioners of Sanitation, Buildings, Fire, Consumer Affairs, Police and Health Departments. The Board also includes six citizen members, required by the City Charter to have expertise in the following areas: real estate, small business, air pollution, noise pollution, and water pollution. The citizen members are appointed by the Mayor and are confirmed by the City Council.

The Hearing Division of ECB employs hearing officers to determine whether the enforcement agent's allegations of code violations are supported. When issuing an Environmental Control Board summons, a police officer must properly cite the section of law or rule violated, the date and time of the offense, and the location of occurrence. The officer must also properly identify the respondent and must give details of what he or she observed to support his or her allegation that a violation of the Code has been committed.



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### Nuisance Abatement

The Civil Enforcement Unit incorporates attorneys into the Department's crime fighting effort. These attorneys expand the Department's range of responses to crimes and quality of life offenses by litigating civil actions such as **nuisance abatement** and **forfeiture** cases against criminals and removing the economic incentive to engage in these offenses. Examples of the unit's work include forfeiting the expensive tools of chop shop operators, closing gambling locations and houses of prostitution, and putting stores used for selling drugs out of business. Another initiative, "**Operation Losing Proposition**," results in the seizure and forfeiture of johns' cars, thereby deterring street prostitution. Other subjects of this effective program include vehicles with loud radios, noisy motorcycles, and drag racing on public streets, stores selling drug paraphernalia and non-firearm weapons, and vehicles of individuals who drive into New York City to purchase narcotics and sale of alcohol to minors.

The Civil Enforcement Unit Initiative most effectively addresses the problem of drug sales in commercial buildings. The Unit uses local nuisance abatement laws to combat crime in buildings infested with narcotics activity and other crimes that have a destabilizing effect on a neighborhood. Working with precinct commanders, the Civil Enforcement Unit obtains closing orders for commercial properties that are operated by drug dealers. In order to reopen, the landlord must select new tenants who are approved by the Department.

In 1970, Congress enacted the Organized Crime Control Act. This Act enabled the US government to seize the assets of organized criminals under the RICO (Racketeer Influenced Corrupt Organization) statute. Asset and civil forfeiture procedures were put into the law that enables the Department to destroy the ability of those criminals who profit from their enterprises.

New York City also has a policy of forfeiting the vehicles driven by persons arrested for drunk driving. This policy came under heavy criticism by the American Civil Liberties Union and other groups. In a suit brought by a person who was arrested, the New York State Supreme Court unanimously upheld the constitutionality of the program. The same asset and civil forfeiture procedures now were extended to acts of reckless driving and excessive speeding.

### LAWS/CODES

The following are Quality of Life issues that many officers witness on a daily basis. An explanation of the legal definition is included to aid in an understanding of the terms used in the New York State Penal Law and the New York City Administrative Code.





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### Consumption of Alcohol in Public

Consumption of alcohol in public is a common violation in New York City that affects our quality of life. When a person acts under the influence of alcohol they lack the capacity to make rational decisions and at times commit offenses of a serious nature. A Criminal Court Summons or an arrest can be effected against an individual committing a violation of this statute. The following is the appropriate statute for enforcing a violation of the Administrative code:

### Administrative Code § 10-125 Consumption of alcohol on streets prohibited

- A. Definitions. Whenever used in this section, the following terms are defined as follows:
  - 1. **Alcoholic beverage** - Any liquid intended for human consumption containing more than one-half of one percent (.05) of alcohol by volume.
  - 2. **Public Place** - A place to which the public or a substantial group of persons has access. This includes, but is not limited to, any street, highway, parking lot, plaza, transportation facility, school, place of amusement, park, playground, hallway, lobby and other portion of an apartment house or hotel not constituting a room or apartment designed for actual residence.
- B. No person shall drink or consume alcohol or an alcoholic beverage in any public place except at a block party, feast or similar function for which a permit has been obtained.
- C. Possession of an open container containing an alcoholic beverage by any person with intent to consume the contents thereof in violation of this section.
- D. Nothing in this section shall be deemed to prohibit the consumption of an alcoholic beverage in any duly licensed establishment whose certificate of occupancy extends upon a street.



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- E. Any person who shall be found to have violated any of the provisions of this section shall be punished by a fine of not more than twenty-five dollars or imprisonment of up to five days. If the violator is less than sixteen (16) years of age he/she will not be issued a summons and a Juvenile Report should be prepared.

### Noise Pollution

Other quality of life problems may not deal directly with matters of life and death, but they are of great concern to the people of the City. Noise pollution, for instance, is a major problem. Even in a city as exciting as New York, people should be able to sleep without being disturbed by car alarms, blaring music from a nightclub, or other similar annoyances. Noise pollution violations happen to be harder to enforce than other quality of life problems. In an ongoing effort to improve noise levels, the Department of Environmental Protection is working with the NYPD to conduct intensive noise sweeps in communities across the city that experience chronic noise problems. To have a successful quality of life campaign it is necessary to embrace all aspects of policing from daily patrol to investigative specialties. Department wide training emphasizes a comprehensive quality of life approach for all police personnel, with officer safety and community service in mind. The quality of life strategy involves target identification, research of applicable laws, resource availability and inclusion of different city and state agencies, actual implementation of customized enforcement efforts, community involvement, as well as reporting and follow-up procedures. Precinct commanders are provided with statistical data that compare and contrast major crime with quality of life concerns to identify overlapping areas of concern. Patrol officers identify quality of life issues on a continuous basis through vigilant enforcement and personal observation.

The important issue in dealing with noise complaints is whether the noise is unreasonable. If the noise is unreasonable, there are many tools available to handle the situation.

The source of the noise determines the appropriate response. Common sources of unreasonable noise are loud portable radios and motor vehicles with excessively loud sound systems, car alarms, motorcycles, parties, clubs, and noise from intoxicated individuals, many of whom are minors that roam residential neighborhoods. Since cigarette smoking is prohibited inside of licensed premises, patrons now congregate outside in front of these establishments to smoke, creating noise during the early morning hours when people are trying to sleep.



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The Police Department's authority to deal with the problem of **loud radios** was refocused in 1993. During this year, the Administrative Code Section was amended to ban "unreasonable" noise. Accordingly, the Department issued guidelines authorizing the seizure of these devices and the issuance of a summons if the device is played at an unreasonably loud level. A person who plays a radio unreasonably loud should first be warned and admonished.

If the condition is not corrected after the warning is given, a universal summons returnable to New York City Criminal Court should be issued citing Administrative Code, Section 24- 220 (a). Additionally, the sound production device should be confiscated and invoiced as evidence.

The Police Department's response to the problem of **vehicles with loud radios** requires the commitment of equipment, expertise and personnel. Section 375-47 (a) of the Vehicle and Traffic Law makes it unlawful to play amplified sound from a vehicle at a level in excess of seventy (70) decibels measured from 25 feet away. Vehicles producing noise exceeding the lawful decibel limit are stopped, the operator is issued a traffic summons, and the car is invoiced as evidence. The vehicle is returned to the owner after the summons is adjudicated.

**Loud motorcycles**, specifically those with exhaust systems that produce unreasonable noise in violation of the Vehicle and Traffic Law (V.T.L.) are another problem in New York City. A person who operates a motorcycle with an excessively loud exhaust system is violating V.T.L., Section 375-31, and should be issued a traffic summons, if qualified, returnable to the Traffic Violations Bureau as per P.G. 209-10.

Another common source of unreasonable noise in New York City is **car alarms**. Many cars are equipped with alarms that malfunction or sound for no apparent reason. State law requires car alarm manufacturers to produce alarms that shut off automatically within three (3) minutes. Administrative Code 24-221 (d) authorizes the police to call a towing company to tow the car away if the alarm does not shut off. Patrol Guide 214-14 outlines the necessary steps to disconnect alarms, prepare Environmental Control Board Notices of Violation, notify the car owner, and tow the vehicle. The issuance of an Environmental Control Board Notice of Violation is not mandatory when a motor vehicle alarm is activated. A notice of violation should be based on the number of complaints from civilians, the type of area in which the vehicle is located and whether the vehicle alarm is a chronic problem. Additionally, a police officer should take reasonable steps to disconnect the vehicle alarm without damaging the vehicle. A reasonable step to deactivate the alarm would include an attempt to contact the owner. The license plate of the vehicle may be checked to obtain the name of the registered owner. If the alarm cannot be deactivated, the vehicle may be towed utilizing the rotation tow program (See P.G. 214-25).



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**Loud private parties** are another common source of unreasonable noise. Loud parties pose a difficult problem for communities as well as for the Police Department. Absent consent or exigent circumstances a police officer **may not** enter a private residence based solely on a noise complaint. An officer should request that the resident lower the volume of the sound device or keep the volume of the party down. If unsuccessful, the patrol supervisor should be requested to respond to the location. In the presence of a supervisor, an attempt should be made to obtain consent to enter. If consent to enter is obtained, a criminal court summons for Administrative Code, Section 24-220 (a) should be issued to the resident and the sound device seized and invoiced (See P.G. 214-23). If the patrol supervisor is unable to obtain consent to enter, the supervisor should consult with the N.Y.P.D. Legal Bureau.

Enforcing noise regulations against **loud nightclubs** may also pose a challenge to the police officer. Enforcing noise regulations against clubs is a complex process. Under Administrative Code, Section 24-241.1, the noise from a commercial club must exceed .45 decibels measured from inside a residence to charge the violator. Violations of this law are adjudicated at the Environmental Control Board. This avenue of enforcement may be difficult because the Department of Environmental Protection has few inspectors assigned to work the late evening hours when club noise complaints are most common. License suspension and revocation procedures of the State Liquor Authority, the agency that issues liquor licenses, is time consuming. Addressing other quality of life problems in the area of the club may lead to a reduction in incidents of unreasonable noise complaints. Coordination between the Police Department and Department of Transportation can be effective in combating traffic problems in residential areas where these conditions occur. Among the options available is the issuance of summonses for various violations under the **New York City Traffic Rules and Regulations**. Common violations observed outside many commercial clubs include the following:

- Double parking: TR § 4-08, sub. (F)(1);
- Parking in front of fire hydrant: TR § 4-08, sub. (E)(2);
- Parking on sidewalk: TR § 4-08, sub. (E)(3);
- Parking in bus stop: TR § 4-08, sub. (C)(3);
- Parking in crosswalk: TR § 4-08, sub. (E)(5).

Regulations regarding the **sale and consumption of alcohol by minors, open containers of alcohol in public, and public urination** are also effective tools in addressing quality of life concerns in these neighborhoods.



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It should be noted that ***uniformed members of the service, unless assigned to the Public Morals Division, are prohibited from taking summary action for violation of the alcohol beverage control law occurring inside a licensed premise, unless the UMOS is issuing a summons for disorderly premise.*** However, there are no Department policies restricting the enforcement of the alcohol beverage control law or any other applicable law in public places.

### Taxi Safety Standards

Under current Vehicle and Traffic Law, to become a taxi driver in New York, an applicant must have a chauffeur's (class E) license issued by New York State, An applicant must obtain a TLC license, pass an English proficiency test, submit fingerprints for a background check; graduate from taxi school (for either 40 or 80 hours depending on the demonstrated degree of English proficiency); and pass a final exam. The Taxi & Limousine Commission has done away with providing temporary or trainee licenses to applicants before they complete the entire process.

Many hard working New York City residents become taxi drivers to make a better life for themselves and their families, and they do it with dedication and commitment. Unfortunately, some people act irresponsibly, creating a bad reputation for others. This Department will make every effort to have taxi companies and taxi drivers put safety first.

### Reckless Operation of a Bicycle

***Bicycle riding and roller-blading*** in New York City are activities that have grown drastically in popularity. Along with this popularity comes an increase in accidents. Law abiding citizens are not the only ones to utilize bicycles for business and recreational activity. At times criminals resort to the use of bicycles to conduct their illegal activity. There are instances when an officer has stopped an individual for a seemingly simple quality of life violation such as riding a bicycle on the sidewalk, and subsequent investigations have netted larger results revealing a secreted firearm, narcotics, or an active warrant on the violator. Drug dealers use bicyclists as lookouts to warn them of arriving police officers.

When discussing city streets and quality of life issues, the role of bicycles and roller blades cannot be ignored. The enforcement of cycling violations comes largely in response to a public outcry over bike messengers and delivery people who behave like high speed menaces, threatening pedestrians with risky rides through streets and on sidewalks. There have been instances of delivery bicycles colliding with pedestrians resulting in the deaths of pedestrians. The law already prohibits the use of bicycles on sidewalks. The NYPD encourages full enforcement of existing ordinances and penalties for anyone riding on the sidewalk.



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Although registration and licensing provisions do not apply to bicycles, all persons riding bicycles upon public streets are subject to the same traffic regulations as operators of motor vehicles. In addition, Administrative Code Section 10-157, entitled, *Bicycles Used for Commercial Purposes*, requires the identification of those bicycles used for COMMERCIAL purposes and applies to any person or firm, which engages in delivery by bicycles. The law does NOT APPLY to a person UNDER the age of sixteen (16) who uses a bicycle to deliver newspapers or circulars.

The regulations require that each person or firm of bicycle operator engaging in the course of its business either on behalf of itself or others, in delivering packages, parcels, papers or articles of any type, by bicycle shall issue to every bicycle operator a **numbered photo I.D. card**. The I.D. card shall contain the bicycle operator's photo, name & residence address, and the name, address and telephone number of the employer of the cyclist. Temporary cards without photos may be issued. Bicycle riding, like driving an automobile, is subject to regulation to ensure the safety of motorists and pedestrians. Bicycle operators, such as delivery people, messengers, and recreational riders who refuse to obey the rules of the road are a serious risk to the safety of pedestrians, automobile drivers and everyone else.

### Most Common Summonsable Offenses for Cyclists

- Disobeying a red light;
- Stopping in a crosswalk;
- Riding on a sidewalk;
- Going down a One-Way street the wrong way;
- Failing to yield to pedestrians.

Everyone has a right to use our streets, but if we do not share, respect and accommodate one another, the result is very simple: Civil order starts to break down, streets become chaotic, and people get hurt. We, as police officers, should encourage cyclists to respect pedestrians and other road users. Several ways to accomplish this is to remind cyclists of several simple rules:

- Keep off of the sidewalk
- Ride with traffic, not against it.
- Always yield to pedestrians.

Administrative Code Section 19-176 addresses Bicycle Riding Prohibited on Sidewalks. Under this legislation any person 14 years of age or older operating a bicycle upon a sidewalk shall be issued an Environmental Control Board (ECB) Notice of Violation, and if such person is operating the bicycle on the sidewalk under circumstances which place someone other than the operator at serious risk of physical injury, the bicycle will be seized and the ECB Notice issued.



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### Scooter Helmet Law

All persons under the age of 14 are required to wear a helmet when operating a foot-propelled scooter on public streets, parks, and sidewalks within New York City. Administrative Code section 19-171 prohibits persons under the age of fourteen (14) from riding a scooter unless they are wearing an approved helmet. The law also states that a person who violates this law will NOT be summonsed. Instead, a summons may be issued to a parent or guardian if the parent or guardian is eighteen (18) or older and if the violation occurs in their presence. A child without a helmet will be issued a warning for the first offense, then a fine of up to \$50 for each following offense. The infractions are returnable to the Traffic Violations Bureau. Judges will be able to waive fines in cases where economic hardship exists, or if an offender is able to show that a helmet has been purchased in the time between the offense and the court date. The NYPD and the Department of Parks and Recreation are authorized to enforce the provisions of this law.

It is imperative that parents make sure that their children are wearing this potential life saving device. The law is intended to reduce the number of injuries to children caused when taking a fall off a two-wheel scooter. The law is an extension of the New York State's existing standards, which require a helmet to be worn for those under 14 while riding a bicycle, tricycle, skateboard and in-line skates. Statistics from the U.S. Consumer Product Safety Commission says that 9,400 accidents involving scooters occurred in the U.S. last year, with roughly one third resulting in injuries to the head or face. The American National Institute, the Snell Memorial Foundation's Standards for Protective Headgear for use in bicycling and the American Society of Testing and Materials have set safety standards that the helmets must meet. The safety of children is one of this Department's priorities. By enforcing the wearing of a bicycle helmet while riding scooters and bicycles, future accidents will be prevented.

### Panhandling in an Aggressive Manner

This offense is defined as:

1. Approaching or speaking to a person, or following a person before, during or after soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to:
  - a. Fear bodily harm to oneself or to another **or** damage to or loss of property, or the commission of any offense as defined in section ten (10) of the Penal Law upon oneself or another; **or**



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- b. Otherwise be intimidated into giving money or other things of value; **or**
- c. Suffer unreasonable inconvenience, annoyance or alarm; **or**
2. Intentionally touch or cause physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking or begging; **or**
3. Intentionally block or interfere with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact; **or**
4. Using violent or threatening gestures toward a person solicited.

**Example:** A panhandler is inside a supermarket waiting near the exit asking shoppers for spare change as they leave. After a request to leave is personally communicated to the panhandler by someone who is authorized to do so (i.e., store manager), refusal may result in the panhandler being arrested for trespass under P.L. Section 140.05. The panhandler is not arrested for begging. He is being arrested for remaining on private property after being instructed to leave.

A common situation police officers encounter involves panhandlers **outside** a location. If the panhandler is solely begging, it is constitutionally protected conduct. However, aggressive panhandling can be curtailed by enforcing the following law:

### **Administrative Code Offenses Relating to Panhandling**

The major purpose of this law is to prohibit three types of unlawful "solicitation, asking or begging." Violation of any of the following subdivisions is punishable as an "unclassified misdemeanor." Police officers need not personally observe or be present at the time of the offense in order to take enforcement action; however, they must establish probable cause that the offense was committed.





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### Prohibition Against Certain Forms of Aggressive Solicitation - Misdemeanor (Section 10-136):

**Sub. 1:** Aggressive Manner Panhandling - No person shall solicit, ask or beg in an aggressive manner in any public place.

**Example:** A person is waiting for a bus inside a bus shelter. A panhandler who requests money in a non-threatening manner approaches the person. The person gives an unequivocal negative response to the request. Thereafter, the panhandler begins berating the person for not giving money. The panhandler acts with such persistence, duration or hostility so as to cause the person unreasonable inconvenience, annoyance, or alarm. (i.e., the person might leave the bus shelter, or might be caused undue fear or discomfort.)

**Note:** The test as applied under this law is whether a complainant's fear, intimidation, or suffering of unreasonable inconvenience, annoyance, or alarm was reasonable. Enforcement action is inappropriate if the complaint is based on a complainant's bias or undue sensitivity. A person who merely asks for money or passively holds a cup will generally not be charged with this section, unless some other aggravating factor is present.

**Sub. 2:** Non-Aggressive, but illegal panhandling at a bank, check cashing business and ATM - No person shall solicit, ask or beg within ten (10) feet of any entrance or exit of any bank or check cashing business during its business hours or within ten (10) feet of any automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility. Provided further that no person shall solicit, ask or beg within an automated teller machine facility where a reasonable person would or should know that he or she does not have the permission to do so from the owner or other person lawfully in possession of such facility. Nothing in this paragraph shall be construed to prohibit the lawful vending of goods or services within such area. (Administrative Code Section 10-136 Subd. 2)

**Example:** A panhandler is inside a building that contains an automated teller machine open only to bank customers with automated teller machine cards. (Administrative Code Section 10-136 Subd. 2)



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This subdivision does not require that the solicitation be “aggressive” because the law presumes that begging at a banking facility is inherently coercive and thus deems it unlawful.

This section does not apply to unenclosed automated teller machines located in non-banking spaces such as supermarkets, airports and school buildings, provided that such automated teller machines are available for use only during regular hours of operation of the building, structure or space in which such machine is located.

Sub. 3: Panhandling From Occupants of Motor Vehicles on Streets - No person shall approach an operator or other occupant of a motor vehicle while such vehicle is located on any street, for the purpose either of performing or offering to perform a service in connection with such vehicle or otherwise soliciting the sale of goods or services in an aggressive manner. This shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of such vehicle.

**Example:** A windshield washer approaches an occupied car, while stopped at a traffic light and smears the car's windshield with soapy water without consent of the owner.

(Administrative Code Section 10-136 Subd. 3) (NYC T/R Section 4-04 Sub E3 possibly 240.20 Subd. 5 — Block Vehicle Traffic)

Prohibition against certain forms of aggressive solicitation is considered an “unspecified” misdemeanor in the New York City Administrative Code. This offense may be rectified by the issuance of a Criminal Court summons provided the offender is properly identified (See P.G. 209-01).

This section prevents persons from soliciting the sale of goods or services from motor vehicle occupants in an aggressive manner while located on streets. Conduct must be done in an aggressive manner for it to be considered unlawful, and includes windshield washer/squeegee-type activity, offering to secure parking spaces for motorists, sale of goods to motorists, etc. Police officers will note that intentional touching of an occupied vehicle without consent while begging constitutes aggressive panhandling.



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### **NON-AGGRESSIVE SQUEEGEE CLEANERS: ILLEGAL WINDOW WASHERS**

A squeegee cleaner is an individual who stakes out entrances to tunnels and highways, occasionally intimidating drivers into accepting cleaning "services" in exchange for payments. Squeegee cleaners vary in their levels of aggressiveness and intimidation. Non-aggressive squeegee cleaners can still be arrested for traffic offenses.

During a 1994 pilot project, half of those arrested for these offenses had previous arrests for serious felonies such as robbery, assault, burglary, larceny, and weapons possession. Additionally, almost half had arrests for drug related offenses. New York City Traffic Rules and Regulations, Section 4-04, sub. E (3) specifically prohibits illegal window washing of occupied vehicles on city streets. In addition to other traffic rules, squeegee cleaners may violate certain sections of the penal law. Disorderly conduct, P.L. 240.20, sub. 5, is applicable if the squeegee cleaner blocks vehicular traffic by his presence in the roadway or by detaining vehicles while cleaning them. Also, any conduct by a squeegee cleaner that threatens a motorist may be in violation of harassment 2nd degree -violation, P.L. 240.26.

Whatever the violation of law, if a summons is appropriate, the violator must be properly identified and the summons made returnable to the local borough criminal court. A separate summons should be issued for each violation observed. If an arrest is appropriate and there is more than one offense, all offenses should be listed on the on-line booking sheet (O.L.B.S.) beginning with the most serious charge.

### **GRAFFITI**

Graffiti is a crime, not a form of artistic expression. It is punishable under law. The Administrative Code and the Penal Law can be used to combat graffiti. A police officer can issue a C-Summons or make an arrest based on a class A-Misdemeanor. Section 10-117(a) addresses unlawful defacement of property by graffiti. An Environmental Control Board Notice of Violation may be issued if this subdivision is violated and all of the following conditions are met:

1. The criminal conduct did not come to the attention of police via the graffiti reward program (a Department program instituted to reward citizens who report graffiti vandals); and
2. Precinct and borough policy permit its issuance; and
3. There are no other factors which make its issuance inappropriate (i.e., additional criminal charges, amount of damage, etc.); and



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4. The person can be properly identified. If the person does not qualify for an E.C.B. notice of violation, an arrest should be made.

### Possession of a Graffiti Instrument

New York State Penal Law Section 145.65 prohibits the possession of a graffiti instrument, defined as any tool, instrument, article, substance, solution or other compound commonly used to etch, paint, cover, draw upon or otherwise mark a piece of property. Police officers must demonstrate a person's intent to use the graffiti instrument.

### Making Graffiti

Penal Law Section 145.60, making graffiti, occurs when the damage resulting from graffiti vandalism is \$250.00 or less which is an A-misdemeanor violation, and the violator is not eligible for an E.C.B. notice of violation. Penal Law, Section 145.05, criminal mischief 3rd degree, is when the graffiti vandalism is valued at over \$250.00 which is an E-Felony. Any person charged with making graffiti or criminal mischief 3rd degree is not eligible for a desk appearance ticket. Whenever an arrest is made for any of these graffiti related offenses, the appropriate Administrative Code section should also be charged. Aerosol spray-paint cans, markers and a picture of the graffiti damage, if applicable, should be invoiced as arrest evidence.

### Unlawful Possession of Aerosol/Indelible Marker

Administrative Code, Section 10-117b states:

*No person shall carry an aerosol spray paint can or broad tipped marker into any public building or other public facility with the intent to... commit graffiti.*

Mere possession of these instruments does not violate the statute. A police officer must be able to demonstrate intent to violate subdivision (a) of this section. Intent may be established through the actual commission of graffiti vandalism or through admissions made by a suspect. Again, if the person does not qualify for an E.C.B. Notice of Violation, an arrest should be made.

Administrative Code, Section 10-117(c), prohibits the sale of aerosol spray paint cans or an indelible marker to anyone under the age of eighteen. Section 10-117(d) prohibits the display of these items and allows only facsimiles to be displayed. Both these subdivisions are aimed at commercial establishments. Both subdivisions are civil offenses, which mean that an E.C.B. notice of violation may be issued to a properly identified violator but arrest is **not** an option if identity cannot be established.



# **POLICE STUDENT'S GUIDE**

## **Quality of Life Policing**

An appropriate course of action for a police officer would be a notification to the New York City Department of Consumer Affairs at 42 Broadway, NY 10004, (212) 487-4444. This agency may commence civil action against the violator.

### **PEDDLERS**

It is every police officer's responsibility to enforce the law regarding street peddling. Illegal street peddler activity should not be tolerated. Many peddler violations may be addressed by the issuance of an Environmental Control Board (E.C.B.) Notice of Violation in accordance with P.G. 209-12 and 209-13. Some violations require the removal of the peddler's goods and display materials. The vendor's goods and display material will be removed to the stationhouse and invoiced as per P.G. 218-39, 218-41, and 218-43. The laws regarding vendors are very complex and there are exceptions to certain provisions. Precinct policies and patrol borough directives vary according to constantly changing community needs.

An inexperienced officer should seek assistance from a more experienced officer or patrol supervisor before enforcement is initiated. It is important to remember that the location of the vendor must be a public place before enforcement measures are appropriate. If the location is a street, the Administrative Code provisions targeting vendors are to be enforced. However, if the vendor is in a public park an officer has additional tools such as the New York City Parks Rules and Regulations. Additionally, all peddlers must possess a certificate of authority, and tax identification number which indicates that they are in compliance with the New York State Tax Code. If the peddler doesn't possess a certificate of authority he or she may be subject to a criminal court summons, Section 181 7D 1, of the New York State Tax Code.

### **PARKS**

The New York City Parks Rules and Regulations were created to regulate the use and enjoyment of public parks throughout the city. A list of pertinent parks rules and regulations is included at the end of this chapter. Violations of any of the parks rules and regulations are a misdemeanor for which a criminal court summons may be issued to a properly identified individual as per P.G. 209-06 and 209-11.



# **POLICE STUDENT'S GUIDE**

## **Quality of Life Policing**

### **Discarded Refrigerators, Freezers and Other Self-Locking Containers**

To prevent children from locking themselves in and suffocating, procedures have been established in cases where you find a refrigerator or other self-locking container with the locking mechanism intact:

- Direct the person responsible, if known, to remove the door, door latch, or latch stop. If owner is known and refuses to comply, make arrest for Creating a Hazard – P.L. 270.10 (class "B" misdemeanor).
- Remove the door, door latch, or latch stop if tools are available and owner is unknown.
- Request Emergency Service Unit (ESU) via the communication section if unable to make the device safe.
- Make an activity log entry of facts including names of responding ESU members.



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## Quality of Life Policing

### RETAIN THESE CODES:

#### I. PANHANDLING

NYS PL 240.20 (sub5)	Disorderly Conduct
NYS PL 240.26 (sub 1)	Harassment 2
NYS PL 140.05	Trespass
NYS PL 140.10	Criminal Trespass

#### II. GRAFFITI

##### NYS Administrative Code

10-117a	Unlawful Defacement Of Property By Graffiti.
10-117b	Unlawful Possession Of Aerosol Spray Paint Can/Indelible Marker.
10-117c	Offer/Sale Of Aerosol Spray Can/Indelible Marker To Minor.*
10-117d	Unlawful Display Of Aerosol Spray Paint Can/Indelible Marker.*

\* Subdivisions (c) and (d) are civil offenses. (Summons only.)

##### Penal Law

NYS PL 145.60	Making Graffiti
NYS PL 145.65	Possession of Graffiti Instruments
NYS PL 145.00	Criminal Mischief 4 (damage is \$250 or less)
NYS PL 145.05	Criminal Mischief 3 (damage exceeds \$ 250)
NYS PL 145.10	Criminal Mischief 2 (damage exceeds \$1500)

#### III. SQUEEGEE CLEANERS

**NYC Traffic Rules 4-04(e3)** Washing Vehicles

##### Penal Law

NYS PL 240.20 (sub 5)	Disorderly Conduct
NYS PL 240.26 (sub 3)	Harassment 2

#### IV. PEDDLING

##### NYC Environmental Control Board

1 7-315 (1)	Peddling Where Parking Prohibited
1 7-315 (i)	Peddling on Dept. of Parks Property W/O Authorization
1817-Di	No Certificate of Authority, Tax Identification



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## **Quality of Life Policing**

### **V. NOISE**

#### **NYC Administrative Code**

- 24-220 (a) Excessive Noise (boom box radio)
- 24-221 (d) Excessive Noise (vehicle alarm)
- 24-241.1 Excessive Noise (commercial club)

#### **NYS Vehicle and Traffic Law**

- 375-30 Excessive Noise from Vehicle Exhaust.
- 375-47 (a) Amplified Sound from a Vehicle.

### **VI. ALCOHOL CONSUMPTION**

#### **NYC Administrative Code**

- 10-125 (b) Consumption of Alcohol on Streets Prohibited.

### **VI. VENDORS**

#### **NYC Administrative Code, General Vendors**

- 20-453 License Required
- 20-461 Display of License Food Vendors
- 17-307 Licenses, Permits Required, Restrictions
- 17-311 Display of License or Plate

### **VII. PARKS**

#### **NYC Parks Rules and Regulations**

- 104-l Disorderly Behavior
- 104-m Loitering
- 104-r Solicitation
- 104-s Panhandling
- 105-b Vendors
- 105-f Alcoholic Beverages; Controlled Substances
- 105-n Motor Vehicles





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## Quality of Life Policing

### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this chapter – **Quality of Life**. These procedures must be read in conjunction with this chapter. Questions for the 3<sup>rd</sup> Trimester Exam may come from these procedures:

P.G. 212-12	Citywide Intelligence Reporting System
P.G. 212-13	Reporting Gang-Related Activity
P.G. 212-14	Traffic Intelligence Report
P.G. 214-01	Padlock Law <sup>™</sup> Program
P.G. 214-02	Narcotics Eviction Program
P.G. 214-03	Graffiti Reward Program
P.G. 214-08	Chronic Abuser Alarm Procedure
P.G. 214-10	Unlawful Posting of Signs
P.G. 214-11	Enforcement Activities Regarding Obscenity and Public Display of Offensive Material
P.G. 214-12	Unlawful Evictions
P.G. 214-13	Evictions, Repossessions and Other Civil Process
P.G. 214-14	Driveway Tow Program
P.G. 214-22	Weekly Street Conditions Survey and Daily Observations of Highway Conditions Requiring Corrective Action
P.G. 214-23	Unnecessary Noise Violations-General Prohibitions
P.G. 214-24	Service of Environmental Control Board (E.C.B.) Notice of Violation and Hearing for Vehicle Alarms
P.G. 214-25	Deactivation of Motor Vehicle Alarms



# **POLICE STUDENT'S GUIDE**

## **Maintaining Public Order**

### **WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW THE MATERIAL IN THIS CHAPTER?**

As a police officer, you will regularly encounter situations that require you to use knowledge and expertise not expressly related to enforcing criminal laws. You may be requested to answer questions relating to civil matters or to intervene in civil disputes. Although most civil disputes require referral of the parties to the appropriate civil court, the handling of large-scale acts of civil disobedience is more complicated.

The role of the Police Department includes protecting the right of protesters to peaceably express their views, and protecting the right of non-protesters to go about their daily life unaffected by public disorder. Most protests and demonstrations are conducted in a peaceful manner. However, acts of civil disobedience may sometimes evolve into disruptive and/or violent conduct requiring immediate police action.

In this chapter, we will discuss two areas: (1) civil law and how to properly handle civil court orders, and (2) police response to demonstrations and riots.

### **CIVIL LAW**

The discussion that follows will acquaint you with the New York City Marshal, the New York City Sheriff, the civil judgments they enforce, and other civil law situations you may encounter as a police officer.

#### **New York City Marshals**

Marshals operate in a civil capacity, enforcing monetary judgments rendered by the N.Y.S. Family Court or N.Y.S. Supreme Court. The mayor appoints them to a term of five years. They possess a badge and an identification card issued by the Bureau of Marshals. Marshals may be designated peace officers under Criminal Procedure Law (C.P.L.) § 2.10 (33). The marshal has authority within the five boroughs of the City of New York.

#### **New York City Sheriff**

The New York City Sheriff also operates in a civil capacity. In addition to enforcing civil court judgments, Sheriffs enforce N.Y.S. Supreme Court and N.Y.S. Family Court judgments. Sheriffs also possess a badge and identification card. Pursuant to C.P.L. § 2.10 (27), they are peace officers and may possess firearms; they are not required to obtain pistol permits.



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Resisting the process of a marshal or sheriff constitutes Obstructing Governmental Administration 2<sup>nd</sup> degree, a class A misdemeanor under Penal Law (P.L.) § 190.05. Impersonating a marshal or sheriff constitutes Criminal Impersonation 2<sup>nd</sup> degree, a class A misdemeanor under P.L. § 190.25.

**Note:** A City marshal may legitimately work with an expired identification card. This in itself is no indication of any impropriety. New York City agencies, including the New York City Police Department, are occasionally unable to issue all their employees new identification cards immediately upon expiration of the old I.D. card.

A New York City Marshal or Sheriff cannot act unless he or she possesses an execution or other order of the court. They must execute court orders within 60 days from the date they are signed or at least renew them within that time. Examples of such orders are Warrants of Eviction, Orders to Seize Property and Warrants of Attachment.

### Warrants of Eviction

Warrants of Eviction allow the marshal or sheriff to evict persons and property from a premise after judgment by a court. Prior to its execution, the tenant must receive a 72 hour notice of the eviction. The 72 hour period begins the day after service of the notice and does not include Saturdays, Sundays, or holidays. When responding to a call involving an order of eviction, you should know that:

- Warrants of Eviction may only be executed between 8:00 A.M. and 5:00 P.M., Monday through Friday.
- The landlord or his representative must be present during the eviction.
- If the tenant is not home, or will not admit the marshal or sheriff, the marshal or sheriff has the authority to break into the premise.

**Note:** *Under no circumstances will you assist the marshal or sheriff in breaking into or forcibly entering a location.*

- The role of a uniformed member of the service when called to the scene of an eviction or other civil process situation is to **preserve the peace and prevent the commission of a crime**. Police officers are not permitted to help the marshal or sheriff remove property.



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- The marshal or sheriff, and police must **remain on the scene** until all belongings are removed from the premises. The property removed cannot be left on the sidewalk. It is the marshal's or sheriff's responsibility to hire a bonded licensed moving van to remove the property to a Department of Sanitation warehouse or a bonded warehouse chosen by the landlord or tenant.
- If the subject of an eviction or other civil process refuses to allow entry, or refuses to leave voluntarily, the uniformed member of the service will notify the desk officer and request the response of a patrol supervisor before any further action is taken.
- The uniformed member of the service who is present at the scene will make the following entries in their Activity Log:
  - Name and shield/badge number of city marshal/sheriff;
  - Time of entry into tenant's premises;
  - Location of tenant's premises in building;
  - Name of tenant;
  - Note if tenant is present or not;
  - Whether city marshal/sheriff or landlord/representative will be responsible for the tenant's property.
  - The uniformed member of the service who is present at the scene will notify the desk officer when the eviction is completed.

### Unlawful Evictions

- Patrol Guide 214-12
- N.Y.C. Administrative Code 26-521 (class A misdemeanor)
- L.B.B. Vol. 23 #1

In order to protect the rights of persons who are being or have been unlawfully evicted from their dwelling unit, the following information and guidelines should help you determine whether an unlawful eviction has taken place and what steps to follow in the event it does.

**Unlawful Eviction** - There are three elements necessary for an unlawful eviction to occur:

- The tenant must be in **lawful occupancy** of the premises; and
- The lawful occupancy is within a **dwelling unit** that is **residential** property; and



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## Maintaining Public Order

- The person has ***been evicted or an attempt*** has been made to evict the tenant either ***actually*** or ***constructively*** without a legitimate court or government order.

**Lawful Occupancy** - A tenant is considered a lawful occupant of a premise for the purpose of the unlawful eviction statute provided one of the following conditions are present:

- The tenant lawfully occupied a dwelling for **30** or more consecutive days;  
**or**
- The tenant lawfully occupied a dwelling unit pursuant to a **lease** for any amount of time; **or**
- The tenant lawfully occupied a dwelling unit subject to the **hotel rent stabilization law** for any amount of time and has requested a lease pursuant to the rent stabilization law.

**Note:** Occupancy is lawful for purposes of this section so long as the occupancy was not criminal, such as a trespass.

**Residential Dwelling Unit** - A Residential Dwelling Unit is defined as any unit in a one or two family home or in a multiple dwelling. It applies to roommates or family members sharing a home or apartment. The following are not considered multiple dwellings and therefore are not covered by this statute: hospitals, convents, monasteries, asylums and public institutions. Government owned housing is also exempt (e.g., N.Y.C.H.A. apartment).

### An Unlawful Eviction or an Attempt to Evict

An unlawful eviction or an attempt to evict may be committed by ***actual*** or ***constructive*** means. An ***actual eviction*** is one that physically displaces the tenant. This is usually accomplished by using force, or changing the locks while the tenant is away. A ***constructive eviction*** is one where the landlord creates an uninhabitable environment for the tenant by denying essential services or creating serious building and health code violations for the purpose of forcing the residents to leave on their own. Some examples of unlawful evictions include the following:



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- Locking the occupant out of the dwelling unit;
- Using or threatening to use force to remove an occupant;
- Denying essential services such as heat, electricity or water;
- Removing the entrance door;
- Removing the occupant's possessions;
- Allowing serious Building or Health Code violations to exist (e.g., vermin, infestation).

**Note:** The actions above only constitute an unlawful eviction if they are committed for the purpose of evicting. For instance, if a landlord shuts off the heat because he does not want to pay the oil bill, that failure to provide heat does not constitute an unlawful eviction.

**Note:** An individual may not be charged with unlawful eviction if the eviction was pursuant to a court or government order, such as:

- Warrant of Eviction
- Government agency vacate order

The New York City Departments of Fire, Buildings, Health, and Housing Preservation and Development may, under emergency circumstances, order that the occupants of a building vacate the premises. Government owned housing is exempt. Therefore the removal of an occupant by a government agency is not an unlawful eviction.

### Family or Criminal Court Order of Protection

Some orders of protection direct that an occupant of a dwelling unit stay away from that dwelling unit. In these cases, it may constitute an unlawful eviction if the **petitioner, or remaining occupant**, attempts to enforce the provisions of the order. Instead the petitioner should call for police assistance. If the respondent is in violation of the order the police will effect an arrest, as appropriate.



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### Upon Receiving an Unlawful Eviction Complaint

As with any other crime, to make an arrest for an unlawful eviction, the investigating officer must have **probable cause** that each element of the crime has been satisfied. In the event that an unlawful eviction is committed during a family dispute, a conflict may arise between enforcing the provisions of this section and prudent police action. To compel the violator to allow the family member/ complainant to return to the dwelling unit may place the parties in danger of a violent confrontation. Therefore, members of the service may exercise discretion by not enforcing the unlawful eviction statute between family members when there are safety considerations. Applicable Department procedures (P.G. 214-12) must be complied with.

An unlawful eviction is a class A misdemeanor, but is not a fingerprintable offense (P.G. 208-08). Ordinarily, if the violator qualifies (i.e., properly identified and no outstanding warrants or additional charges), he should be issued a **personal service summons** returnable to criminal court for each offense committed in accordance with P.G. 209-09 and 214-12. If the offense was committed in the presence of the officer, the officer will sign the Information (summons). When not committed in the officer's presence, the officer must ascertain that a crime was committed and request the complainant to sign the Information (summons). If the complainant refuses, the officer may sign, "based on information and belief," provided all details as related to the officer by the complainant are included in the Information (summons).

While a summons is the normal process, an online arrest will be made and **no D.A.T.** issued when the violator refuses to permit the occupant to re-enter. Refer evicted persons who are unable to secure temporary housing to the Department of Social Services, Emergency Assistance Unit. Police officers are reminded that, should an arrest be necessary, force may **not** be used to enter a premise to arrest an owner or owner's agent without an arrest warrant **unless** there are exigent circumstances.

It is Department policy not to physically assist an occupant in gaining entry to the dwelling unit. Accordingly, police officers should not attempt to break into the dwelling unit in order to allow the occupant to re-enter. Of course, in an emergency (e.g., medicine vital to life is required), police officers should assist in gaining entry for the purpose of addressing the emergency.

**Note:** The Corporation Counsel's office is the principal prosecutor in unlawful eviction cases.



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## Maintaining Public Order

### Orders to Seize Property

Orders to seize property are formal documents signed by a court ordering the seizure of property after the court has awarded a judgment. It is required for the seizure of a sum of money or an equal amount in personal property.

- Orders of seizure may only be executed between 8:00 A.M. and 5:00 P.M., Monday through Friday.
- The marshal or sheriff may seize any personal property to satisfy the money judgment including, but not limited to, the article which is the subject of the judgment.
- Breaking and entering into a premise is permitted only if the court provides such authority in the order; otherwise, the marshal or sheriff may gain entry only if voluntarily admitted. You will **not** assist in any break or entry.
- The marshal or sheriff is responsible for any damage caused and even if a break is allowed, he is still responsible for any resulting damage.
- After taking possession of the property, the marshal or sheriff must give the person in charge of the premises a receipt or, if the person is not present, leave the receipt in a conspicuous place; for example, on the front door of the location. This receipt is known as a Notice of Levy.

**Note:** A lien is a claim or charge on property for payment of debt, obligation or duty.

### Summary of Civil Procedures – Police Officer's Responsibilities

Patrol Guide 214-13

Your role as a police officer in civil matters concerning the marshal or sheriff can be summarized in the following steps:

- The role of a uniformed member of the service when called to the scene of an eviction or other civil process situation is to **preserve the peace and prevent the commission of a crime**. Usually, the police are called to the scene only when there is a crime committed, confrontation, or potential for violence.





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## Maintaining Public Order

- If you are assigned, you should require the marshal or sheriff to identify himself or herself to ensure that a criminal impersonation of a marshal or sheriff is not being committed.
- Review the court papers and determine their legal effect. Consider the points listed above under warrants of eviction. In addition, if a valid order against the eviction or seizure has been obtained, advise the marshal or sheriff to stop the eviction or property seizure. (If there is any doubt as to the legality of the order, request the patrol supervisor to respond, he or she will contact the Legal Bureau, if necessary.)
- Accompany the marshal or sheriff into the premise, if necessary; explain the marshal's or sheriff's function and his or her duties and responsibilities to the tenant/defendant.
- Advise the debtor, tenant, etc., that he or she should not resist the action (levy) of the marshal or sheriff because doing so would constitute the crime of Obstructing Governmental Administration, a misdemeanor. Also advise the debtor or tenant not to re-enter a premise without permission from the owner or representative because doing so would constitute Criminal Trespass.
- If a person attempts to physically interfere with, or prevent the execution of, the court order, or refuses to leave, you should notify the desk officer and request the response of the patrol supervisor before taking further action.
- You should refer all complaints of excessive levies by marshals to the **Department of Investigation, Bureau of Marshals**, and all complaints of excessive levies by sheriffs should be referred to the **Inspector General** of the Sheriff's Department.
- When property is seized, you should make a complete record, including description of the property, and other pertinent information. This listing of property should include the serial numbers, if any. It should also include the disposition of each item seized.
- Remain on scene until the process is completed.



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- In eviction cases, if the apartment is occupied by, a person with a disability (e.g., blind, deaf, handicapped, mentally ill or elderly person) ascertain whether a notification to an appropriate Social Service Agency has been made. If the notification has not been made or has been made but the Social Service agency has not made contact with the occupant, advise the marshal to immediately contact the Bureau of Marshals at the Department of Investigation for direction, and stop the eviction until appropriate arrangements have been made for the occupant.

### Prohibited Conduct by Police Officers

- ***Do not assist in breaking and entering.*** The marshal or sheriff will gain access in the least disruptive manner possible. They will not receive police assistance in this task.
- ***Do not assist in seizing the property or removing it from the apartment.*** The landlord, complainant, or a moving company will assist the marshal or sheriff. For a further explanation concerning the duties of the marshal and sheriff, see Legal Bureau Bulletin Vol. 14 #8, and P.G. 214-13.

### Other Civil Matters

It is your obligation to be able to recognize when a matter is civil in nature. Once this is realized, the matter should be referred to the appropriate civil court for further legal action. The monetary limitations of the various civil courts are as follows:

- New York City Civil Court, Small Claims Part - any amount in dispute up to \$3,000.00;
- New York City Civil Court - any amount in dispute up to \$25,000.00;
- New York State Supreme Court, Civil Part - any amount in dispute, but usually exceeding \$25,000.00.

This information should be part of your general knowledge. You will be called upon to refer people to the appropriate civil courts on a regular basis. Certain incidents, although civil in nature, will result in calls for police service beyond the mere giving of advice. Thus, you should know the location of the various courts in the borough where you are assigned.



# POLICE STUDENT'S GUIDE

## Maintaining Public Order

### Civilian Repossessor

There are cases where the purchase of personal property is conditioned upon the purchaser making payments on a regular schedule. If the purchaser does not make agreed payments, the seller may retake or repossess the merchandise (e.g., automobiles, televisions, etc). This is so because the seller parts with possession of the merchandise but not title to it. The Personal Property Law provides that the contract of sale, or other agreement, provides that the seller of the merchandise (one where the purchaser does not pay for the goods in full) may retake the merchandise pursuant to a valid lien; he may do so as long as there is no breach of the peace or violation of the law. Thus, if the repossession by a civilian, hired by the seller, can take place without a breach of the peace, it is lawful and no police action should be taken.

**Example:** Joe buys an automobile on credit and, after making a few payments, decides he does not have the money for more payments. He likes his new car, so he keeps driving it. After a few months, he receives a notice from the finance company that loaned him the money for the car; he comes out of his house one morning on his way to work and discovers that his car is missing. He goes over to the Friendly Finance Company and sees his car in their garage. He calls the police. When you arrive, a representative of the finance company tells you the story. In this instance the finance company exercised their legal rights to repossess the car because of the debtor's missed payments.

### Scofflaw Vehicles

Legally parked vehicles may be seized for non-payment of past due parking summonses. After the Parking Violations Bureau (P.V.B.) designates a vehicle as a **scofflaw** it may be seized to secure payment of any outstanding summonses and court fees. In New York City, one of the functions the sheriff performs is seizing these vehicles. Typically, the sheriff drives down the street with a hand held computer checking license plates. If a vehicle is discovered to be a scofflaw, it is towed.

## PATROL CONDITIONS

The following section will examine patrol conditions that generally do not involve enforcement action on the part of the police officer.



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### Taxi Disputes

Taxi disputes are a common occurrence in New York City. They usually involve differences of opinion over fares, routes of travel and destinations. Drivers of taxicabs must abide by the rules and regulations of the New York City Taxi and Limousine Commission. When a dispute over a fare cannot be resolved on the street, the parties will be brought to the stationhouse where the Desk Officer will make a **final** decision. If a TLC operator is found to be in violation of any laws or regulations, the appropriate summons will be issued.

Following are some extracts of TLC regulations that will aid an officer when it is necessary to take proper enforcement action as required by Patrol Guide 209-23.

### Taxi & Limousine Commission Documents

**Trip Record** - A document carried by a taxicab driver, also known as a **trip sheet**, which is basically a log of the day's passengers and activities (such as time on lunch). Although the forms may vary, they will contain the locations and times of pickup and discharge, the number of passengers and the amount of fare. When the driver has finished his or her tour, or is carrying the last passenger of the day, he or she will indicate "off-duty" on the next open line.

**Rate Card** - This card, along with the vehicle operator's license, is displayed in the front of the taxicab next to the taximeter. The cab # corresponds to the number on the medallion. The reverse side of the rate card contains information on the vehicle identification number, registration plate number, make and year of the taxicab, which should match the vehicle's registration.

**Vehicle Operators License** - This license, also known as a **Chauffeur's License** or **Hack License**, permits operation of taxis, limousines and para-transit vehicles (such as amblettes). The colors used change annually. Information on the license may be computer printed or typewritten. The license is laminated by the Taxi and Limousine Commission. All drivers must also be in possession of a New York State Class "E" operator's license. A driver shall not operate a taxicab in the City of New York while his or her driver's license is revoked, suspended or expired.

Drivers **must** operate taxicabs at all times in full compliance with **all** New York State and New York City Traffic Rules and Regulations and all regulations and procedures of the Port Authority of New York and New Jersey, the Tri-Borough Bridge & Tunnel Authority, and any regulatory body or governmental agency having jurisdiction over motor vehicles.



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### Police-Media Relations

As police officers in a free society, we must cooperate with, and assist, media representatives and personnel in their news-gathering capacity. A free press (and televised media) is one of the main tenets of a democratic society and is guaranteed by the constitution. Yet, we must also be vigilant not to compromise confidential information, the rights of the accused, and the safety of others, as well as ourselves. In essence, officers in a modern society must balance the right of our citizens to be informed, with the rights of judicial and personal protections.

### Release of Information to the Media

Information, assistance, or access to properly identified members of the media should be rendered to whatever extent possible, **when it does not:**

- Pose an undue risk to the personal safety of officers, media reps, or others;
- Interfere with police operations;
- Adversely affect the rights of the accused, or the investigation or prosecution of a crime.

Upon receiving a request for information from representatives of the media concerning an arrest:

- **Release the following information after an arrest is made:**
  - Name, age, residence, and similar background information of the arrested person(s).
  - Substance or text of the charge(s).
  - Identity of the investigating and arresting agency.
  - Circumstances immediately surrounding the arrest, including the time and place of arrest, resistance, pursuit, possession and use of weapons and a general description of items seized at the time of arrest.
- **Information concerning statements, witnesses, evidence, etc. should be referred to Chief of Detectives and be given by the Deputy Commissioner-Public Information.**



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- ***An officer WILL NOT RELEASE information regarding:***
  - The identity of a child under 16 taken into custody, unless child is a juvenile offender;
  - The identity of a complainant under 16;
  - The identity of a neglected or abused child;
  - The identity of a victim of a sex crime;
  - Information which indicates that a person is a confidential informant or witness.
  
- ***DO NOT RELEASE the home address and/or telephone number of:***
  - Police Officers;
  - Complainants;
  - Witnesses to a crime.
  
- ***Information concerning a prisoner's or a victim's affliction with a communicable disease must be kept confidential. This information generally should not be released to the public, the media, the person's family and friends, or to other prisoners. There may be unusual circumstances under which this information is warranted. Any such release, however, may only be made with the written consent of the Deputy Commissioner – Legal Matters.***
  
- ***Request for information concerning official business:***
  - Routine requests for statistics, surveys, etc., should be referred to the Office of Management Analysis and Planning (O.M.A.P.)
  - Routine inquiries can be answered, provided they do not compromise any of the three precautions listed on page 11.

**Note:** Police Officers who require assistance regarding cooperation with the news media or have questions about what they can or cannot release may call the Public Information Division at 646-610-6700, 24 hours a day, 7 days a week for assistance.

### The Media at the Scene of a Demonstration

Police officers will not interfere with the videotaping or the photographing of incidents in public places. Intentional interference such as blocking or obstructing cameras or harassing the photographer constitutes censorship.



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In order to cooperate more fully with members of the news media and provide them access to cover demonstrations that occur on private property or spill over onto private property, the following guidelines will be adhered to by police officers at those incidents:

- To the extent it is feasible to do so; the Department will not impede the media's access to demonstrations on private property.
- Members of the media will not be arrested for criminal trespass, unless an owner or representative expressly indicates that the press is not to be permitted.
- The ranking officer retains discretion to exclude the press if he or she reasonably believes that their presence causes safety concerns and access must be restricted.
- Properly credentialed members of the press assigned to such demonstrations should identify themselves to the C.O. at the scene.
- Working press will not be allowed access to interior crime scenes.
- Working press will not be allowed into **frozen areas**. Working press cards clearly state, the bearer is **entitled to cross police and fire lines**. This right will be honored and access will not be denied.

**Note:** However, this does not include access to interior crime scenes or areas frozen for security reasons.

### DEMONSTRATIONS

It is important in our democratic society that the rights of assembly and the freedom to peaceably protest be protected. At the same time, these rights cannot be used as an excuse for violence nor may the exercise of those rights unnecessarily interfere with other important rights, such as those of non-demonstrators.

Regardless of your personal feelings towards the demonstrators or the object their protest, you must remain neutral. A lack of professionalism or the use of unnecessary force against civilians damages the relationship between the Department and the community, as well as the Department's image. An officer who engages in such conduct subjects himself to administrative, civil, and possibly criminal sanctions.



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### First Amendment Rights

The First Amendment to the United States Constitution states, in part, that:

*Congress shall make no law ...abridging the freedom of speech, or the press, or the right of the people to peaceably assemble, and to petition the government for a redress of grievances.*

Thus, all people in America are free to assemble and discuss issues or events they think are important, or to support a particular course of action or belief. It does not matter whether the ideas of the speaker are right or wrong. What is important is that the speaker has the right to express them.

The courts have broadly interpreted the rights that are protected under the First Amendment. Some examples of the acts or expressions protected are:

- The right to conduct a protest meeting in City Hall Park;
- The right to peaceably engage in picketing to demonstrate or protest toward a particular group, business or firm;
- The right to print and distribute handbills supporting a point of view;
- The right to display a flag, decal or button with any mark, symbol or design superimposed on it; and
- The right to burn or destroy the American flag (General Business Law Section 136, relating to desecrating the American flag, is no longer enforceable in New York State).

While destruction of a flag is a constitutionally protected form of expression, if someone sets fire to an American flag, the person or persons setting such fire may be issued a summons for the New York City Administrative Code violation for **Open Fires** (Section 24-149). This offense reads as follows:

*No person shall cause or permit the kindling, maintenance or use of any open fire so as to cause the emission of an air contaminant into the open air, unless allowed by law, barbecue, training purposes, commercial use, or television, motion picture or theatrical purposes.*





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### Regulations and Permits

All attempts to regulate activities that are classified as ***pure speech*** have failed constitutional muster. However, the fact that conduct may be permitted under the First Amendment does not mean that the government cannot regulate that conduct in some way if the overwhelming needs of the rest of society require it. When the activity is more than pure speech and there is a real likelihood that it will affect the public in general, the police can apply reasonable regulations to the conduct of the demonstration.

Regulations have been upheld where the public need was great. For example, a crowd, even an orderly crowd, must be policed to prevent traffic congestion, pedestrian congestion and inconvenience to others; therefore certain demonstrations require permits.

Organizers are required to apply for and obtain a ***permit*** before they hold a street parade. A permit issued by the Police Department is also required when a sound amplification device is to be used. Reasonable regulations affecting the time, place and manner of the demonstration may be imposed.

We will assume for the remainder of this chapter that the organizers of a demonstration obtained the proper permits, as required by the New York City Administrative Code. The term ***demonstration*** will include organized groups comprised of many persons as well as the individual or small groups of individuals who utilize free speech and assembly to further their cause.

### GUIDELINES FOR DEMONSTRATIONS

You should be guided by the following general rules dealing with demonstrations:

- To the extent possible, the job of the police is to protect both the demonstrators' right of assembly and the right of non-demonstrators to peaceful and unobstructed passage. To do this, police barricades are most helpful. Properly utilized barricades permit a section of the sidewalk to be used for the demonstrators and another area for passage without obstruction. If it becomes necessary to arrest the demonstrators for impeding pedestrian traffic, they should first be warned that while they have a right to express their belief, the present location is improper and they should move to another designated area located nearby where the passage of pedestrian and vehicular traffic would not be obstructed.



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- The group should be permitted to demonstrate as near to the target of their protest as is consistent with safety and reasonable requirements of unobstructed passage. This is referred to as the “**sight and sound**” requirement. However, in the interests of public safety, where it is clear that violence or even a riot will occur if the demonstration is located in a particular place, the police must designate a safer area, as close to the main point of the demonstration as possible. This has been held not to violate the rights of the demonstrators.
- The obstruction of a street, sidewalk or building entrance may be either intentional or merely incidental to a group assembling together to communicate their views. There is always some incidental blocking of the street or sidewalk whenever one or more persons use public areas to communicate their views. Even a lone individual handing out political or religious leaflets, something that is clearly legal, may be blocking the passage of others. This is not what the law means when it talks in terms of **obstruction**. Incidental obstruction is not illegal if it is less than a **serious annoyance** or only **mere inconveniencing** of pedestrians. The statute dealing with obstruction is Penal Law § 240.20 (5) (Disorderly Conduct), which prohibits obstructing vehicular or pedestrian traffic **with intent to cause public inconvenience, annoyance or alarm**. Certain activity such as handing out leaflets (on its own) is never an obstruction.

If the incidental blockage of a sidewalk or street is dangerous as well as inconvenient (e.g., blocks entrance to a theatre, church, school or building of large pedestrian flow, department store, etc.), the demonstrators should be alerted to the problem and told that they must move to another area where there is no danger. The demonstrators should be told why there is a safety problem. Often, it will be possible to point out that they could continue to demonstrate by moving only a few feet, occupying the street half of the sidewalk, for example, so that the building side of the sidewalk is free for passage in and out of the building. Most demonstrators will act reasonably and comply with a police officer's direction if the officer is courteous and explains the reason for the request.

If the police objective in requesting the demonstrators to move is necessary as well as reasonable, but the demonstrators refuse to comply by moving to another designated location where the danger does not exist, then arrests may be made, or summonses issued.



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There is no set number that determines how many demonstrators are legally permitted to demonstrate. Clearly, considerations of space and safety mean that the greater the numbers present, the greater the problems. New York City is host to the greatest number of demonstrations on a daily basis of any city in the United States.

The decision as to where demonstrators shall march or picket, where barriers are to be placed, the number of demonstrators permitted, etc., will be made by the ranking police supervisor at the scene.

### **Demonstrations at Business, Commercial or Governmental Areas**

Most effective demonstrations are located in the business, commercial, or governmental sections of the city because:

- That is where the largest groups can usually be reached with the message of the demonstrators, and
- That is where the target or focus of the demonstration (those who are being asked to do something or whose official actions are being criticized) performs their functions.

### **Residential Areas**

Occasionally demonstrations are scheduled in residential areas. Residential areas are generally picked for demonstrations because they are the focus of the demonstration (e.g., discriminatory housing).

The police must remember that there is no law in New York that specifically limits the right to demonstrate in residential areas. Arrests may be made if the circumstances are such that **unreasonable noise** intended to cause **public inconvenience, annoyance or alarm** (PL Section 240.20[2] Disorderly Conduct) is a direct result thereof. Remember, it may be that the continued loud and boisterous shouting of slogans in a residential area during the usual sleeping hours would be a violation of the law, while the same activity would not cause any concern in other areas of the city.

### **Demonstrations Held Inside Buildings**

Generally speaking, areas inside buildings are not permissible places for demonstrations. The danger of congestion and resulting panic is greater than it is outdoors. Of course, if the building is privately owned and the owner does not object, then no police problem exists, and the police should take no action



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without the prior authorization of the owner of the building (unless public safety is endangered). However, there are certain indoor spaces that are, in a way, indoor streets, with all the movement, and hustle and bustle of a street. Because the Port Authority Bus Terminal has such a character, it is unconstitutional to prohibit persons from setting up card tables in the terminal in order to distribute leaflets.

An illegal demonstration indoors may be considered a trespass as well as a violation of Penal Law § 240.20 (4) (Disorderly Conduct), which prohibits disturbing any lawful assembly without lawful authority and with intent to cause public inconvenience or alarm.

### Private Property

As a general rule, uninvited persons do not have any right to enter private property for the purpose of demonstrating. The Supreme Court has held that there is no constitutional guarantee to First Amendment rights on privately owned property.

The course of action in cases involving shopping centers or malls will depend on whether the picketing, etc., is labor-related or not. The following is the recommended course of action:

- Where the individuals picketing are employees of the store concerned or are involved in a labor dispute in the particular store, and are not in any manner blocking pedestrian or vehicular traffic or causing a disturbance, they should not be arrested for trespass even if the employer wishes to be the complainant. The owner should be referred to court for an injunction if he wishes to prevent the picketing, or to the National Labor Relations Board.
- If the pickets are in any manner causing a disturbance, such as blocking traffic or harassing customers, and the owner wishes to be the complainant in a trespass situation, an arrest should be made if the pickets refuse to leave the property. Any additional charge, such as disorderly conduct, should be made where applicable.
- Where the picketing is not related to a particular store involved, such as anti-war leafleting, and the owner will be the complainant, the picketers should be arrested for trespass if they refuse to leave, when requested to do so.



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Arrests for trespass should only be made when the owner or person in charge of the property has told the police officer that the group is trespassing. The demonstrators should be warned that they are trespassing and that they will be arrested unless they leave immediately. ***The warning is required because:***

- Without a warning, the trespass sections of the Penal Law, Section 140.05 through 140.17, do not apply to persons whose original entry was lawful.
- The general policy of the New York City Police Department is to warn non-violent demonstrators before making arrests. Otherwise, an immediate arrest will be viewed as an attempt to interfere with the rights of the protesters.

### Labor-Management Disputes

The Police Department's role at a strike or other labor dispute is similar to its role at a lawful eviction: preservation of peace and the protection of life and property. The actual legality of a strike or picket line is generally assumed unless, of course, overt illegal acts occur.

Without exception, peaceful picketing for the purpose of persuading others to strike, or to protest business practices, or discourage customers is legal. The officer assigned to any demonstration is responsible for maintaining an impartial posture and assuring the safety of the demonstrators while they lawfully exercise the right of free speech.

### THE ACTIONS OF DEMONSTRATORS

Generally, you cannot arrest any person because of what he or she is saying. There are, however, certain circumstances when arrests can be made for the content of a speech; those cases are discussed later in this chapter. Critics of government, clergymen, racists, conservatives, radicals and liberals all have the same right to put forward their ideas. Your job is to protect all those speakers even if you disagree with their views.

### Verbal Harassment of Officers

Police officers are often the target of criticism at demonstrations. The police are no more immune from criticism than any other agency of government. But what if the ***criticism*** from the demonstrators takes the form of chanted curse words and personal insults? Such conduct is of no value and hurts the demonstrators' cause—unless the police lose control and overreact to the verbal



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abuse. Remember that some demonstrators want you to overreact. Any display of overreacting by the police will appear on the front page of the newspapers and in news telecasts. It is important for police officers to keep their **objectivity** and exercise **self-restraint** to prevent such demonstrators from achieving their objective.

**Note:** The violation of Harassment, P.L. 240.25, does not apply to the mere verbal abuse of a police officer.

To support a charge of harassment in cases in which mere words are spoken against a police officer, it must be clearly shown that the abusive or otherwise offensive words were not said spontaneously or merely to express anger, or as a protest against the acts of the officer. Instead, it must be shown that the words were part of a scheme to harass or annoy. However, if the officers were subjected to an accompanying physical contact, however slight, the arrest would be valid. The courts have uniformly upheld a police officer's charge of harassment when the abusive or offensive words are supported by any **physical contact**.

The following are examples of language the courts have held **not to** constitute harassment when the target was a police officer:

- The use of the term **jackass** with reference to a police officer;
- Racial slurs against a police officer overheard by such officer;
- Statement to police officer issuing a summons, "Go f--k yourself!"
- Statement, "I'll get you for this," made to an arresting officer;
- Statement to an officer on patrol, "All you f---ing New York policemen are no good."

### Violent Conduct

The fact that demonstrators are assembled for some political or social cause does not give them any license to act violently against others. Neither demonstrators, nor those who oppose the demonstrators, can express their opinions by physically attacking other people or by damaging property. This brings us to a sensitive topic that affects police officers as well as all citizens; the use of force and enforcement of the law at demonstrations. When a demonstrator uses physical violence upon another person or property, an arrest should be made promptly. The only exceptions are those rare circumstances where the supervising officer in charge decides that making the arrest would tie up limited manpower or be unnecessarily risky, and therefore reduce the ability of the police to perform their duties more effectively. If this is the case, the police officer can make the arrest for a crime at a later time.



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Remaining neutral and attempting to act objectively is a sign of a professional, effective law enforcement officer. Once police officers lose this objectivity, or even appear to do so, their very presence may increase tensions, and their work and the work of fellow officers becomes more difficult.

### Non-Violent Conduct

Arrests will occasionally have to be made because of demonstrators' non-violent, but nonetheless illegal, conduct (e.g., intentional obstruction of the streets or of a building entrance). However, before any such arrests are made, the demonstrators should be warned that they must move or face arrest. If there is an adjacent location where their presence would not, under the circumstances, constitute an illegal obstruction, they should be told that they may legally carry on their demonstration at that other place. The most desirable method of handling demonstrations is with reasonableness rather than confrontation.

In certain situations, arrests may be needed to restore order or ensure public safety at a demonstration. If you encounter citizens who are observing your actions (onlookers), be aware that these people have a right to observe your actions as long as they do not interfere with appropriate police action. In these situations, the following conduct alone will **not** give rise to the charges of Harassment or Obstructing Government Administration:

- Speech alone (even crude and vulgar).
- Making notes of officers' names and shield numbers.
- Taking photographs/video tapes of your actions.
- Remaining in the vicinity as long as they do not cross established police lines.

### Use of Force

Force should be used only when necessary. Whenever force is required, the minimum amount of force necessary will be used. Force can be used by police officers only when necessary to prevent crime, to arrest, or for their protection or for the protection of others. Force may never be used by police officers to punish.



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### CIVIL DISORDER AND RIOTS

**Civil disorder** and **rioting** are terms used to describe a series of events where the civilian population engages in a mass action of lawlessness. Civil disorders can be the most challenging and dangerous situations for a police officer to confront. A small incident can rise to a full-scale riot and encompass an isolated officer almost instantaneously.

Rapid mobilization is the key to quelling disorder. The sooner personnel are mobilized and deployed to handle disorderly groups at potential problem locations; the better the chance of avoiding a full scale riot.

To understand how to react to a riotous situation, a police officer must be able to understand and identify the common problem locations, types of disorderly groups and the characteristics of a disorderly group.

#### Problem Locations

Problem locations can be broken down into three general areas, but may not be all-inclusive to all disorder situations:

- **Critical Locations**- include hospitals, police stations, utility sites, subways, etc.
- **Sensitive Locations**- include houses of worship, diplomatic locations, gun shops, etc.
- **Vulnerable Locations**- include shopping malls, banks, liquor stores, etc.

#### Disorderly Groups

The types of disorderly groups can be understood by examining specific crowd conditions. These crowds can range from casual to aggressive, from motivated to chaotic. The five general types are:

- **Casual** - (not usually disorderly) temporary crowd, with no common interest (e.g., crowded shopping malls, Times Square).
- **Expressive** - disorderly group expressing fervor or revelry (e.g., religious activities, sporting events).
- **Acquisitive** - disorderly group motivated by a desire to acquire something (e.g., looters).





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- **Escape** - disorderly group in a state of fright, attempting to secure safety by flight (e.g., panic caused by fire or disaster).
- **Aggressive** - disorderly group that riots and terrorizes.

### Characteristics of a Disorderly Group

The members of a disorderly group can be broken down into two categories:

- **Category 1** - Consists of participants that are hostile, predisposed to engage in disorder, and have deep frustrations and anger. These are the persons (usually few in number) who start riots.
- **Category 2** - Consists of participants that are usually non-violent in nature but, given an opportunity (a riot situation accompanied by little fear of being caught), they will engage in civil disorder. Most rioters are considered category 2.

History has shown that the lack of response to a category 1 group disorder has led to a full-scale riot by category 1 and 2 members. Conversely, a quick response to category 1 group disorders has quelled possible riotous situations.

### Understanding the Cause of Civil Disorder

There are many **triggering events** that lead to civil disorder. The Rodney King riots in Los Angeles were triggered by a court verdict. The Crown Heights riot in NYC was triggered by a car accident. The triggering events **are not** the causes of civil disorder. The cause of civil disorder is usually a deep seeded, underlying, societal disparity, coupled with a lack of response by proper law enforcement and other government agencies.

Understanding the causes of civil disorder helped the NYPD create plans and strategies designed to deter it. Improved relations and communications between the police and members of the public helped to patch societal differences that, in the past, would have led to disorder.

One of the most significant changes was the creation of the **Disorder Control Unit** in 1994. Since these plans were implemented New York City has not been the victim of any large-scale civil disorder. In fact, there were several events that, historically, have led to civil disorder, in which the NYPD was instrumental in maintaining order. These events include:



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- ***The shooting of several unarmed African-Americans and the torture of an African-American prisoner, all at the hands of white police officers*** - Many riots have been triggered by race related police incidents, including the Rodney King assault case, the Washington Heights riots, and the 1935, 1943 and 1964 Harlem riots.

**Note:** It must be noted that the triggering event of the Washington Heights riot was the **justified** shooting of an armed drug dealer. There was such a division between the city and its people that even the **rumor** of unjustified actions by the police sparked civil unrest.

- ***The World Economic Forum*** - Many cities and countries that have hosted this controversial convention have fallen prey to large-scale disorder and rioting, including Seattle, Canada and Italy. The NYPD, in anticipation of the protests that surround these meetings, utilized an ingenious tactic of arresting any demonstrator that appeared in public with a mask. The Department utilized an old, rarely used law that prohibits anyone to appear in public **masked with others**. Since many of these protestors intended to cause a riot, they appeared masked (to hide their identity and prevent their prosecution). The public warning campaign and swift arrests by the police prevented any such riot.
- ***The Yankees World Series Victories*** - There has recently been a rash of riots related to sporting team victories and defeats. Riots have occurred in Los Angeles, Detroit, Chicago, Boston, and Canada; all as a result of sporting events. New York City, since 1994, has been the home of four Yankee World Series victories, six Yankees Pennant victories, one Mets Pennant victory, and a Subway World Series. These have been followed by no major incidents.
- ***Terrorist Attack*** - On September 11, 2001 terrorists destroyed the World Trade Center Buildings, killing thousands of people. Hundreds of thousands of people were safely evacuated from Lower Manhattan and the City was secured by the NYPD, with no wide-scale panic and no serious injuries related to the evacuation itself.
- ***Anti-War Protests*** - The wars in Iraq and Afghanistan have sparked several protests in NYC (home of the United Nations). Many cities have historically responded to Anti-War protests with force and many innocent victims have been injured and killed due to these actions. Anti-War protests in NYC in 2002, 2003, and 2004 have resulted in no major incidents of unrest.



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- **The Blackout of 2003** - In 1977, NYC experienced a major power outage that cast the city into darkness. The result was wide scale rioting and looting. In 2003, the City was once again cast into darkness; in fact, it was the worst blackout in American history. As many other cities experienced unrest, rapid mobilization units, including the members of the Police Academy recruit class, quelled any attempt at disorder in New York City. The City made it through the night in peace.

### THE POLICE OFFICER'S ROLE IN A CIVIL DISORDER

In preparation of upcoming events, student police officers will be specifically trained in disorder control. This chapter will outline some of the basic procedures and safety precautions that should be utilized by a police officer at the scene of a civil disturbance. The main premise of these procedures could be spelled out in three words:

#### **"NO INDEPENDENT ACTION"**

#### **Response**

As stated earlier, a rapid, controlled response is necessary to prevent a small disturbance from becoming a large riot. When responding to a civil disorder, a police officer should have all possible protective equipment (helmet, baton, bullet resistant vest, escape hood, etc.) and several pairs of **double-cuffs** or **flexi-cuffs**, if available. The officers should listen to and write down all directions given by supervisors en route to the scene. Officers should also study maps of the disorder area, if time allows.

If assigned as an operator of a Department vehicle, insure that the vehicle is parked in the proper location and not blocking any other vehicles or emergency routes. Do not drive through the scene of a disorder to get to the mobilization point. All officers will assemble in formation at a location out of view of the disorderly group. Supervisors at the mobilization point will hand down assignments. The objective of the Department at the initial stages of a civil disorder is to isolate and contain the disorderly group, secure problem locations and eventually disperse and demoralize the disorderly group.



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### Team Assignments

Police officers could be assigned to several tasks. Usually, there are eight police officers under the command of one sergeant. The police officer's role is never to punish; the objective is the calming of the disorder. Firearm discipline must be maintained at all times. Team assignments mean that no officer acts independent from another- work as a team. These team assignments include:

- **Crowd Dispersal** - In line or wedge formations, police officers will follow the Sergeant's orders and disperse a disorderly crowd in a disciplined and controlled manner. Police officers must not break from formation. The **minimum force necessary** will be used to accomplish this goal. The idea is to disperse the crowd; a slow moving formation with an open retreat route should be utilized to accomplish this goal.

**Note:** If mass passive resistance is encountered, where large groups of people sit or lie down, the line should stop to allow support squads to arrest the resisters.

- **Mobile Response** - In van or RMP, police officers must respond to assignments as directed by the radio dispatcher or supervisor. Radio discipline must be maintained and the radio is to be used minimally to ensure proper response to critical situations.
- **Arrest Duty** - Police officers are responsible for arresting violators during crowd dispersal operations or during general patrol. Do not stray from police lines. Straying from lines opens up the police officers to being surrounded and overcome. Arresting officers are responsible for observing and recording the statements and actions of those arrested. Clearly distinguish between those to be arrested, innocent bystanders and onlookers.
- **General Patrol** - Police officers are responsible for patrolling posts as teams, creating a sense of presence in the disorder area. Foot patrol officers should stay close to the building line and always look up to avoid falling debris from rooftops. Do not enter rooftops or alleys alone or in plain clothes, unless directed by a supervisor.



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- **Protecting Problem Locations** - Police officers are responsible for the security of selected locations and for protecting them from attack. Police officers must not abandon their post unless authorized by supervisors. Do not get baited by looters and engage in unauthorized pursuits. This is a tactic used to get the police officer away from the location in order to attack that location.
- **Escort Duty** - Police officers will be responsible to provide protection and security to other City agencies or utilities in the disorder area, by providing them with escorts to and from their assignments. Members assigned to this duty will be directed to a **staging area** located outside the disorder area.

### SAFETY AT THE SCENE OF A CIVIL DISORDER

At the scene of a civil disorder, crowd or mob members may commit violence with crude, homemade weapons or they may employ sophisticated small arms and explosives. If unplanned violence occurs, a crowd will sometimes use rocks, bottles, bricks or whatever else is at hand. Police officers who respond to civil disturbances may also be fired upon by snipers or attacked by homemade incendiary devices. Officers must be prepared to act professionally, without panic and according to a general plan of action.

#### Sniper Attack

The normal reaction of a police officer when coming under attack by sniper fire may be to respond with the use of a firearm. In a civil disorder, this tactic endangers innocent people and is not effective in stopping the sniper attack. Additionally, officers should be aware that persons in the disorderly crowd will sometimes use firecrackers or loud noises to disrupt the police formation. When officers encounter possible sniper fire they should:

- Take cover immediately and locate the sniper position, if possible. Cover could include buildings, engine blocks of automobiles, fire hydrants or light poles. Relocate, if necessary and able to.
- Do not gather up and make a larger target for the sniper. Spread out and take cover.
- Notify bystanders to clear the area and seek cover. Instruct persons unable or unwilling to disperse to stay where they are and stay away from exposed areas.



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- Verify that it is, in fact, sniper fire that has been encountered.
- Report verified sniper fire and request assistance (ESU, Task Force).
- Only uniformed ESU personnel should enter a building or area where the sniper is located.

### Incendiary Device Attack

Incendiary devices are devices designed to ignite on impact. When an officer becomes the target of an incendiary device or flammable liquid that causes clothing to ignite, the officer should:

- **Cover his or her face** - covering of the face helps to protect the airway from inhalation of super-heated gases and provides a physical barrier to the effects of the flames.
- **Stop** - DO NOT RUN: running will accelerate the intensity of the flames
- **Drop**
- **Roll** - rolling on the ground helps to smother the flames by excluding the oxygen needed for combustion.

**Note:** shields, if available, can be used to deflect incendiary devices, as well as other thrown objects.

If an officer observes another officer whose clothing has caught on fire, the officer should:

- Assist the member to Stop, Drop and Roll;
- Attempt to smother the flames using additional material including, but not limited to, blankets, jackets, towels, etc.;
- Remove the officer to safety as soon as possible;
- Request EMS response;
- Once the flames are extinguished, cool burn area with large amounts of cool water to alleviate heat buildup in the burn area;



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- Do not attempt to remove the clothing from the officer. Clothing may adhere to the burn sites and removing the clothing will cause further damage;
- Remain with the officer and monitor respiratory condition.

Do not use water extinguisher or CO<sup>2</sup> extinguisher to extinguish fires involving officer's clothing; water, when combined with a flammable liquid, intensifies and spreads the flames. CO<sup>2</sup> extinguishers may not extinguish the flames and may cause further damage.

### Overview of Civil Disorder

The key to quelling a civil disturbance without a need for force is the extreme threat of force, coupled with tight discipline and control. A well disciplined, well armed unit creates the impression of a powerful, competent police force. Usually, a large, overpowering police presence will stop rioters in their tracks. **If force must be used, remember to use only the minimum amount necessary to control the situation.**

### LAWS RELATING TO CIVIL DISORDER

There are several laws that deal with the unlawful conduct of individuals at the scene of demonstrations or civil disturbances. These laws pertain to individuals as well as groups, and actions as well as anticipated actions of criminals.

#### Disorderly Conduct – Generally

Although we have rights that are protected by the First Amendment, there are situations when the quality of life is adversely affected. No individual's rights can supercede public safety or the quality of life within a community. Disorderly conduct involves acts which disrupt public order. As police officers, we must have knowledge in handling these situations in order to protect the public welfare.



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A person commits Disorderly Conduct when he or she: ***Intentionally or recklessly creates a risk of public inconvenience, annoyance or alarm by one of the following seven methods:***

1. Fighting or violent or threatening behavior
2. Unreasonable noise
3. Obscene language or gesture
4. Disrupts a lawful assembly
5. Obstruct pedestrian or vehicular traffic
6. Refusal to comply with a lawful order to disperse
7. Hazardous or physically offensive condition

**Note:** Refusal to comply with a lawful order to disperse, obstructing pedestrian or vehicular traffic and obscene language or gesture must be committed in a public place. There is an exception regarding domestic related offenses in which the public place requirement is not necessary.

### **Definition of *Public Place* (P.L. 240.00 [sub. 1])**

*Public place means a place to which the public or substantial group of persons has access, and includes, but is not limited to highways, transportation facilities, schools, places of amusement, parks playgrounds, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.*

### **Definition of *Transportation Facility* (P.L. 240.00 [sub. 2])**

*Any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, railroad, motor vehicle or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations and all appurtenances thereto.*





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**Disorderly Conduct - Violation (P.L. 240.20)** A person is guilty of Disorderly Conduct when, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creates a risk thereof:

**1. *A person engages in fighting or in violent, tumultuous or threatening behavior.***

**Example:** A man and his wife are having an argument and disturb people in the street near them. The husband apologizes to the people who gathered, but in a few minutes he and his wife are fighting again. If their conduct amounted to violent, tumultuous or threatening behavior and they are recklessly annoying others, they could be charged with Disorderly Conduct; **or**

**2. *A person makes unreasonable noise.***

**Example:** A group of demonstrators are protesting at a shopping center. The protestors, in automobiles, use horns and other noisemaking devices with the intent of causing the customers to stop shopping there. If their noise caused public inconvenience, annoyance or alarm, or recklessly created a risk thereof, they could be charged with Disorderly Conduct; **or**

**3. *In a public place, a person uses abusive or obscene language, or makes an obscene gesture.***

**Example:** A person walking down the street and shouting profane words or phrases not directed at anyone in particular or holding his private parts in an obscene manner, could be charged with Disorderly Conduct; **or**

**4. *Without lawful authority, a person disturbs any lawful assembly or meeting of persons.***

**Example:** A person who intentionally disrupts a closed meeting of the Board of Education to demand decentralization of school districts would be charged with Disorderly Conduct under this subdivision; **or**



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### **5. A person obstructs vehicular or pedestrian traffic.**

**Example:** A group of people who are demonstrating for social reform stop traffic by stationing themselves across a public highway. This group could be charged with Disorderly Conduct; **or**

### **6. A person congregates with at least two other persons in a public place and refuses to comply with a lawful order of the police to disperse.**

**Example:** A group of people gather outside City Hall to protest tax increases. They have no intention of causing public inconvenience, annoyance, or alarm. However, because of their reckless actions, pedestrians are inconvenienced and annoyed. If they refused to move after being directed by a police officer, they would be charged with Disorderly Conduct. If their actions caused interference with vehicular or pedestrian traffic, then they could also be charged with subdivision 5 as well as subdivision 6.

**Note:** For this subdivision to apply there must be a **minimum of three people** present. However, **only the person who refuses to comply violates the statute; or**

### **7. A person creates a hazardous or physically offensive condition by an act which serves no legitimate purpose.**

**Note:** Subdivision 7 is a provision used to cover other acts of annoyance or alarm.

You should remember that there must be intent to cause public inconvenience, annoyance or alarm, or he/she must recklessly create a risk thereof in order to arrest a person for violating one of the seven subdivisions of this law. Several of the ways to commit Disorderly Conduct are similar to those required for harassment. However, Harassment is directed at a particular person and Disorderly Conduct is considered an offense against society as whole.

### **Unlawful Assembly - Misdemeanor (P.L. 240.10)**

The crime of Unlawfully Assembly, misdemeanor has as its main purpose, the protection of the public peace. This offense can be considered a type of action that generally comes before a riot-misdemeanor situation.



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There are two ways in which a person can commit this crime:

- He or she assembles with **four** or more people;
- For the purpose of engaging or preparing to engage with them;
- In tumultuous (loud, agitated behavior) and violent conduct likely to cause public alarm;

*or*

- Being present at an assembly with 4 or more other people;
- Which either has or develops the purpose of engaging in or preparing to engage in tumultuous and violent conduct;
- He or she remains there with the intent to advance that purpose.

**Example:** Five individuals meet on the street in front of their local bar and decide that it is a good time to seek revenge against a group of men who had assaulted a friend of theirs. They look for clubs and other weapons to carry out their plan.

All five persons are ready to engage in tumultuous and violent conduct likely to cause public alarm and each could be charged with the crime of unlawful assembly. If the five individuals had innocently wandered into an area where a gang-fight or other tumultuous or violent conduct was taking place, remained there and encouraged the persons to continue in their illegal activity, they could be charged with unlawful assembly.

### **Inciting To Riot – Misdemeanor (P.L. 240.08)**

Inciting to Riot- misdemeanor occurs when a person:

- **Urges ten** or more persons;
- To engage in tumultuous and violent conduct **likely** to create public alarm.

This crime covers conduct that may not amount to either riot or unlawful assembly. For this offense, only the person who urges the others is guilty of this crime. If at least four of the people being urged agree to the requested conduct, unlawful assembly would be the proper charge for all participants. In the absence of this agreement, inciting to riot is the proper charge—but only for the person doing the urging.



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**Example:** Pete, who is upset because his sister, Pam, has been arrested, encourages 15 people to march to the stationhouse and break the windows. He also urges the crowd to use sticks or rocks against anyone attempting to stop them.

### Riot - Generally

There are two degrees of riot, misdemeanor and felony. Both offenses involve a certain type of conduct; the felony situation additionally requires a particular result.

### Riot - Misdemeanor (P.L. 240.05)

Riot- misdemeanor occurs when a person:

- Simultaneously (at the same time) with **four** or more other persons
- Engages in tumultuous and violent conduct, **and**
- Intentionally or recklessly causes or creates a grave risk of causing public alarm.

**Example:** Five radical students enter Grand Central Station carrying protest signs attached to heavy wooden sticks. As they march through the station, they begin to shout obscenities and wave their signs in a menacing manner, thereby causing the commuters to flee the area.

### Riot - Felony (P.L. 240-06)

Riot-felony occurs when a person:

- Simultaneously with **ten** or more persons;
  - Engages in tumultuous and violent conduct; and
  - Intentionally or recklessly causes or creates a grave risk of causing public alarm;
- and**
- A person other than a participant suffers a physical injury;
- or**
- Substantial property damage occurs.



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**Example:** A group of eleven people are demonstrating in front of a courthouse inside which a controversial criminal case is being tried. As the defendant appears, the group begins to scream obscenities and throw debris. During this activity, a non-participant is struck by a rock and injured, numerous windows are broken and other property is damaged. Riot - felony would be the proper charge based on the actions of the group.

### Overview of Riot Offenses

- The felony requires **eleven** (includes the defendant) or more persons while the misdemeanor requires **five** (includes the defendant) or more persons.
- In addition, the felony requires a physical injury to a non-participant or substantial property damage. This is not required for the misdemeanor.
- For both charges, the person must engage in tumultuous and violent conduct, thereby creating a grave risk of causing public alarm.

### CONCLUSION

When you leave the Academy and work in the field, there will be times when you will be called upon to police large crowds. Such occasions include demonstrations, public events, civil disorder and strikes. As part of the N.Y.P.D. values, we pledge to protect the lives and property of our fellow citizens and impartially enforce the law. It is imperative that we maintain a balance between citizen's constitutional rights and our responsibility to protect persons and property. As part of effective policing, you must be able to effectively utilize good communication and judgment skills in order to ensure that order is maintained.



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### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures, and a Legal Bureau Bulletin, that must be added to this chapter – ***Maintaining Public Order***. These procedures must be read in conjunction with this chapter. Questions for the 3<sup>rd</sup> Trimester Exam may come from these procedures:

- |                                    |   |
|------------------------------------|---|
| P.G. 208-08                        | Fingerprintable Offenses  |
| P.G. 209-09                        | Personal Service of Summonses Returnable to Traffic Violations Bureau or Criminal Court |
| P.G. 209-23                        | Taxi and Limousine Commission Notifications Re: Violations and Enforcement Action       |
| P.G. 212-49                        | Incidents Involving Media Representatives   |
| P.G. 212-77                        | Release of Information to News Media  |
| P.G. 214-12                        | Unlawful Evictions  |
| P.G. 214-13                        | Evictions, Repossessions and Other Civil Process  |
| Legal Bureau Bulletin Volume 14 #8 | <i>City Marshals and Sheriffs</i>   |



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### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT TERRORISM?

Terrorism has shown itself to be a global threat from which no community is free. It transcends all geographic and demographic boundaries. All jurisdictions—suburban, urban, and rural—are at risk. Terrorists have demonstrated the capability to strike anywhere in the world.

But New York City has been a special case. New York is the most important and most visible city in the world: every major event occurring here is reported around the globe. To much of the world, New York is the very symbol of the United States and of western democracy, civilization, and achievement. For these reasons, our city has been the scene of more terrorist attacks than any other U.S. jurisdiction. As Appendix A shows, even in recent history, these long predated the atrocities at the World Trade Center, and have been inflicted on us by a variety of domestic and foreign groups and individuals.

New York City Police Officers are first responders in terrorist actions. They also play a major role in the investigation of possible future attacks. It is therefore essential that you, as a New York Police Officer, prepare yourself so you can maximize your safety and effectiveness if an attack occurs. Preparation involves learning about:

1. The history, ideologies, capabilities and methods of domestic and international terrorist groups so you can predict possible targets and the kinds of weapons and tactics particular groups are likely to use.
2. The variety and effects of *weapons of mass destruction* ("WMD").
3. How people are likely to react in the event WMD is used in the city.
4. Appropriate responder actions in the event of the deployment of a WMD.
5. Appropriate safety procedures in the event of an attack.
6. How to prepare yourselves psychologically to handle a terrorist incident.



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### DEFINITIONS

#### Terrorism

**Title 22 USC, Section 2656f(d)** - defines terrorism as *premeditated, politically motivated violence perpetrated against noncombatant targets by sub-national groups or clandestine agents, usually intended to influence an audience.*

**The Federal Bureau of Investigation** defines terrorism as *the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.*

#### Destructive Device

**Title 18 USC, Section 921** states that the term "destructive device" means *any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the devices described in the preceding clauses; any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into any destructive device... and from which a destructive device may be readily assembled.*

#### Weapons of Mass Destruction





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**Title 18 USC, Section 2332a** states that the term "weapon of mass destruction" means any destructive device as defined in section 921 of this title; any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors; any weapon involving a disease organism; or any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

### Explosive Device

**The Patrol Guide Section 212-40** defines an "explosive device" as *any article, detonated by mechanical or electrical means, which may possibly contain a chemical, gas, liquid or other substance capable of causing a fire, explosion, burn, or other chemical reaction intended to cause injury to a person or result in damage and/or destruction of property.*

### Bomb Threat

**The Patrol Guide Section 212-40** defines a bomb threat as *any communication, including written correspondences or telephone calls received by the public or a member of the service, indicating that an explosive device, has been, or will be, placed at a particular location(s).*

## TERRORIST IDEOLOGIES AND METHODS

Terrorists are motivated to engage in violent activity by a variety of factors such as religious beliefs, ethnic, nationalist or political ideologies, regional or global interests, class conflict, or warfare, along with social or economic upheaval. Beginning in the 1960s, terrorists turned from targeting prominent individuals towards a wider range of targets, including those historically considered immune, such as emergency response –



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fire, police, and emergency medical service personnel. This shift in focus has resulted in a change in methods. Increasingly, individuals are involved in the commission of random acts of violence with no apparent aim beyond causing pain and suffering to a government they feel has wronged them. Some terrorist groups are evolving into new organizational structures that are harder to detect, track and infiltrate. Such terrorist groups consist of a collection of factions with common interests. Accordingly, the groups form, change, and regroup in response to specific agendas or planned actions.

### The International Terrorist Threat

International terrorists continue to pose a threat to the interests of the United States. Libya, North Korea, Syria, Iran, Sudan, Iraq, and Algeria are among the countries that have histories as state sponsors of terrorism. While terrorist acts by governments are declining, terrorist activity by individuals and independent groups is increasing. International terrorist organizations that pose potential threats against American targets include:

1. *HAMAS* (Islamic Resistance Movement). Formed in 1987, this group's strength is concentrated in the Gaza Strip and the West Bank. It operates primarily in Israel, Jordan, and the territories occupied by Israel. Hamas elements have used both political and violent means, including terrorism, to pursue their goal of establishing an Islamic Palestinian state in place of Israel.
2. *Hezbollah* (Party of God). Formed in Lebanon, this group is dedicated to creation of an Iranian-style Islamic republic in Lebanon. The group is strongly anti-West and anti-Israeli. Reportedly controlled, at least in part, by the government of Iran; it has been linked to multiple anti-U.S. terrorist attacks—including the 1983 suicide truck bombing of the U.S. Marine barracks in Beirut and the 1984 bombing of the U.S. Embassy in Beirut.
3. *Al-Qaida* (The Base). Established by Osama bin Laden around 1990, this organization has been linked to many incidents worldwide, including the 1998 bombings of the U.S. embassies in Nairobi, Kenya and Dar es Salaam, Tanzania. It claims to have shot down U.S. helicopters and killed U.S. service members in Somalia in 1993 and to have conducted three bombings targeted against the U.S. presence in Yemen in 1992. Osama



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bin Laden has been given the title, by many, as the World's Most Dangerous Terrorist.

### The Domestic Threat

According to the Federal Bureau of Investigation (FBI), domestic groups or individuals are more likely to be the source of a WMD incident than are international organizations. In recent years, right wing groups, anti-abortion extremists and white supremacist organizations have been particularly vicious.

### Hate Groups

Domestic entities presently pose the greatest threat of WMD employment. The Southern Poverty Law Center (SPLC) in Montgomery, Alabama, monitors left-and right-wing groups in the U.S. In its 2000 reports, SPLC identified 457 active U.S. hate groups, down from 537 the year before. The drop in the number of hate groups occurred because smaller groups have merged, forming larger **hate conglomerates**. Hate groups include Ku Klux Klan, Neo-Nazis, Skinheads, Christian Identity and other extremist religious groups, Black Separatists, and others. The number of Neo-Nazi and Ku Klux Klan groups has dropped since 1999, as did membership in the Identity movement.

Nevertheless, hate groups appear to be growing more violent. Their crimes have also skyrocketed since 1995. Plans to bomb at least three IRS buildings, two federal buildings, several banks, a natural gas-refinery, family planning clinics, and other targets have been made. Extremists have amassed explosives, machine guns, missiles, and other weapons.

Hate groups are organized around different philosophies. **The Christian Identity** movement is anti-Semitic (anti-Jewish), opposes abortion, and advocates a race war. **Patriot militias** tend to be right-wing, racist and anti-federalist and adhere to conspiracy theories. **Militias** expect their members to possess firearms and encourage paramilitary training. **Common-Law groups** distrust governmental systems at local, state, and federal levels.

### Cult Groups

Broadly defined, cult groups are composed of people who demonstrate great devotion to a person, idea, object or movement. Cult members believe



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they can achieve special status in the spiritual family. This special status provides access to wisdom unavailable to other people. Members may believe that extreme actions – including mass suicide or homicide – are warranted to satisfy their beliefs. Members may move in and out of fringe religious groups or radical political, technological, and militia movements.

Typical is the group **Aum Shinrikyo** (Supreme Truth) whose members believed that an apocalyptic nuclear war, occurring between 1997 and 2001, would lead to the end of current civilization. Members of Aum Shinrikyo were responsible for the 1995 Tokyo Subway attack in which a nerve agent, sarin, caused more than 5,000 casualties and twelve deaths. More than 160 emergency responders were among those requiring treatment.

### Single Issue Groups

Members of these groups are organized around a single cause. In the past, these have included organizations that purported to fight for such causes as an end to the Vietnam War, black nationalism or Puerto Rican independence. More recently, extremist advocates of animal rights or the abolition of abortion have taken part in violence. Multiple injuries and deaths and millions of dollars in damages have resulted from arson attacks, bombings, and shootings involving violent anti-abortion groups.

Animal-rights groups, such as PETA (People for the Ethical Treatment of Animals), are suspected in a multitude of destructive attacks against animal-research laboratories and manufacturing sites that use animal byproducts in their businesses. Many of these attacks have involved the use of incendiary devices.

Eco-Terrorism is now a concern to authorities because organizations, such as *Earth First!*, reportedly have become involved with the destruction of facilities involved in practices conflicting with their organizational beliefs. Members of these groups allegedly have destroyed homes and commercial buildings under construction, and are considered to be violently anti-development.

### Lone Individuals

According to FBI sources, lone individuals present the greatest and most credible domestic WMD threats. These individuals operate independently even though they may be loosely affiliated with any of the groups mentioned above. Typical is Eric Robert Rudolf, one of the FBI's ten most wanted until he was apprehended by federal agents in June 2003. Rudolf is a prime suspect in the January 1998 bombing of a women's clinic in Birmingham, Alabama. Timothy McVeigh is another. He took generally anti-government positions, and eventually



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was executed for the April, 1995 bombing of the Murrah Federal Building in Oklahoma City, which killed 168 people.

### Weapons of Mass Destruction (WMD)

It is critical for police officers to understand that it is now possible for any individual or group to obtain and use WMD. Any individual or organization desiring information has only to turn to the Internet as a source. Though many WMD are difficult to produce and use, others - including readily available industrial chemicals - can and have been used as WMD.

Terrorists may use WMD because they are inexpensive and effective, causing mass casualties while assuring instant media coverage, fame, and recognition for the group and its cause. They are designed to cause fear as well as injury, resulting in panic, paralysis and widespread insecurity. Chemical and biological agents are excellent weapons for covert dissemination because they can be spread over large areas by the wind. These agents are also often difficult to detect without specialized devices and training. Many of the effects are delayed, allowing the perpetrator to be far from the incident scene before the act is detected.

Explosives give terrorists the maximum effect with minimum resources. They are particularly easy to procure, assemble, and deliver. Approximately 80 percent of all terrorist acts within the United States involve incendiary and improvised explosive devices.

### Potential Terrorist Targets

- **Outdoors**

Biological and chemical weapons are usually deployed outdoors however the wind rapidly dissipates vapors until they are too thinly concentrated to have noticeable effects on individuals. Sunlight will also neutralize and kill most biological agents within two hours. The weapons will be most effective if released into large crowds to ensure more casualties, panic, and media attention.

- **Government Facilities**

Important government facilities such as the Murrah Federal Building in Oklahoma City or City Hall here in New York City.



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- **Symbolic Entities**

Almost any facility of interest to the terrorist's cause can become the target of a WMD attack, especially buildings associated with controversial issues like family planning. Particular buildings - such as city halls, office buildings like Internal Revenue Service (IRS) and FBI offices, and military installations - are considered likely targets as well. Monuments that stand in recognition or in celebration of the American people, heroic figures, battles, and so forth are often seen as potential targets by terrorists holding conflicting societal views.

- **Vehicles**

At particular risk are the vehicles used to transport toxic industrial materials. The placarded trains and trucks that move regularly through populated areas in most cities make ideal targets.

- **Critical Infrastructures**

Critical infrastructures, such as power-generating substations, water filtration plants, and so forth, are likely targets of terrorism. Industries that produce or use poisonous chemicals usually store large quantities of chemicals nearby, thus providing another source of potential targets. Security is often low at industrial facilities, and the sites are usually accessible from main thoroughfares. Of particular concern are the following:

1. *Telecommunications* - The networks and systems that support the transmission and exchange of electronic communications among and between end-users (such as networked computers).
2. *Electrical Power Facilities* - The generation stations and transmission and distribution networks that create and supply electricity to end-users so that end-users achieve and maintain nominal functionality, including the transportation and storage of fuel essential to that system.
3. *Gas and Oil Production, Storage, and Delivery* - The holding facilities for natural gas; crude; refined petroleum; petroleum-derived fuels; the refining and processing facilities for these fuels; and the pipelines, ships, trucks, and rail systems that transport



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these commodities from their source to systems that are dependent upon gas and oil in one of their useful forms.

4. *Banking and Finance* - The retail and commercial organizations; investment institutions; exchange boards; trading houses; reserve systems; and associated operational organizations, government operations, and support entities that are involved in all manner of monetary transactions — including its storage for saving purposes, its investment for income purposes, its exchange for payment purposes, and its disbursement in the form of loans and other financial instruments.

### Responder Actions

In the event terrorists use a weapon of mass destruction (WMD) device, police officers will be on their own for the initial and critical phase of the response. Because of this, police action may determine whether the terrorist is successful in causing panic and casualties. The considerations at all levels of operations are similar – to ensure personal safety and the safety of other responders, and to initiate defensive control techniques. To do this effectively, standard operating procedures and protocols must be followed, including those regarding crime scene preservation and evidence collection. Police **responders should:**

- Preserve as much evidence as possible.
- Report the presence and location of all potential evidence as soon as possible.
- Avoid moving or handling evidence unless absolutely necessary.
- Recognize the potential for secondary devices.
- Recognize the effects of secondary devices.
- Be mindful of personal safety.
- Exercise initiative, making on the spot decisions where safety and security are concerned.
- Maintain crowd and traffic control.
- Keep crowds away from the incident.

### **The 3C's - Communication, Coordination, and Cooperation**

The keys to success in any emergency are **communication, coordination, and cooperation**. Without communication, coordination, and cooperation, the scene and adjacent areas may deteriorate into chaos, resulting in a crisis that cannot be contained. Police officers should try to communicate and coordinate their actions with each other as well as with additional first



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responders. It is important to be concise and understandable when communicating to fellow responders as well as the public. Coordination and cooperation between all response elements is essential to ensure effective use of resources, safety and security.

### Police Action at the Scene

Specific actions officers should take at the scene of a terrorist act vary depending on the situation, scope of damage, type of weapons involved, and the nature of the target. The following are general recommendations for action that apply to most situations:

- Gather all victims into groups.
- Using an amplified, authoritative voice, direct walking victims to an assembly area for medical attention.
- Try to keep families together.
- The elderly and small children are likely to require special attention because they are more susceptible to the toxic effects of chemical agents.
- Be aware that the perpetrators who committed the act may be the first victims.
- If the appropriate Personal Protective Equipment (PPE) is available, officers trained in its use may execute emergency decontamination of victims that have evacuated the immediate area of the incident.
- If the proper PPE is present, officers who are trained in PPE use may operate a decontamination corridor for ambulatory victims.
- Do not decontaminate equipment; leave it in the hot zone to be addressed later.

### Keys to Self Protection

Police and emergency responders must isolate and secure the scene after evacuating the people from the area. This will limit additional exposure and aid in the investigation process. The three primary means of eliminating or reducing exposures involve the considerations of **time, distance and shielding**. These factors are embodied in the tactical and procedural measures employed by law enforcement responders.

- **Time** - Minimize the time spent in the affected area. Since the amount of exposure occurs as a function of duration of exposure, less time means less exposure.





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- **Distance** - Maximize the distance from the contaminated materials. Exposure is inversely proportional to distance; therefore, greater distance means less exposure.
- **Shielding** - Use shielding wherever it is necessary to reduce or eliminate exposure. By placing an appropriate shield between the contaminant source and responding police officers, some contamination is reduced in severity, and exposure may be completely eliminated or reduced to an acceptable level. The type of shielding needed to achieve a safe working level varies with the type and quantity of agent or material used.
- **Secondary devices always present a threat.** Police Officers should always be mindful that a secondary device might be present, and should maintain a minimum 1000-foot perimeter as per Patrol Guide 212-40.

Police Officers can minimize their exposure in responding to a WMD incident if they remember this simple acronym, **RAIN**.

- **R**ecognize characteristics of agents and dissemination devices used in WMD events.
- **A**void, by protection, the hazards of WMD materials and dissemination devices.
- **I**solate the hazards by establishing control zones and performing decontamination.
- **N**otify the appropriate resources and authorities of a WMD incident.

### Harmful Characteristics

The realistic threat of a terrorist-initiated WMD incident places the safety of the public as well as the emergency response community at risk. Therefore, protection considerations for law enforcement responders during a WMD incident focus on self-protection and public safety. Defensive, protective measures are taken to limit or reduce exposure to the following characteristics of a WMD: These dangers can be recalled with the acronym TRACEM.

- **T**hermal - Thermal harm is the result of exposure to the extremes of heat and cold.



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- **R**adiation - Radiation harm refers to the three types of nuclear radiation: alpha, beta, and gamma (not radiation as a type of heat transfer).
- **A**sphyxiation - Asphyxiation harm refers to the interference with oxygen flow during normal breathing. There are two types of asphyxiates: simple and chemical.
- **C**hemical - Chemical harm refers to the effects from two broad types of chemical agents: toxic and corrosive materials.
- **E**tiological - Etiological harm involves exposure to a living microorganism or its toxins, which causes, or may cause, human disease. Biological agents are the most obvious examples of etiological agents.



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## Patrol Operations

### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT PATROL OPERATIONS?

Patrol encompasses the fundamentals of police work; walking the beat, responding to calls for service, and interacting with the public. When you graduate from the New York City Police Academy, you will be assigned to a Precinct, Police Service Area (PSA), Transit District, or Impact Zone. Your primary duty will be to patrol your sector, post, or beat and respond to the needs of the community. You will most likely begin with a foot post and, with time, graduate to a radio motor patrol car (RMP).

Many of the patrol command operations, such as preparation of reports, police communications, street investigations, etc., were discussed in previous chapters in greater detail. This chapter will cover the basic duties of a patrol officer in a precinct, Housing P.S.A. or Transit district.

#### **Roll Call (P.G. 212-01)**

Whether you are assigned to a precinct, PSA, or district, your workday will begin at roll call. A supervisor, usually the Patrol Supervisor, will muster – or gather – everyone in a designated area or room of the building, usually the “muster room,” and read out the daily assignments - as he or she accounts for the squad. The platoon will then be briefed on current precinct conditions, inspected for uniforms and equipment, instructed, and posted. Command-level training sessions are also conducted; remember, your ***training and education does not end upon leaving the academy.***

The daily assignments given at roll call vary and could include; a foot post, sector car, stationhouse assignment, fixed post, prisoner transport, or an out-of-command detail.

#### **Interrupted Patrol (P.G. 212-10)**

When uniformed members of the service, performing duty with the platoon, enter any precinct stationhouse, police service area or transit district command for any reason during the tour, they must first report to and inform the desk officer of the reason for their presence in the command. Such members must also report to the desk officer prior to leaving the command to resume patrol or assignment.



# **POLICE STUDENT'S GUIDE**

## **Patrol Operations**

### **Expiration of Tour (P.G. 212-03)**

Upon completing a tour of duty, patrol officers must proceed directly to the stationhouse, or notify the desk officer if an assignment requires them to perform work past their scheduled end of tour. Officers who are assigned to posts that require relief must notify the desk officer one hour prior to the expiration of their tour. Upon returning to the stationhouse, officers must complete, sign, and submit reports as required. They must also safeguard or return department property or equipment as required by department directives. Lastly, officers are required to sign the return roll call in uniform.

### **PATROL PRECINCT**

The majority of police officers are assigned to precinct patrol and deliver the bulk of police services. Patrol serves three functions: (1) to deter crime, (2) to enhance feelings of public safety, and (3) to make officers available for service. Patrol within a precinct is generally performed in two traditional manners: by foot or in a vehicle.

#### **Foot Post**

As a probationary police officer, the majority of your initial patrol experience will likely be spent on a foot post, fixed post, or beat. This should not be viewed as an undesirable assignment or punishment. Instead, it is an opportunity to become better acquainted with your role as an officer, as well as your new surroundings.

The patrol officer on foot is not shielded by glass and steel, or isolated from the community. He or she is the cop on the corner, offering direction to the lost, comfort to the worried and a constant presence of justice to the criminal. When citizens see a patrol officer standing on the sidewalk, they feel a sense of security. Officers on foot become the public relations officers for the N.Y.P.D. and are nearby to offer their services.

As an officer on foot patrol, you will be constantly interacting with the public; answering questions, giving advice or just talking to local merchants and citizens. You will also detect crime and enforce the law. Therefore, you must be aware of, and inspect your post for conditions requiring police attention. You should familiarize yourself with the everyday routine of people residing, doing business or frequenting your post. You must investigate any suspicious activity and pay particular attention to areas that may be prone to crime (back alleys, rooftops, parks, etc.). You must also be constantly aware of radio transmissions of crimes in progress and calls for



# POLICE STUDENT'S GUIDE

## Patrol Operations

service on your post and promptly respond when directed. A good foot patrol officer will always respond to calls for service on his or her post whether directed to or not.

### Police Officer - Duties and Responsibilities (P.G. 202-21)

In addition to other duties, a patrol officer assigned to a foot post must also:

- Report immediately to the patrol supervisor and the platoon commander any unusual crime, occurrence or condition;
- Report conditions not requiring immediate attention to the command clerk;
- Signal or ring (e.g., telephone) the command each hour, if not equipped with a portable radio;
  - All uniformed members performing first platoon duty will ring between 0200 and 0700 hours direct to the desk officer.
  - When assigned to school or church crossing, signal before and after the crossing period.
  - Do not signal when assigned to a traffic post.
- Not leave post/sector until meal actually commences and be back on post when meal is over. Travel time to and from meal locations is **not authorized**. The officer must notify the telephone switchboard operator:
  - At the beginning of meal and upon return to post.
  - Of the location where meal is to be taken.
- Make an activity log entry *prior* to leaving post including meal location address, and again upon returning to post;
- Keep the telephone switchboard operator informed of police services rendered when dispatched to an assignment by the station house.



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## Patrol Operations

### Radio Motor Patrol (RMP) - Generally

In time, a probationary police officer will be assigned to a sector car. The operator and recorder in a sector car work as partners and are responsible for a geographical area or sector within the precinct boundaries. The operator and recorder's duties are interchangeable and it is required that the two patrol officers switch these duties at the fourth hour of the tour.

### Radio Motor Patrol (RMP) Operator (P.G. 202-22)

The operator in a sector team is the driver of the vehicle. He or she is responsible for the thorough inspection of the RMP before leaving the stationhouse for patrol. This inspection includes, but is not limited to; interior and exterior physical inspection for damage, inspection of computer equipment, ensuring all paperwork is up to date, ensuring that all lights and equipment are operable, ensuring that the proper amount of fluids are in the auto (i.e., gas, oil, water) and ensuring that all seatbelts are in proper working order. The operator must then make an activity log entry of findings, odometer reading, and amount of gasoline in the tank as registered by the indicator.

When you are assigned to a vehicle, that auto is under your care and control; this includes making minor repairs, when possible. Necessary major repairs and preventive maintenance schedules should be reported to the Desk Officer. Most importantly, when relinquishing the RMP to the relieving sector team, the auto must be clean and free from debris.

**Note:** All compartments of the vehicle will be searched for weapons, personal property, or contraband at the beginning and end of tour, and before and after any passenger (citizen or criminal) enters the auto.

### Radio Motor Patrol (RMP) Recorder (P.G. 202-23)

The RMP recorder is responsible for maintaining all radio communication with the Communications Division – or “Central” – and other units, and landline communication with the stationhouse. The recorder is also responsible for preparing all required reports while assigned to recorder duties (both the operator and recorder are required to make detailed activity log entries of any assignments received).

The recorder must ride in the front seat of the radio motor patrol car, except when transporting a prisoner, emotionally disturbed person, etc., in a radio motor patrol car that is not equipped with a fiberglass partition. In this case, the recorder will sit in the back seat behind the operator, with the passenger secured to the right



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of the recorder. The recorder will notify the radio dispatcher of the presence in their vehicles of any prisoners, emotionally disturbed persons, etc., the time entering the RMP, their gender and the beginning mileage. The recorder will notify the radio dispatcher of the time the persons exited the RMP and ending mileage, upon arrival at destination.

### The Sector Team

A sector team is assigned to a designated sector and should not leave the assigned area unless directed by a competent authority or in an emergency situation. Always respond to messages of serious police emergency within five blocks of your location, even if messages are directed to another unit, regardless of sector, precinct and borough boundaries. When leaving the auto (especially in emergency situations) remember to remove the keys and lock the doors. ***Never leave the portable radio in the car!***

At roll call, the sector team is assigned a one-hour meal period. When commencing meal period, they are responsible to notify the radio dispatcher of the location where meal is to be taken. Members of the service are responsible to know the locations within the precinct that are designated off-limits. These locations may include eating facilities. A list of off-limits locations is provided in each police facility.

### PATROLLING A POLICE SERVICE AREA

A Housing Officer's job is to provide police services within these locations. The majority of Housing patrol officers are assigned foot posts that cover one or several complexes. If you are assigned to a housing location, your duties will include frequent inspection and patrol of all New York City Housing Authority (NYCHA) facilities and "vertical patrol" of all residential buildings in the complex to which you are assigned.

#### Vertical Patrol (P.G. 212-59/60)

Vertical patrol consists of a top to bottom walk through of any apartment building (not just NYCHA), in search of criminal activity or any other activity or dangerous condition that may require the assistance of the police or another city agency (i.e. Fire Dept, stuck elevator, burglaries). Vertical patrols could be ***directed*** (i.e., a search for a suspected criminal) or ***random*** (routine patrol). In random vertical patrols, a thorough inspection of the entire building is conducted. This includes an inspection of the lobby, roof, basement, hallways, stairwells and elevators.



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Before entering the building you must notify communications of the location that you are about to inspect along with the radio code 10-75V. This will ensure that any responding officers know your location (in case of an emergency) and it will also ensure that you know the address of the location you are about to enter. There have been many times when police officers have attempted to call for assistance only to realize that they do not know where they are!

Vertical patrol should start from the top of the building (beginning on the roof), descending down. Patrol officers must be alert to any persons or loose dogs on the roof; utilize your flashlight when patrolling at night. You should be equally cautious when patrolling the stairwells and hallways. Lower the volume on your radio and secure any loose keys or anything that could identify you, by sound, as a police officer when descending the stairwell. Criminals, alerted to your presence through sound, would have time to escape or devise a plan, as you unknowingly walk down the stairs, for a possible ambush. When confronting a suspect in a building, be sure to move the suspect to a safe location before conducting an investigation. Although verticals should be conducted with at least two police officers, if you are a solo post, you should immediately call for assistance and detain the suspect until other units arrive.

### Disabled Elevators – Generally

Vertical patrol, as mentioned, is utilized not only to detect crime, but also to inspect for any condition that requires attention, including safety conditions. Frequently, the elevators in buildings fail to operate. When an occupied elevator is disabled or the door to the elevators is stuck open (exposing the elevator shaft) there is a cause for concern. The Department's procedures on unoccupied and occupied disabled elevators vary for this reason.

### Unoccupied Stuck Elevator (P.G. 212-60)

If, during vertical patrol, you come across an **unoccupied** disabled elevator, your obligation would be to notify Housing Authority maintenance personnel. You must also inspect elevator doors on each floor and notify Housing Authority Emergency Service or NYPD Emergency Service Unit personnel immediately if:

- The elevator door glass is missing, or if the outer elevator door opens when elevator is not present;
- There are any other dangerous conditions concerning elevators.

**Note:** The officer must remain at the scene of an unsafe or occupied elevator until the condition is corrected or the officer is relieved.





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### Occupied Stuck Elevator (P.G. 212-28)

If, during vertical patrol, you come across an **occupied** disabled elevator, your obligation would be to notify the radio dispatcher and request the response of Housing Authority Emergency Service personnel. Also notify the N.Y.P.D. Emergency Service Unit and ambulance, if the situation requires the immediate removal of passengers in cases involving, but not limited to:

- Cardiac condition, or;
- Seriously ill passenger, etc.

**Note:** If a delay in the response of Housing Authority Emergency Service personnel is expected, a request for N.Y.P.D. Emergency Service Unit personnel will be made even in situations deemed to be of a non-emergency nature.

**Note:** Members of the service shall NOT attempt to remove passengers from a disabled elevator car without the assistance of Housing Authority and/or N.Y.P.D. Emergency Service Unit personnel who are trained in the removal of passengers from disabled elevators.

The officer must prepare a **Field Report** and **Aided Report Worksheet**, if necessary, upon completion of assignment. Include names and addresses of passengers and names and shield numbers of responding Emergency Service personnel.

### Field Report (P.G. 207-29)

When a patrol officer takes corrective action for non-criminal conditions occurring on N.Y.C. Housing Authority locations the officer records this occurrence on a **Field Report**. A Field Report will be used to record the following non-criminal conditions occurring on N.Y.C. Housing Authority locations:

- Disabled elevators;
- Noise complaints;
- Other breaches of Housing Authority Rules and Regulations;
- Follow-up dispositions;
- Damage, accidental, non-criminal, or cause unknown;
- Abandoned and derelict vehicles;
- Resident disputes;
- Fire, non-suspicious;
- Other conditions as specified by appropriate Patrol Guide procedures.



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### NYCHA TRESPASS NOTICE PROGRAM

In an effort to reduce crime in NYC Housing Authority Developments, the Department has created the NYCHA Trespass Program. Under this program, any individual who is arrested for felony sale of controlled substance or marijuana on a Queens NYCHA development is permanently excluded from entering all NYCHA property. To ensure the effectiveness of this program, the following procedures must be adhered to.

#### **Arrest of an individual for Criminal Sale of Controlled Substance (Felony) or Criminal Sale of Marijuana (Felony) on a Queens NYCHA Development**

##### ***NYCHA "On-Development" (defined)***

- All NYCHA buildings, apartments, offices, maintenance areas, etc.
- All walkways, streets, grounds, and parking areas located within NYCHA Developments.
- All stores, laundries, community centers, childcare centers, senior centers, health stations, etc. within NYCHA Developments.
- From the center line of the street inward towards NYCHA buildings.
- All NYC parks and all NYC school playgrounds within or immediately adjacent to NYCHA grounds.
- Piers or bulkheads immediately adjacent to NYCHA Grounds.

(See map below for visual example of "on-development" boundaries)

When effecting the arrest of an individual "on-development" for felony sale of controlled substance or marijuana, in addition to normal arrest procedures:

- Prepare a NYCHA Trespass Notice
  - Enter the Notice log number, obtained by calling the Housing Bureau wheel
- Have the defendant sign and date the notice
  - if defendant refuses, so state on signature line and initial and date
- Make four copies of the Notice
  - Personally serve the defendant with one **copy** of the notice
  - The remaining three copies are for the Desk Officer
- Fax a copy of the notice to the Housing Bureau Wheel and call to confirm receipt



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- Prepare a "Trespass Notice Package" containing:
  - Original signed Trespass Notice
  - Computer copy of OLBS and Complaint Report
  - Copy of PCI and Request for Laboratory Analysis (if prepared)
  - Copy of Search Warrant when applicable
- Deliver the package and 3 copies of Notice to the Desk Officer

**Note:** If the defendant claims that he or she is a NYCHA resident, confirm that the address given by the defendant is a NYCHA location by contacting any PSA or Housing Bureau Wheel. A NYCHA resident will still be served with the Notice and will not be allowed in any NYCHA area other than their resident building and common areas of that development.

**Note:** Common areas include most areas within the resident's development. It does not include apartments other than their own or areas where residents are not normally allowed (e.g., rooftops).

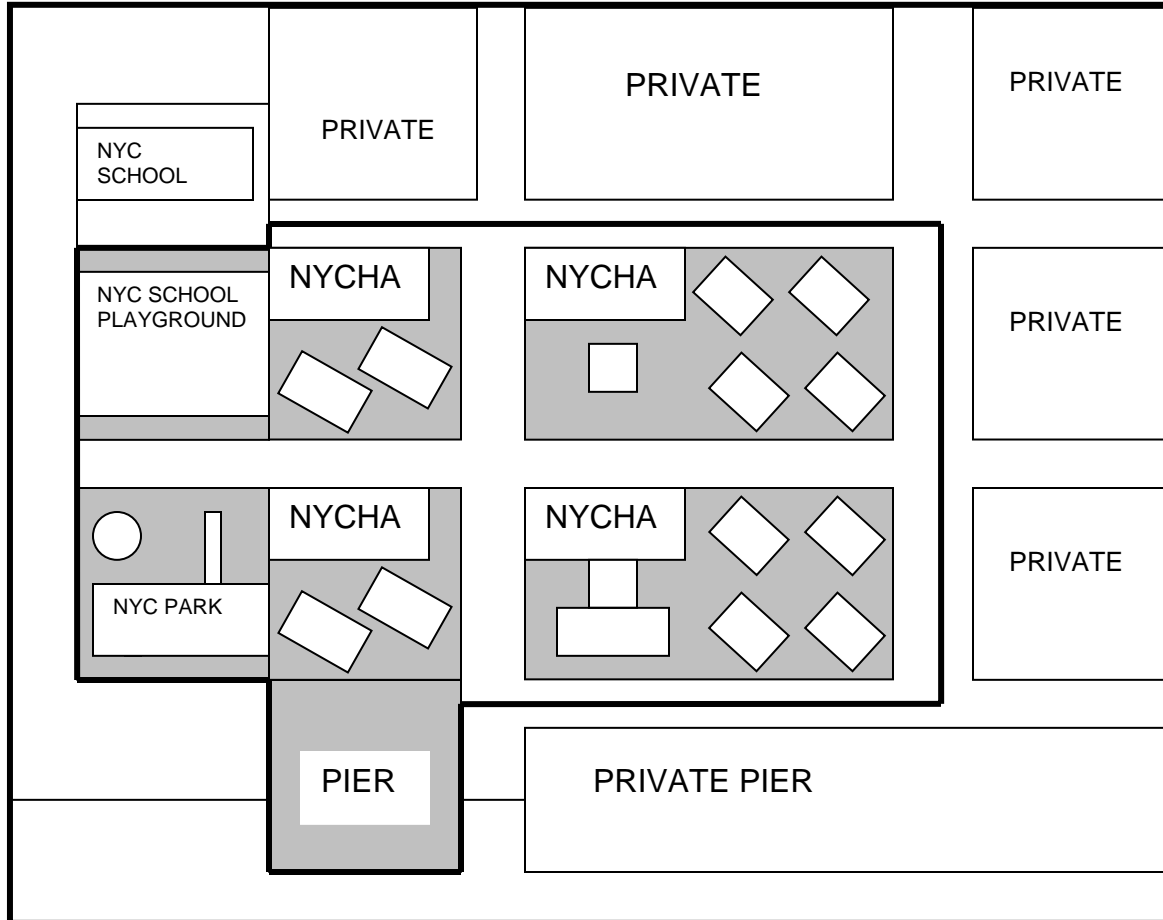
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# POLICE STUDENT'S GUIDE

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### ON DEVELOPMENT BOUNDARIES FOR FELONY DRUG SALE ARREST



#### Enforcement actions against individuals on NYCHA property

##### ***NYCHA Property (defined)***

- All NYCHA buildings, apartments, offices, maintenance areas, etc.
- All walkways, streets, grounds, and parking areas located ***within*** NYCHA Developments.
- All stores, laundries, community centers, childcare centers, senior centers, health stations, etc. ***within*** NYCHA Developments.

(See map below for visual example of NYCHA property)



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When taking enforcement action against an individual on NYCHA property, in addition to normal procedures:

- Call the precinct or PSA and request a check of the NYCHA Trespass Database for the individual stopped.
  - If the individual is in violation of the Trespass Notice (non resident on NYCHA property or resident outside of specified boundaries) **arrest** the individual for trespass.

When effecting the arrest of an individual for violation of the Trespass Notice:

- Process as an on-line arrest (no summons or Desk Appearance Ticket will be issued) regardless of the level of the Trespass charge
- Charge the defendant with the following offense:
  - Trespass - violation (140.05 PL) if the individual was found to be on **NYCHA property** (not in a building)
  - Trespass – B Misdemeanor (140.10 PL) if the individual was found to be inside a **non-residential NYCHA building**
  - Trespass – A Misdemeanor (140.15 PL) if the individual was found to be inside a **residential NYCHA building**
- Prepare a package of the following documents:
  - Trespass Notice Report, generated from NYCHA Trespass Database
  - Copy of Trespass Notice, if available
- Notify Housing Bureau Wheel of arrest
- Deliver all paperwork to the Desk Officer

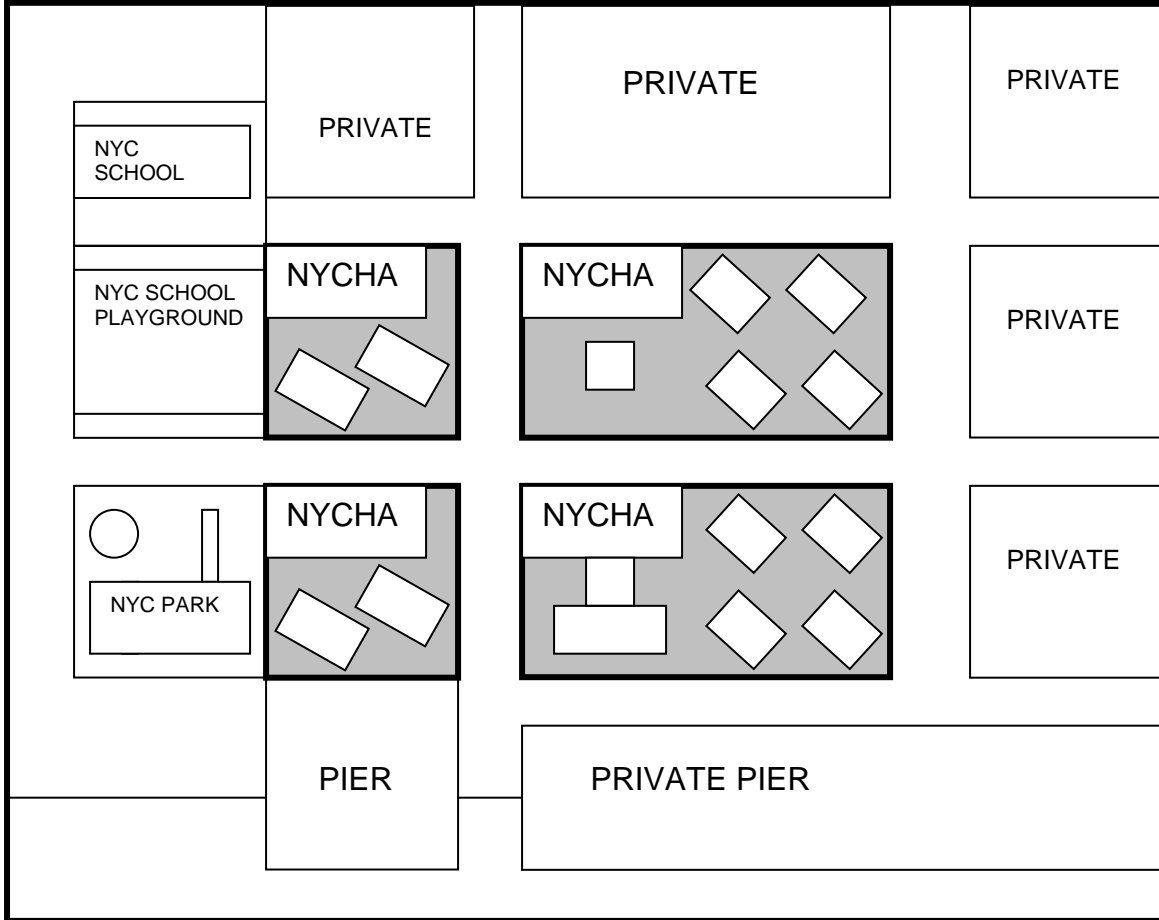
**Note:** This Trespass program should not be enforced if the individual was found passing through the development enroute to or leaving from police facilities, parole offices, medical facilities, or stores and it can be determined that they were using a direct route between the location and the nearest city street.



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### NYCHA PROPERTY BOUNDARIES FOR TRESPASS ARREST





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### TRANSIT PATROL

Transit patrol is foot patrol within the NYC Transit system. This includes subways, elevated stations, trains and buses. The Transit officer provides security for the six million NYC Transit riders who use the system daily. A Transit patrol officer must take extra caution while performing his or her duties. There are certain physical dangers this officer must be aware of while performing patrol in subways; there are dark tunnels, fast moving trains, and deadly electrical currents. In addition, NYPD precinct radios do not transmit in most transit locations so that a special transit radio must be used. Besides the extra caution, routine patrol consists of the same types of procedures as any foot patrol. As a Transit patrol officer, you must:

- Inspect concessions, toilets, stairways, mezzanines, platforms and all token booths whether open or closed, for conditions requiring police attention;
- Confer with railroad clerk, at each station, as to conditions requiring police attention;
- Visit each station on post at least once, and as often as practical, unless otherwise directed;
- Make activity log entries concerning conditions reported by railroad clerk and results of inspections;
- Know hours of operation for concessions in the station;
- Investigate suspicious conditions in the station;
- Prevent persons that are unable to care for themselves from entering the system and ensure that necessary assistance is provided to such persons.

### **Removal of Power in the Subway (P.G. 212-24)**

There may come a time, in an extreme emergency, when it may be necessary to have the power removed from a specific area in the subway system. Removal of power in the subway can be extremely hazardous, dangerous and disruptive to police personnel, passengers and New York City Transit employees; this request should only be made in extreme emergencies involving life-threatening situations. Before requesting the removal of power, consider the wide-scale ramifications of this action. Some of the factors to be considered, but not limited to, are:



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## Patrol Operations

- The time of day (rush hour/non-rush hour);
- Weather conditions (extreme heat);
- Type of station (elevated or below ground);
- Location of trains;
- Extent of injuries in aided cases;
- Risk to the riding public, if a crime is involved.

**When It Becomes Necessary to Request the Removal of Power In the Subway:** Notify the radio dispatcher in the usual manner and provide complete details of the situation. Then request the response of the Patrol Services Bureau and Transit Bureau patrol supervisors, and additional units necessary to secure the platform area and points of entry to the tunnel. ***DO NOT ENTER THE TRACK AREA, EXCEPT IN EXTREME EMERGENCIES!***

**When It Is Necessary to Immediately Remove Power from Track Area Due to Imminent Danger:** Open the emergency alarm box (located in subway tunnels, spaced about 400 to 600 feet apart, beneath the blue light) and pull lever down as far as it will go and release the lever. Power on all tracks in the vicinity will be immediately turned off. Use the telephone (located at the alarm box), immediately after removing power, to notify the Rapid Transit Operations Command Center Desk Superintendent of the situation. Notify the radio dispatcher via radio, if telephone notification cannot be made, and request that immediate notification be made to the Desk Superintendent concerned.

**Note:** New York City Transit will ***automatically restore*** the power if notification is not made immediately.

### **Ejection from New York City Transit Property (P.G. 212-20)**

Any person who violates any portion of the New York Codes, Rules and Regulations Part 1050, regardless of whether or not that person has also been issued a Transit Adjudication Bureau/Notice of Violation (TAB summons) or a Criminal Court Summons for that violation, is subject to ejection from New York City Transit facilities. Issuance of a Notice of Violation does not preclude a uniformed member of the service from ejecting a passenger.





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### When Necessary to Eject a Passenger:

- Advise passenger of ejection and reason;
- Permit passenger, who voluntarily leaves the property or shows a willingness to do so, to leave without interference;
- Use no more force than is necessary to effect the ejection, if passenger refuses to leave. Generally, grasping the upper arm and forearm to escort the person off the system is considered using reasonable force necessary to effect the ejection;

**Note:** If the passenger's conduct is such that it requires more force than is ordinarily needed to assist and guide the passenger out of the transit system, an arrest may be appropriate.

- Make activity log entries and prepare a ***Transit System Ejection Report*** each time an ejection is effected;
- Submit the completed Transit System Ejection Report to the district desk officer prior to completion of tour.

### Revenue Escorts (P.G. 212-25)

There may be times when your transit post includes a scheduled New York City Transit revenue escort. This means that you will act as an armed guard for the railroad clerk as he/she moves the revenue outside the token booth. If you are assigned a transit revenue escort, upon arrival at station:

- Ascertain from the railroad clerk the exact time of the scheduled escort;
- Report to the booth five minutes prior to the time of the escort;
- Walk approximately **five feet behind** the railroad clerk and to the side where the clerk is carrying the revenue;
- Keep hand on firearm with glove off (remain alert at all times);
- **Do not** carry New York City Transit revenue or any other articles that could impede the safety of the escort, under any circumstances.



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### SUPPLEMENTARY PROCEDURES FOR PATROL OPERATIONS

#### Fire Scenes (P.G. 212-58)

The patrol officer's job at the scene of a fire is to protect life and property, as well as to assist the Fire Department. Upon discovery, or after arriving at the scene of a fire, the patrol officer must remember to send an alarm or ensure that one has been sent before taking any other action. If arriving at the scene by RMP, make sure that it is not parked in the way of responding Fire Department vehicles. If you must assist the occupants in evacuating the building, be sure to have a responsible person wait outside to direct the responding emergency vehicles to the scene. This is especially important when the fire is not visible from the street.

When establishing police lines at a fire scene, set up beyond the fire apparatus and hydrants in use. Patrol officers will permit only the following persons or vehicles to enter fire lines:

- The Mayor;
- Members of governmental agencies in performance of duty;
- Employees of public service corporations in the performance of emergency duties;
- Persons holding unexpired working Press cards or Fire Line cards signed by the Fire Commissioner;
- The Mayor's car;
- Police and Fire Department vehicles;
- Ambulances;
- Public service corporation vehicles for duty in connection with the fire;
- City agency vehicles for duty in connection with the fire;
- U.S. Mail vehicles;
- Prison vans transporting prisoners.

**Note:** You must prepare a **Complaint Report** if the fire is **suspicious**.



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### Vacate Orders (P.G. 212-43)

A large fire, or other unusual occurrence, may cause structural damage to a building. After inspection of the building, a Department of Buildings, Housing Department, or Fire Department Representative may deem the premise hazardous. In this situation (or any situation involving a hazardous building), a vacate order will be issued. The Police Department's job in these situations is to prevent injuries due to hazardous building conditions and preserve the peace during the enforcement of a residential building vacate order. Upon being assigned to assist in the service of a residential building vacate order:

- Verify credentials and authority of agency representative;
- Obtain facts concerning condition which caused vacate order to be issued;
- Assist in evacuation of building when there is actual immediate danger that the structure will collapse, or when an existing dangerous condition constituting a threat to human life requires that occupants vacate immediately. If these emergency conditions exist, notify the Operations Unit;
- Request the patrol supervisor to respond, if persons are actually being evacuated, or premises are to be sealed, or for any other appropriate reason;
- Accompany agency representative until completion of service or execution of order, if requested;
- Ascertain from agency representative any provisions made to safeguard vacated premises and property of persons evacuated. Relocations are the responsibility of the issuing agency.
- Make activity log entry including: facts concerning premises security provisions; identify of representative of agency issuing vacate order and identity of representative of any other city agencies present;
- Report facts to the desk officer upon completion of assignment.



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Personnel from the agency issuing the vacate order are responsible for service of the vacate order and for attempting to persuade occupants who fail to comply with the vacate order that they should leave the premises. The agency issuing the vacate order is also responsible for obtaining access to the building(s) or portions of the building(s) to which entry is not available. If, however, the senior representative of the agency issuing the vacate order believes that the safety of agency personnel or the public is at risk, he or she may request the assistance of a police supervisor or commander for entry to be made by police personnel. Additionally, the police supervisor/commander may direct that police personnel make entry if it is determined that the safety of the public or agency personnel is at risk.

### **Confrontation Situations (P.G. 212-33)**

The type and circumstances of encounters between members of the service – whether in uniform or civilian clothes, both on and off-duty – are so varied they defy all-encompassing guidelines. In such encounters, the actions of the members in the first few seconds are of vital importance. In any confrontation, ***THE BURDEN OF PROVING IDENTITY RESTS ON THE CONFRONTED OFFICER WHETHER ON OR OFF DUTY.*** The challenging officer, however, also has a responsibility to use sound tactics and judgment in approaching the situation.

***Challenging Officer*** – the uniformed member of the service who comes upon the scene where an unidentified armed person is observed.

***Confronted Officer*** – the uniformed member of the service (usually civilian-clothed) either on or off duty, who may be armed and taking police action and whose identity and objectives are not immediately apparent to the challenging officer.

When on duty personnel, whether uniformed or civilian-clothed, respond to a scene and challenge an unidentified armed person who may be an on duty or off duty uniformed member of the service or an enforcement officer from an outside criminal justice agency:

#### **Challenging Officer**

- Immediately take cover to the rear, not the side, of the person being challenged, if possible;



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**Note:** A challenge from the rear allows more time for the challenging officer to evaluate the subject's reactions and to gain a tactical advantage. A challenge from the side reduces response/reaction time. The challenging officer should utilize any available cover (car, garbage can, lamppost, mailbox, etc.). Any object is a form of protection, even though its value might be only of a concealment nature.

- Identify yourself in a loud, clear voice, stating "Police! Don't Move";

**Note:** Members of the service will avoid using contradictory directives such as, "Don't move and raise your hands." Members will refrain from using slang terms, such as "freeze" and will also avoid using stereotypes which are based on a person's race, color, ethnicity, hairstyle, clothing or physical appearance.

- Request person to give exact location of identification and to produce identification slowly, in a controlled manner, if person states he or she is a police officer;
- Examine credentials to ensure that photo identification matches the individual stopped and that credentials are valid;
- Remain alert until completely satisfied as to person's identity;
- Return credentials, if satisfied with identification;
- Make activity log entry;
- Request patrol supervisor, precinct of occurrence and supervisory officer of confronted officer to respond.

### Confronted Officer

- Remain motionless - even if it means a fleeing suspect may escape;
- Do not turn body, especially if holding a firearm;
- Obey all directions from the officer making the challenge;
- Inform the challenging officer of the exact location of identification before moving;



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- Produce identification slowly, in a controlled manner, without unnecessary movement;
- Members of the service performing duty in civilian clothes should ensure that they are aware of the "color of the day" and that it is displayed in a conspicuous manner.

Upon the arrival of a supervisor, all members involved will report to the stationhouse of the precinct of occurrence. The Commanding Officer of the precinct of occurrence - along with the Commanding Officers of both the challenging and confronted members of the service - will conduct a joint investigation.

Any incident involving an off duty officer or member of another law enforcement agency should be treated in a comparable manner to other incidents or confrontations routinely encountered with other members of the public. These individuals should not receive preferential treatment based on their former or present status. Utilization of standardized procedures avoids unnecessary risks to responding officers, individuals directly involved in the confrontation and the general public at the scene.

### STATIONHOUSE OPERATIONS

There will also be times when you will be assigned duties inside the precinct stationhouse, PSA, or Transit District. Many of these duties are routine functions, such as answering the telephone, data entry and interviewing complainants.

#### **Police Attendant (P.G. 202-40)**

If your precinct lodges prisoners, you may be assigned as the Police/Cell Attendant. When assigned to the duties of police attendant (or cell attendant), your primary duties will be to maintain the cell areas and tend to any prisoners therein. This includes, cleaning and stocking cell areas with prisoner necessities, ensuring that cells are secured and alarms are working properly and supplying meals for the prisoners. When no prisoners are lodged at the precinct, the cell attendant will be utilized for custodial, command operations or clerical tasks (or any other duties as directed by the desk officer). When precinct cells are activated, the cell attendant will discontinue his interim assignment and begin to lodge prisoners. When lodging prisoners, the cell attendant must:



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- Remove and safeguard firearms prior to entering the detention cell area;
- Assume control of, search and inspect prisoners;
- Ensure that property that is dangerous to life, may facilitate escape or may damage or deface other property is removed from prisoner;
- Document inspection of prisoners on the **Prisoner Roster**, and notify desk officer of inspection results immediately after reporting for duty;
- Remain inside cell block at all times while prisoners are confined therein, and be alert to conditions and needs of such prisoners;
- Document results of inspection of prisoners on Prisoner Roster every thirty (30) minutes;
- Report to desk officer any physical condition or unusual need of prisoner in custody or in the detention area and report necessary command/detention area repairs to the Commanding Officer.

**Note:** A male Cell Attendant will only enter female detention cells after approval from a supervisory officer and only when accompanied by a female police officer (unless emergency or daily cleaning of empty cells).

### Threats Against Members of the Service (P.G. 212-31)

There may be times when you are assigned to the stationhouse as telephone switchboard operator, command clerk, cell attendant, or stationhouse security, and you receive a threat to yourself or another member of the service. This threat may come in the form of a phone call (at the switchboard), written communication (by mail or fax) or in person (while guarding a prisoner or taking a report). To ensure that threats against uniformed members of the service are documented and investigated properly, the Department has outlined procedures to follow in these situations.

#### If Threat Is Received By Telephone:

1. Attempt to keep the caller on the line as long as possible and record:
  - a. Telephone number of the telephone on which the threat has been received;  
Exact time the call commenced and terminated.



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## Patrol Operations

2. Attempt to obtain from caller as much information as possible, including:
  - a. Name of threatened uniformed member of the service;
  - b. All information regarding the member concerned known by the caller;
  - c. Motive or reason for threat;
  - d. Manner in which the threat is to be carried out;
  - e. Identity of caller (including any nickname or street name);
  - f. Location from which the call is being made.
3. Inquire if threatened uniformed member has arrested the caller and/or if caller has been previously arrested.
  - a. Attempt to ascertain date and place of previous arrest or any incident of contact between the caller contact and threatened member, if applicable.
4. Be alert for any identifiable background noises that may pinpoint the location of the call, while engaged in conversation with the caller.

Recording devices should be utilized to record threats received by telephone, if they are available, and time permits such use of them. In addition, in all cases of threats received by telephone, available features such as “\*57” and “\*69” should be utilized immediately after contact is broken. The “\*57” feature instructs the telephone company computer to “trap” and make a record of the originating telephone number of the immediately preceding call. The number can then be retrieved by an investigator through contact with the NYNEX Security Office. The “\*69” feature automatically dials the originating telephone number of the immediately preceding call. This feature allows re-establishment of the connection in the event of a hang-up, thereby providing another opportunity to gather further information from the caller. These features **do not** operate on telephones that require an access code to obtain an outside line (e.g., dialing “9”).

### **If Threat Is Made In Person:**

1. Ascertain all available information from the individual making the threat including:
  - a. Identity of uniformed member of the service threatened;
  - b. Motivation of the threat;
  - c. Full pedigree of person making threats.





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## Patrol Operations

**If Threat Is Received In Writing or By Fax, Refer to P.G. 212-31**

**Note:** In all cases, notify a supervisor immediately, whenever a threat is received.

### CONCLUSION

Whether you are in a precinct, or in Housing or Transit patrol, the basic premise is the same: to provide safety and security to citizens, residents and riders. For many citizens, security is knowing the cop on the beat. The objective is to establish ties and relations with the public. We should feel, and be perceived as, part of the community that we serve. The citizens concerns should be our concerns. Our job is to protect life and property, and to actively pursue violators of the law. We cannot accomplish this task without the support of the citizens of this city; it is through daily vigilant patrol that we gain that support.



# POLICE STUDENT'S GUIDE

## Patrol Operations

### MANDATORY PATROL GUIDE READING

The following are Patrol Guide procedures that must be added to this Chapter – **Patrol Operations**. These procedures must be read in conjunction with this chapter. Questions for the 3<sup>rd</sup> Trimester Exam may come from these procedures:

- 202-21 Police Officer – Duties and Responsibilities
- 202-22 Radio Motor Patrol Operator – Duties and Responsibilities
- 202-23 Radio Motor Patrol Recorder – Duties and Responsibilities
- 202-40 Police Attendant – Duties and Responsibilities
- 207-29 Field Reports
- 212-01 Roll Call Formations
- 212-02 Expiration of Tour
- 212-10 Interrupted Patrol
- 212-20 Ejection from New York City Transit Property
- 212-24 Removal of Power in the Subway
- 212-25 Revenue Escorts
- 212-28 Disabled Housing Authority Elevator Car With Passengers
- 212-31 Threats Against Members of the Service
- 212-43 Vacate Orders for Residential Buildings
- 212-58 Fire
- 212-59 Vertical Patrol
- 212-60 Interior Vertical Patrol of Housing Authority Buildings



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### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT BUREAU FUNCTIONS?

The New York City Police Department is the largest police department in the United States, and polices one of the most densely populated cities in the world. There are more police officers in one recruit class than there are in most police departments in America. In fact, many NYPD units, bureaus and precincts are police departments within themselves. Where a small police department would have one officer in charge of legal matters, the NYPD has an entire legal system at its disposal; including the Criminal Justice Bureau, the Legal Bureau, the Deputy Commissioner of Legal Matters, the Deputy Commissioner of Trials, and the Department Advocate.

What an average citizen knows about the Department is basically what he or she sees on the street or on TV. The fact is that there are many bureaus that function behind the scenes. These bureaus exist to support the mission of the patrol bureau in general, and in many cases can be utilized to assist the individual street cop in his or her everyday duties.

This chapter will give you an overview of the many bureaus within the Department. It will be broken down into four types of bureaus; patrol type bureaus, investigative bureaus, administrative bureaus, and bureaus that deal with legal issues.

### PATROL ORIENTED BUREAUS

Patrol oriented bureaus consists of the units that a student officer may be most familiar with. These are the units to which the patrol officer, the traffic cop, the school safety officer, harbor patrol, housing and transit police, are assigned. These bureaus are broken down into three types: Patrol, Housing, and Transportation.

#### Patrol Services Bureau

The Patrol Services Bureau falls under the Chief of Patrol and is comprised of the following:

**Patrol Boroughs:** The NYPD is divided into **eight borough commands:** Manhattan South, Manhattan North, The Bronx, Brooklyn South, Brooklyn North (known as S.A.T.COM. and falls directly under the Chief of Department), Queens South, Queens North, and Staten Island. Each Patrol Borough Command is responsible for coordinating, deploying and directing Department strategies



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within their respective patrol precincts. These precincts deploy resources to effectively combat crime, respond to emergencies and address other public safety needs of the community.

***Special Operations Division:*** The Special Operations Division is comprised of specialized units such as Harbor, Emergency Service Unit (ESU), Homeless Outreach, Aviation, and the Anti Graffiti/Vandalism Unit.

- ***The Harbor Unit*** responds to waterborne incidents. The Scuba Team (in conjunction with Aviation) provides the only 24-hour air-sea rescue operation in the tri-state area.
- ***E.S.U.*** is staffed by highly trained officers and equipped with state-of-the-art life saving and emergency equipment.
- ***The Homeless Outreach Unit*** assists the homeless population in obtaining essential services and assistance.
- ***The Aviation Unit*** provides fast, life saving airborne response and aerial observation.
- ***The Anti-Graffiti/Vandalism Unit*** has and continues to make great strides to rid New York City of the destruction and vandalism of public and private property.

***School Safety Division:*** The School Safety Division provides public schools with a safe environment, conducive to learning, where students and faculty can be free from hostility and disruption that would otherwise negatively impact on the education process. It is comprised of school safety agents who work in conjunction with police officers to achieve this common goal.

***Auxiliary Police Section:*** The Auxiliary Police Section provides a trained reserve, which can be rapidly mobilized during emergencies. The section also affords citizens an opportunity to participate in operations of the Department on a voluntary basis. The Auxiliary Police Reserve can also be utilized as *undercovers* for quality of life enforcement (e.g., alcohol beverage control law; sale of box cutters, spray paint cans, and broad tip markers).



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### The Housing Bureau

The Housing Bureau, commanded by the Chief of Housing, provides the residents of the New York City Housing Authority (NYCHA) with a safe and secure environment while forging a positive relationship with its residents. Police officers assigned to Police Service Areas (PSA's) provide security through vertical patrol, scooter patrol, bicycle patrol, and rapid response through Radio Motor Patrol. The Housing Bureau also maintains its own Emergency Service Unit.

In 1997, the NYPD, in conjunction with the NYCHA, began installation of Closed Circuit Television (CCTV) monitoring systems in public housing developments.

### The Transportation Bureau

The Transportation Bureau, commanded by the Chief of Transportation, consists of the Transit Bureau and the Traffic Control Division. These units provide safe passage throughout the city for all cars, buses, taxis and trains. They accomplish this through strict enforcement of the Vehicle and Traffic Laws, Traffic Rules, as well as random patrol and direct response to traffic situations.

***The Transit Bureau:*** The Transit Bureau consists of 12 district commands, which maintain primary patrol responsibility for policing the transit system. Districts function in much the same way as a precinct or Housing Bureau PSA. The Districts provide uniform and plainclothes assignments in accordance with crime strategies established by the Department. Like the patrol boroughs, the Transit Districts also contain a Special Operations Division (SOD). Transit SOD consists of:

- The Vandals Unit;
- The Homeless Outreach Unit;
- The Citywide Anti-Gang Enforcement;
- MetroCard Fraud Task Force;
- Peddler/Panhandler Task Force;
- Citywide Task Force.



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## Bureau Functions

**The Traffic Control Division:** The Traffic Control Division provides safe and swift passage for drivers throughout New York City. This division consists of:

- **Manhattan Traffic Task Force (MTTF):** MTTF members are posted at intersections, tunnel entrances and along main traffic routes in Manhattan to provide traffic control. MTTF members are also posted at critical intersections and along main avenues for planned parades, demonstrations and dignitary visits, and for unplanned emergencies such as fires, explosions, blackouts and gas or water main breaks.
- **Taxi Unit:** The Taxi Unit enforces Taxi and Limousine Commission regulations and deters unsafe driving through the issuance of traffic summonses and the arrest of taxi drivers with suspended licenses.
- **Bus Unit:** Police officers assigned to the Bus Unit ensure the safety of passengers that ride NYC Transit buses.
- **Highway District:** The Highway District has five patrol service units. These units conduct regular patrol on local streets and highways, responding to accidents and other emergencies, aiding stranded motorists and maintaining a safe traffic flow. The Highway District is also responsible for:
  - The Accident Investigation Squad (AIS);
  - Intoxicated Driver Testing Unit (IDTU);
  - Motor Carrier Safety Unit/Scale Unit;
  - Escort Coordination;
  - Speed Enforcement.
- **Mounted Unit:** The Mounted Unit supports patrol personnel in crime reduction, traffic control, and tactical crowd control at demonstrations and large gatherings.
- **Parking Enforcement District (PED):** Traffic Enforcement Agents and Traffic Control Agents enforce all parking regulations as well as ensure steady traffic flow through towing and directed response to traffic situations (e.g., construction, accidents, power outage, parades).



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## Bureau Functions

***The Traffic Management Center:*** The Traffic Management Center is located in Queens and is a state-of-the-art facility. The Traffic Management Center:

- Disseminates traffic information to motorists through *Variable Message Signs*;
- Suggests traffic signal timing adjustments;
- Communicates directly with media outlets to ensure accurate and timely traffic information;
- Coordinates the response of NYPD, NYCDOT, Port Authority and MTA resources;
- Coordinates and disseminates the ***Amber Alert*** system, when activated by the NYS Police.

## INVESTIGATIVE BUREAUS

The investigative bureaus are comprised of the Detective Bureau, Organized Crime Control Bureau (OCCB), Intelligence Division, the Deputy Commissioner of Counter-Terrorism (DCCT), Internal Affairs Bureau (IAB), and the Office of Equal Employment Opportunity (OEEO).

### The Detective Bureau

The Detective Bureau, commanded by the Chief of Detectives, is responsible for conducting investigations, identifying and apprehending criminals, locating missing persons, and recovering lost or stolen property. The Bureau's Precinct Detective Squad (PDS) and Burglary/Robbery Apprehension Modules (BAM, RAM) along with the Detective Divisions and various specialized units combine traditional investigative methods with the expanded technological arsenal needed to bring criminals to justice. Some of the specialized units in the Detective Bureau include:

***Hate Crimes Task Force:*** This unit investigates and monitors unlawful acts committed against a person, group or place because of race, religion, ethnicity, gender, age, disability, or sexual preference.

***Forensic Investigation Division:*** This unit manages and supervises the investigative operations of the Police Lab, Ballistics Unit, Crime Scene Unit and Bomb Squad.

***Fugitive Enforcement Division:*** The primary focus of this unit is to apprehend those who seek to evade justice and avoid prosecution.



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## Bureau Functions

***Special Investigations Division:*** This unit investigates crimes of a complex nature that cannot be effectively investigated at the Precinct Detective Squad level.

***Special Victims Division:*** This unit is responsible for investigating sexual assault cases and allegations of child abuse. Special Victims maintains a 24-hour sex offense hotline and provides training and lectures to members of the service as well as the general public.

### **The Organized Crime Control Bureau (OCCB)**

The OCCB, under the command of the Chief of OCCB, investigates complaints of vice, narcotics and organized crime related offenses. The OCCB consists of the Vice Enforcement Division, Narcotics Division, Auto Crime Division, and the Organized Crime Investigation Division. These divisions are responsible for undercover and plainclothes operations investigating narcotics, prostitution, gambling, auto crime, firearms violations and money laundering.

The OCCB is also responsible for maintaining the Asset Forfeiture Unit. This unit goes after a criminal's assets by seizing any money, vehicles, etc. from the criminal after they have been arrested. They also enhance patrol investigations by seizing any amount of money over \$1,000 that is in possession of a prisoner and believed to be the proceeds of a crime.

### **The Intelligence Division**

The Intelligence Division, commanded by the Deputy Commissioner of Intelligence, consists of three major sections; Criminal Intelligence Section, Municipal Security Section, and Public Security Section.

***Criminal Intelligence Section:*** Consists of several sub-units, some of which are listed below:

- ***Borough Intelligence Teams*** are assigned within each Patrol Borough. Their functions include, but are not limited to, investigating terrorism leads, responding to major incidents and serious crimes, identifying crime trends and patterns within the city and conducting investigations.
- ***Field Intelligence Officers*** in the rank of Sergeant are assigned to all field commands and act as liaisons between their commands and the Intelligence Division.





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- **Regional Intelligence Support Center** is an intelligence center for all investigators. Its 24 hour, 7 days a week operation conducts local, state and federal checks on public, private and commercial databases.
- **Gang Intelligence Unit** conducts investigations and gathers intelligence on gang related activity.
- **Field Intelligence Investigation Unit** gathers intelligence and conducts investigations related to terrorism.
- **Cyber Intelligence Unit** gathers intelligence via Internet websites and chat rooms both here and abroad.

**Municipal Security Section:** Consists of two units:

- **Executive Protection Unit** provides security for high-profile officials.
- **Uniform Operations Unit** provides 24-hour security for designated locations, such as City Hall and Gracie Mansion.

**Public Security Section:** Consists of several sub-units:

- **Threat Assessment Unit** conducts investigations involving threats made against police officers, dignitaries and certain sensitive locations.
- **Terrorist Incident Prevention Squad** provides a law enforcement contact to the private sector for the reporting of suspicious circumstances.
- **Intelligence Liaison Unit** provides liaisons for other law enforcement agencies (Customs, I.N.S., D.E.P., etc.) in the fight against terrorism.
- **Operations Desk** is a "24/7" central hub for gathering information on all ongoing police incidents. This is the central location for all terrorist leads in the city.
- **Special Projects Unit** coordinates and provides security for special events within NYC.



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## Bureau Functions

### **Deputy Commissioner Counter Terrorism (DCCT)**

The DCCT is comprised of two primary sub-divisions; the Joint Terrorist Task Force (JTTF) and the Counter Terrorism Division (CTD).

**Joint Terrorist Task Force (JTTF):** investigates domestic/foreign terrorist groups or individuals for the purpose of detecting, preventing, and prosecuting criminal activity.

**Counter Terrorism Division (CTD):** supports the Department's anti-terrorism initiatives and enhances the level of security by providing risk assessments of potential targets, training members of the service as well as the community, developing timely (terrorist related) intelligence, enhancing technical capabilities, and providing a Counter Terrorism Hotline ([888] NYC-SAFE).

### **Internal Affairs Bureau (IAB)**

The Internal Affairs Bureau, under the command of the Chief of Internal Affairs and under the direction of the Police Commissioner, provides for effective corruption control through analyzing corruption allegations and trends, and conducting comprehensive investigations designed to insure the highest standards of integrity.

IAB serves as the recipient of all allegations of misconduct involving members of the service (uniform and civilian). The Bureau then conducts investigations of criminal activity and allegations of serious misconduct by members of the service.

All allegations of lesser misconduct or violations are referred to the Borough Investigations Unit. IAB also performs confidential investigations as directed by the Police Commissioner.

### **Office of Equal Employment Opportunity (OEEO)**

The Office of Equal Employment Opportunity, Commanded by the Deputy Commissioner for Equal Employment Opportunity, investigates complaints of employment discrimination made by employees and applicants. OEEO also trains members on anti-discrimination laws and discrimination prevention, which includes the production of videotapes and brochures.



# **POLICE STUDENT'S GUIDE**

## **Bureau Functions**

### **BUREAUS DEALING WITH LEGAL ISSUES**

The bureaus listed in this section cover a wide range of legal issues, such as; internal Department trials, labor disputes, interpreting laws, civil enforcement procedures, and arrest processing activities as they relate to the criminal justice system. The bureaus covered in this section are: the Criminal Justice Bureau, the Legal Bureau, the Deputy Commissioner of Trials, and the Office of Labor Relations.

#### **The Legal Bureau**

The Legal Bureau, under the command of the Deputy Commissioner of Legal Matters, consists of four subdivisions: the Civil Enforcement Unit, the Criminal Section, the Civil Section and the Legislative Affairs Unit. These units work together to:

- Support the Department by assisting members in interpreting and enforcing federal, state and local laws;
- Ensure that the policies and practices of the Department are lawful, and fairly applied;
- Develop and propose legislation in accordance with the needs of the Department and public safety concerns;
- Further the quality of life in NYC through the focused and aggressive use of civil enforcement remedies (e.g., closing down unlawful locations, and seizing property used or obtained by criminal means using civil laws).

#### **Deputy Commissioner Trials (DCT)**

The DCT is the independent adjudicative arm of the Department's internal disciplinary system. It presides over a due process hearing of Departmental disciplinary cases and renders written findings of fact and recommendations to the Police Commissioner.

The DCT is empowered by the NYC Administrative Code, which mandates that the Police Commissioner "or one of his deputies" hear disciplinary trials. Currently, the Deputy Commissioner and four (4) Assistant Deputy Commissioners serve as the Department's administrative law judges. They report their findings to the Police Commissioner for his final determination.



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These trials can range from simple violations of rules and procedures to more serious allegations of misconduct and can include corruption and police brutality. In these trials, the Department Advocate's attorneys serve as prosecutors, and accused personnel typically are represented by attorneys provided by their labor or line organizations.

### **Office of Labor Relations**

The Office of Labor Relations, commanded by the Deputy Commissioner for Labor Relations, provides centralized direction for the labor functions of the Department. The office represents the Department in contract negotiations and advises managers regarding contract administration for uniform and civilian members.

The office also administers the Department's grievance program for uniformed and civilian members of the service, and responds to inquiries from members concerning labor matters.

### **Criminal Justice Bureau**

The Criminal Justice Bureau is the liaison between this Department and the executive and judicial levels of the various municipal and state agencies that are involved in the criminal justice process. The Bureau is comprised of a Research and Planning Unit, Investigations Unit, Quality Assurance Unit, Personnel Unit, Administration Unit, and four borough court sections.

The Criminal Justice Bureau has been instrumental in streamlining the arrest processing system, which has resulted in reductions in arrest-to-arraignment times, reductions in writs of *habeas corpus*, and the more expeditious return of arresting officers to enforcement duties.

The Criminal Justice Bureau was extensively involved in the development of community-based courts. The goal of these courts is to have the offender make restitution and subsequently return to his or her community as a more productive member. To further the accomplishment of this goal, the Criminal Justice Bureau has staff assigned to process arrests in the Midtown Community Court in Manhattan and in the Red Hook Community Justice Center in Brooklyn.



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### ADMINISTRATIVE BUREAUS

The administrative bureaus consist of bureaus dealing with personnel, planning, budget, technology, public information, community affairs and training.

#### **Personnel Bureau**

The Personnel Bureau is comprised of the Chief of Personnel's Office, the Staff Service Section, The Employee Management Division, the Personnel Orders Section, the Medical Division, the Applicant Processing Division, and the City Resident Recruitment and Retention Unit.

**Staff Service Section:** oversees the Occupational Safety and Health Unit (OSHA), which is responsible for investigating all OSHA-related complaints. They also oversee the publication of Spring 3100 Magazine, as well as the Employee Suggestion Program.

**Personnel Orders Section:** is responsible for publishing Personnel Orders, overseeing the Personnel Data Unit, Career Program Unit, and the Military and Extended Leave Desk.

**Employee Management Division:** oversees the Paid Detail Unit, Employee Benefit Unit, Performance Analysis Section, Early Intervention Unit, Educational Tracking Unit, Shield/Identification Card Unit, and Testing and Research Unit.

**Medical Division:** oversees all Department Surgeons, monitors all members for sick time abuse through the Absence Control Unit, oversees the Firearm Removal and Restoration Desk, and supervises the Drug Screening Unit.

**Applicant Processing Division:** Conducts investigations of all police officer candidates.

**City Resident Recruitment and Retention Unit:** is responsible for all recruiting efforts regarding police officer candidates.



# POLICE STUDENT'S GUIDE

## Bureau Functions

### The Deputy Commissioner of Management and Budget

The Deputy Commissioner of Management and Budget (DCMB) is the chief fiscal officer of the New York City Police Department. The Deputy Commissioner coordinates and oversees financial planning, management of the expense and capital budgets, procurement of goods and services, capital construction, maintenance of facilities, payment of bills, payroll processing, pension management and the processing of contracts.

**Financial Management Division:** is responsible for the financial analysis and planning function of the Department's expense and capital budgets.

- **The Management and Budget Analysis Section** analyzes programs, policies, deployment and expenditures as they relate to the Department's Expense Budget and prepares and administers the Capital Budget.
- **The Budget Unit** prepares and administers the Department's expense budget and monitors monthly expenditure plans.
- **The Contract Administration Unit** coordinates and prepares contract forms and supporting documentation for submission of contracts to relevant city offices.

**Pension Section:** This section is responsible for the administration, monitoring and coordination of the Article II Pension program for all active and retired uniformed members of the Department. Additionally, the Section manages retirement processing and pension loan activities.

**Fiscal Affairs Division:** includes several units:

- **The Audit and Accounts Section** is responsible for the timely processing and payment of all expenses incurred by the Department.
- **The Payroll Section** administers the computerized Payroll Management System for all uniformed and civilian employees.
- **The Quality Control Section** serves as the internal auditing unit for the Deputy Commissioner of Management and Budget, reviewing expenditures and payments to insure compliance with guidelines and directives.



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## Bureau Functions

- **The Health Insurance Unit** maintains insurance information on employees and provides information on insurance plans.

**Administrative Services Division:** The Administrative Services Division coordinates all Police Department capital construction projects and is responsible for the maintenance, cleanliness, repair, and renovation of the Headquarters facility at One Police Plaza. Its sub-units include the following:

- **The Quartermaster Section** is the storehouse and distribution center for most of the Department's equipment, furniture and supplies.
- **The Building Maintenance Section** maintains, repairs and renovates all facilities.
- **The Equipment Section** sells clothing and equipment items to police personnel.
- **The Mail and Distribution Unit** processes and distributes mail.
- **The Pension Auditing Team** conducts a complete audit of Payroll Management System (P.M.S.) records of all members before they retire.
- **The Field Audit Team** conducts visits to units throughout the Department to review and correct payroll records. Onsite training is provided to improve the accuracy of payroll records.
- **The Leave Integrity Management Section** uses the Automated Computer Entry System (A.C.E.S.), which is a paperless computerized payroll entry system that is used throughout Staten Island, Application Processing Division, 62nd Precinct, and The Police Academy Recruit Training Section.

### Deputy Commissioner Strategic Initiatives (DCSI)

The DCSI supervises the Office of Management Analysis and Planning (OMAP) and the Quality Assurance Division.



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## Bureau Functions

**Office of Management Analysis and Planning (OMAP):** proposes policies, strategies, programs, organizational structures and staffing to maintain maximum effectiveness. OMAP monitors the Department's crime reporting system and ensures its integrity while disseminating crime statistics. OMAP is also responsible for maintaining the Department Manual.

**Quality Assurance Division:** Secures and promotes fidelity to Department orders and policies through a comprehensive evaluation process. Quality Assurance also provides guidance, training and support to field commands.

### Office of Technology and System Development (OTSD)

This unit supports the Department operationally in its overall effort to employ technology to further reduce crime, disorder, and fear. OTSD provides the patrol officer with access to the necessary tools to accomplish this goal. OTSD is comprised of the Enhancement Unit, Management Information System Division (MISD), and the Communication Division.

**OTSD Enhancement Unit:** manages the enhanced 911 (E-911) system, and the new Computer Aided Dispatch (CAD), which is expected to be online in 2006. It also oversees installation of new Mobile Data Client systems (MDCs) in Department vehicles.

**Management Information System Division (MISD):** employs staff members in various professional, technical, administrative, and support titles. MISD personnel supply technical expertise to design, develop, deploy, and maintain mission-critical networks and software applications throughout the NYPD.

**Communications Division:** provides and supports a telephone and radio communications system for the delivery of emergency services to the people of New York City. The Communications Division consists of three major sections: the Communications Section, the Electronics Section, and the Technical Support Section.

- **Communications Section** consists of the 911 operator (who receives the call from the complainant) and the radio dispatcher (who receives the job from the SPRINT computer system and relays it to the patrol officer).





# POLICE STUDENT'S GUIDE

## Bureau Functions

- **Electronics Section** maintains the Department's communication system (radios), Closed Circuit T.V. systems, public address systems, Mobile Data Terminals, electronic security, and pagers.
- **Technical Support Section:** oversees the Telecommunications network (a liaison between the various telephone companies and the Department), the Tape and Record Unit (records 911 and radio transmissions), and the Inter-City Correspondence Unit (a liaison between our Department and other law enforcement agencies).

### Support Services Bureau

The Support Services Bureau provides logistical and technical support to all units of the New York City Police Department and the public through the operations of the Property Clerk Division, the Fleet Services Division, the Central Records Division, and the Printing Section.

**Property Clerk Division:** The Property Clerk Division accepts, catalogs, safeguards, stores, produces as required for court, returns to legal owner, or otherwise legally disposes of all property coming into the custody of the New York City Police Department. Property not included is that which is actually owned by the Police Department. Approximately two-thirds of all property taken in consists of evidence required for criminal cases. Other categories of property accepted include the safekeeping of found property, decedent's property, prisoner's property, property no longer needed as evidence or for further investigation, contraband, seized peddler property pending release, serological evidence, and property confiscated for forfeiture proceedings.

Property received by this Division includes cash, jewelry, rifles and guns, various weapons, vehicles, general property of every description, evidence related to homicides, and other crimes (except serological evidence retained by the NYPD Forensic Investigation Division).

All property coming into and leaving the Property Clerk Division is subject to strict legal constraints. Evidence property is regularly signed out for presentation at Criminal Court. Property that can be legally returned to its rightful owner is done so in a timely manner. Contraband is destroyed when it is no longer needed for a criminal case. Unclaimed general property and vehicles are disposed through public auctions held by the Property Clerk Division on a regular basis.



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## Bureau Functions

**Fleet Services Division:** Fleet Services Division (FSD) is responsible for all aspects of fleet management including procurement, accounting, maintenance, repair, and relinquishment of the Department's diverse 7,500+ vehicle fleet. FSD provides tow trucks and motor vehicle operators to all major events when requested. In addition, FSD conducts research and development on the latest equipment and personal safety devices, develops vehicle specifications, fabricates special use equipment/tools, and administers the automated fueling system.

- The Fleet Services Division provides the following services: fleet maintenance and repair (including accident repairs and roadside repairs), towing, materials management, vehicle procurement, vehicle allocation, fuel control, data tracking and fleet analysis. The Fleet Services Division maintains all Department vehicles. This is accomplished through a mix of in-house personnel and resources and an out-sourcing program utilizing the private sector.

**Central Records Division:** receives, collates and files criminal and other informational records required by the New York City Police Department. Additionally, the Central Records Division disseminates information to members of the NYPD, authorized agencies and the public as authorized and required by rule or law. The Central Records Division is comprised of the following units:

- **Identification Section** provides criminal history background information that is released **only** to authorized law enforcement officers on official business.
- **Stolen Property Inquiry Section** maintains records of property reported stolen to the NYPD. Released **only** to authorized Law Enforcement Officers on Official Business.
- **Criminal Records** Section is the central repository of all Complaint (Crime) Reports and Aided Reports for the NYPD. This section is not open to the general public. Requests for a copy of the report verifying a crime or listing lost property must be submitted on the NYPD form **VERIFICATION OF CRIME / LOST PROPERTY**.
- **Public Inquiry & Request Section** processes applications for Good Conduct Certificates (NYC Criminal History Searches) and processes non-criminal fingerprints requests.



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## Bureau Functions

**The Printing Section:** The Printing Section provides the Department with the printing services required to meet its everyday needs. This includes the printing of:

- Daily Orders;
- Legal Bulletins;
- Communications from the Police Commissioner;
- Departmental Posters;
- Pamphlets;
- Flyers;
- Forms;
- Snapout Forms;
- Training Manuals;
- Memo Books (Police Officer Activity Logs);
- Department Reports.

### **Deputy Commissioner Public Information (DCPI)**

DCPI is responsible for the retrieval and dissemination of accurate police related information in conformity with the law, and critical investigative needs of the Department. DCPI receives police related information from the Operations Unit, other commands, outside government agencies, the media and public and disseminates that information in a timely manner. DCPI staff responds to incidents in the field that prompt a large media presence (e.g., parades, disasters, disorders, press conferences and debriefings). DCPI also issues approximately 8,000 press credentials annually.

### **Deputy Commissioner Community Affairs (DCCA)**

DCCA provides a community affairs officer for each precinct and fosters positive and productive police-community relations by:

- Providing programs, training, events and publications to community members;
- Conducting outreach programs (encouraging communication between the police and community);
- Implementing awareness, prevention, and deterrence programs for youths;



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## Bureau Functions

- Providing community affairs assistance to all bureaus, divisions, and units (during parades, unrest, demonstrations, etc.);
- Providing training for all community affairs officers, new recruits, newly appointed supervisors, and police executive staff.
- Establishing partnerships with other government agencies, as well as civic, religious, and community-based organizations.

### Training Bureau

The Training Bureau is commanded by the Deputy Commissioner of Training, and is the parent command of the Police Academy, the Police Cadet Corps, the Video Production Unit, and the Training Support Section. The Training Bureau is responsible for overseeing and coordinating all Department training, the Police Academy, and Department scholarships.

The Training Bureau continually conducts research to ensure that its programs are contemporary and pertinent. The Bureau utilizes certified instructors to provide training for all new police officers and civilian employees. Training is designed to focus on continuing in-service education, to prepare those assuming supervisory, managerial, or executive responsibilities, and for those members assigned to specialized duties. The Training Bureau also assists other Departmental units in developing and providing training.



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### WHY IS IT IMPORTANT FOR POLICE OFFICERS TO KNOW ABOUT COMPSTAT

As you will learn, Compstat is an important part of the NYPD, and a central element in our crime reduction initiatives. Every member of the service is part of this process and is relied upon to carry out critical duties in every crime reduction strategy. Whether you are preparing a criminal complaint, responding to a call of domestic violence, or processing an arrest, you will be counted on to perform your duties as part of a large and complex crime fighting apparatus. You are the front line in the battle against crime and your actions on patrol will often determine the success or failure of our efforts. Read these pages carefully and develop an understanding of this process. This is essential because you will play an important role in the crime reduction strategies of your commands, and your actions will have an impact on the safety of citizens and the rate of crime in New York City.

### ABOUT COMPSTAT

Compstat, short for “**computerized statistics**,” is a **process** employed by the NYPD to strategically direct our efforts to reduce crime, reduce the fear of crime, improve the quality of life, and better manage the Department. The Compstat process has received national and international recognition for its success, and is seen as an innovative approach to crime reduction and police administration.

### A Brief History of Compstat

Compstat began in 1994, and was part of a continuing series of innovations designed to fight crime. Because Compstat accurately and quickly captured crime statistics, it was a great improvement over the method previously in place, which operated at a three to six month lag between the commission of a crime and any meaningful analysis. Even the best-intended commander could do little with such old information. Thus, the foundation of a system emphasizing timely crime complaint reporting was created.

In his book, *NYPD Battles Crime*, Eli Silverman describes the genesis of Compstat. Compstat was originally a document, referred to as the Compstat book, which included current year-to-date statistics for criminal complaints, arrests for major felony categories, and gun violations that were compiled on a citywide, patrol borough and precinct basis. The initial versions of the Compstat book, which improved steadily over time with regard to the overall sophistication and degree of detail, was developed from a computer file called “Computerized



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Statistics," hence the name *Compstat*. The Compstat book is a report that is now published on a weekly basis. Every Monday, each Precinct in the City is required to report to their respective Borough Command a tally of crime complaints for major crimes, summons activity, and other key crime indicators, such as Domestic Incident Reports, that occurred during the previous week. The reporting period is Monday to Sunday and captures the following crimes:

- Murder (all non-negligent homicides)
- Rape
- Robbery
- Felony Assault
- Burglary
- Grand Larceny
- Grand Larceny Auto

These offenses are also known as Index Crimes from the FBI Uniform Crime Report. Note that there are many other offenses in the New York State Penal Law, but the NYPD focuses on these crimes for the purposes of Compstat and the measurement of overall serious crime in a particular precinct or area.

### Accumulating Data

The precinct tallies data on a weekly basis. Each week's information is added to the previous weeks and a comparison report is generated. Four weeks worth of data are grouped together to create a **28-day period**, known as the "**Compstat Period**." Finally a running tally is kept for the year to capture year-to-date crime information. All of this information is collated and a report is created tabulating crime, arrest, and summons activity for the week-to-date, 28-day, and year-to-date periods, as compared to the same periods from the prior year. The 28-day period is used most commonly as the relevant time frame to judge a precinct's crime and enforcement activity. A precinct's performance is generally evaluated over each of these three time periods. The report also includes comparison information about crime and enforcement from the period 2 years prior and from the year when the Compstat report began (in 2003 the comparison is 10 years prior). Samples of Compstat period reports are attached at the end of the chapter.

Once a precinct reports its weekly tally to the borough, the borough consolidates this information and reports it to the Chief of Department's Compstat Unit. The Compstat Unit uploads arrest information from the On Line Booking System (OLBS) and by mid-day on Monday, the Compstat report is complete and the Police Commissioner, as well as the entire executive staff of the NYPD, have a statistical measure of the crime situation in New York City.



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### The "Process" of Compstat

Compstat is more than just a weekly book of statistics. As stated earlier, Compstat is a process. Webster's Dictionary describes a process as "a series of steps or operations toward a desired result." In the case of the NYPD the desired result is reduced crime and improved quality of life. The series of steps and operations entail an elaborate system to focus the entire Department's energy on achieving these results. Essentially, the Department employed a four-step method towards crime reduction, and combined this approach with new authority and accountability placed in the Precinct Commander. The following discussion will elaborate on these points in greater detail, and explain how you, as the uniformed member of the service in closest contact to the public, are an integral part of this process.

### The Four Steps to Crime Reduction

The four steps to crime reduction are an effective way to describe and channel the operations of all members of the service, they are:

- Accurate and Timely Intelligence
- Rapid Deployment
- Effective Tactics
- Relentless Follow-up and Assessment

### ACCURATE AND TIMELY INTELLIGENCE

In order to reduce crime and improve the quality of life in New York City, the NYPD must know about crime. Specifically, the Department needs to know:

- **What** type of crime is occurring (Robbery, Burglary, etc.);
- **When** crime is happening (times and days of occurrence);
- **Where** the crime is happening (specific locations);
- **Who** is committing the crime (relationships, career criminals, etc.);
- **Why** crime is happening (drug related shootings, Domestic Violence, etc.).

The basic tool for collecting this information is the **Omni-Form**. The proper preparation of the Omni-Form by the recording MOS is critical to the success of the Department's crime fighting efforts. Remember:

***You are not a report taker. You are the police!***



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At the scene of a crime your obligation is not to simply fill out a report. You are conducting a preliminary investigation. The accurate details of this preliminary investigation will enable crime analysts and Precinct commanders to make sound decisions about enforcement operations as they respond to crime trends. Be sure to prepare the Omni-Form completely. Ensure that all captions are filled in correctly and that times, dates, and descriptions of perpetrators and property are as accurate as possible. The information that you record may not seem important as you write it; it may even seem trivial or routine. This information, however, becomes invaluable down the line as it is used to analyze patterns, crime conditions, and deployment of police resources. You should write down everything as it relates to the complaint: we cannot know in advance what bit of information may help solve a crime and prevent future ones.

Crime complaints are just one source of information. As you do your job day-to-day you will perform dozens of tasks and prepare scores of reports that contribute to crime reduction efforts in the command. One of the most important tasks is making arrests and processing these arrests at the stationhouse. After you make an arrest you will be confronted with a series of reports to prepare and steps to take to process the prisoner through the arrest processing system. One of the most important steps in this process is **prisoner debriefing**. Prisoners are- first and foremost- members of the community and often have detailed information about events that have occurred in the area. Because of this fact, the Department has a policy that **all persons arrested** by any member of the NYPD must be debriefed, or asked detailed questions about their knowledge of criminal activity in the area. Debriefing all arrested persons is an important way to obtain information.

Prisoners often know what is going on in the street, and have a motivation to give this information to officers. Naturally, prisoners will be asked about the specific crimes for which they have been arrested, but they must also be asked about other crimes, specifically and generally. The following questions will be asked to all arrested persons, regardless of the reason for their arrest.

- Do you know anyone who buys stolen property?
- Do you know anyone who sells guns?
- Do you know anything about any recent shootings or pattern crimes?

***Remember: "Ask A Question – Solve A Crime"***

There will be times when you suspect criminal activity and are unable to effect a summary arrest. In these situations, you are required to relay this information to the Intelligence Division for further processing. This information is extremely valuable and will be used as part of the precinct's crime strategies and





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possibly to direct enforcement operations. By working on the street, you gain valuable insight into the everyday affairs of the neighborhood. You will see things that indicate criminal activity; this information must be reported. The information may be routine, but it may also lead to uncovering and putting an end to serious criminal activity. The following is an excellent example of how intelligence information is critical to crime reduction:

*Two officers on routine patrol notice a high volume of people entering and leaving a residential apartment building. The officers did not believe they were selling drugs but "heard" that you could buy all sorts of stolen merchandise. Further investigation of the location revealed that the residents of the apartment were selling merchandise that was stolen from cargo ships and freight deliveries from JFK and La Guardia airports. Brand names like Gucci, Yves St. Laurent, Polo, and Nike were being sold out of this ground floor apartment. Representatives of the companies were contacted, agreed to prosecute, and an undercover officer was sent in to buy a sample of the stolen goods. After several purchases were made, a search warrant was obtained, and the operation was shut down, ultimately resulting in 30 arrests and the return of more than 2 million dollars in stolen merchandise. All of this occurred because the officers were willing to act on seemingly benign information received from a member of the community.*

What happens to all of this information? After you prepare an Omni-Form, OLBS Worksheet, etc. the Command's Crime Analysis staff, and ultimately the Commanding Officer, will analyze it and select times, dates, trends, patterns, and unusual occurrences. This information will be disseminated to patrol, the precinct detective squad, OCCB, and other units working in the area so they can patrol smarter, investigate, and apprehend suspects more effectively. You will most likely get this information in several ways:

- The Precinct **Crime Information Center** features up-to-date maps of crimes, patterns, wanted suspects, etc. You should make it a habit to study this information daily, and be well informed about the neighborhood you patrol. Not only could it help you catch a serious criminal, it may save your life.



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- Messages and announcements will be made at **roll call** everyday. They will be made by the Patrol Supervisor, Platoon Commander, Detective Squad Commander, Precinct Commander, etc. Pay attention to these messages. This is the command staff's way of personally informing you of the most important crime conditions that are being addressed by the command.
- The information will also be the basis for **specific operational plans** that are designed to address crime and quality of life conditions. These may come in the form of Robbery plans, Burglary plans, tactical response plans, etc. You are an important part of the development of these plans. The information that you obtain during the preliminary investigation at crime scenes aids in the creation of these plans. Also, your actions on patrol should be consistent with the tactics contained in these plans. Smart decisions based on proper planning are good police work. You could be the difference between a person being apprehended or escaping, or the difference between life and death.

### RAPID DEPLOYMENT

The next step in the crime reduction process is the rapid deployment of resources to impact on crime conditions. These resources include Anti-Crime, Conditions, SNEU, CPU, or other specialized units in the command. They also include the Detective Squad, Narcotics, Vice, Gang Squad, and many other units not assigned to the patrol command. But most importantly, the rapid deployment of resources includes you, the uniformed member of the service. Properly informed about crime condition via accurate and timely intelligence, combined with an intimate knowledge of the neighborhood, you are the first line of defense against crime. Knowing when, where, how, and who, are committing what crimes, and then placing yourself in a position to disrupt or apprehend the criminals as they act can have an enormous impact on crime.

As an informed and alert police officer, you can be a powerful weapon in the fight against crime. But you cannot do it alone. Teamwork is critical to success. You will become a part of a very large team, which includes hundreds of other police officers working in your area. The Department is a very large team, but the Commanding Officer is the quarterback. He or she *calls the plays* by coordinating the efforts of precinct and non-precinct personnel. Often the Commanding Officer will set up task forces with personnel from other commands to address a specific condition. Other times, specialized units from within the precinct will be assigned to specific operations designed to resolve an ongoing problem. Almost every time, patrol officers will be an integral part of the plan.



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### ***Be Informed – Be Aware – Be Part of The Team***

Precinct Commanders also work with outside agencies to solve specific problems. This may include working with the District Attorneys, U.S. Attorney, Corporation Counsel, federal law enforcement agencies (ATF, FBI, etc.), State and local law enforcement (PAPD, NYSPD, Dept. of Probation, Parole, Correction, etc.), and other social service agencies.

Precinct Commanders also work closely with the community. The community is a critical source of information about crime conditions, and is keenly interested in reducing crime. By providing information, feedback, and support, local communities become empowered to act for their own security, and are more aware of the conditions in their neighborhoods.

### **EFFECTIVE TACTICS**

***“Failure to plan is planning to fail.”*** The Commanding Officer must be closely attuned to crime conditions in order to develop and implement tactical plans to respond to crime conditions. These tactics will be flexible and change with changing conditions. The deployment of uniformed officers and their specific actions are integral parts of every tactical plan. The key to tactics is focusing specific resources on specific problems. You should never ride in an RMP, walk a foot post, or staff a fixed post without having an in-depth knowledge of the crime conditions in the area. But not only do you need to know the conditions, you must also know exactly what is expected of you in responding to these crime conditions. The following list details commonly used tactics:

- Saturating an area with uniformed members of the service;
- Canvassing the immediate vicinity of a crime. This entails knocking on doors and speaking to as many people as possible in the area of a reported crime to find witnesses and uncover intelligence information;
- Debriefing all arrested persons;
- Distributing wanted photos to members on patrol;
- Establishing and safeguarding crime scenes;
- Setting up checkpoints;
- Conducting vertical, or directed patrols in crime hot spots;
- Zero-tolerance enforcement for quality of life offenses;
- Conducting warrant checks on all persons stopped, issued a summons, or arrested;
- Sting operations;



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- Using the nuisance abatement laws (i.e., Civil Enforcement) to close illegal businesses;
- Controlled tactical response to crimes in progress;
- Proper and frequent use of Mobile Digital Terminals;
- Closing or monitoring the entrances to highways to capture vehicles fleeing crime scenes;
- Thorough preparation of all paperwork, especially the Omni-Form, Summonses, and Stop/Question & Frisk Report;
- Proper safeguarding of evidence and crime scenes;
- Distributing crime prevention information in the vicinity of crime scenes to alert residents that a serious crime occurred in the area and to offer the services of the Crime Prevention Officer;
- Calling the Patrol Supervisor to the scene of serious crimes to gain his or her assistance in the tactical response;
- Looking for broken glass at the scene of a reported GLA, or asking for the victim's keys to the stolen vehicle. (The true victim of a GLA should have their keys readily available);
- Investigating fraudulent crime reports.

The above tactics are just a few of those most commonly employed by patrol personnel. Undoubtedly, you will also be involved in intricate tactical response plans related to serious crime, and are an important part of the command's crime reduction initiatives. The tactical plans will also incorporate the activities of specialized units, both precinct and non-precinct based. You should familiarize yourself with their role in tactical plans so that you can complement their activities and provide key information in support of those efforts.

### **RELENTLESS FOLLOW-UP AND ASSESSMENT**

Having accurate and timely intelligence, rapid deployment, and effective tactics are not enough. Without relentless follow-up and assessment, the success of our efforts cannot be evaluated, and our operations cannot adapt to meet changing crime conditions in New York City communities. This follow-up and assessment is conducted at many different levels. The Precinct Commander personally monitors crime patterns, trends and statistics on a daily basis. Also, at the command-level, crime reduction strategy meetings are held with the key operational units in the area (OCCB, Detectives, Precinct-Specialized, etc.). The Borough Command hosts crime reduction meetings, known as "Borough Compstat," at least two times each month. And perhaps the most well known of all follow-up and assessment techniques is the executive Compstat meeting held in the Command and Control Room at 1 Police Plaza.



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*"Is anyone doing anything about this problem?" demanded Chief of Department Joseph Esposito from the far end of a horseshoe shaped configuration of tables. At the other end of the Command and Control Center were the Precinct Commander and her key staff, and other operational commanders assigned to the area. The Chief was probing a burglary condition in a Queens neighborhood.*

*"We are getting on top of it Chief," responded the Precinct Commander.*

*"Break it down for me. When is it happening? What is the method of entry? What kind of property was taken? What is going on out there?" the Chief shot back.*

*Deputy Commissioner of Operations Garry F. McCarthy jumped in, "We've taken a look at your recidivist list, and are not particularly impressed with what we found. What is the plan here?"*

The Precinct Commander was being peppered with questions about a **spike** (unusual increase) in burglaries in her precinct. The Compstat process in action culminates with an executive level presentation by the Precinct Commander on crime conditions. This presentation occurs in the Command and Control Center on the 8<sup>th</sup> floor of 1 Police Plaza. Every week, after a thorough review of the latest crime statistics, one Borough is selected to present their crime reduction initiatives to the Executive Staff. The meetings are now held every Thursday at 0800 hours and are moderated by the Chief of Department and the Deputy Commissioner of Operations.

Typically, three precinct commands from the selected patrol borough are asked to present each morning. They are joined by all the Commanding Officers of units that are responsible for enforcement operations in the general area. The Precinct Commander is accompanied at the podium by the Housing PSA Commander, Transit District Commander, Detective Squad Commander, Narcotics Module supervisor, Robbery Apprehension Module supervisor, Gang Squad Commander, Field Intelligence Officer, and other key staff members. On the panel, assisting the Chief and Deputy Commissioner moderating the meeting are all of the Bureau Chiefs and Deputy Commissioners. Also in the audience are representatives of all the other enforcement units operating in the geographic



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Borough command as well as crime analysts from other Patrol Boroughs not selected to present on that particular morning. The atmosphere at times can be tense.

*The Precinct Commander begins, "I am experiencing an increase in burglaries. Over the last 28-day Compstat period the precinct logged 38 burglaries compared to 25 for the same period from last year, representing a 52 percent increase."*

*The Chief interjects, "You are leading the Borough in burglaries, and you have the highest increase in burglary citywide for the 28-day period. Where are we with your plan? Apparently something isn't working!"*

*The Commander continues, "The spike is on the 4x12s, early on the 4x12s, residential burglaries, I have seven that fit this general pattern."*

*"Well, what are you doing about it? Does Narcotics have this information, the Squad, what is Anti-Crime doing for you?" the Chief responded.*

*"Everyone is on board, Chief. The Borough PIMS Unit put out a pattern sheet last week, which was circulated throughout the borough. It was the main topic for discussion at my weekly crime strategy meeting, and narcotics ran with it. I will let the Narcotics Lieutenant give you an update," the Commander replied.*

*"Chief, Commissioner, I am Lt. Jones from Narcotics. The Captain gave us the PIMS Pattern Sheet a few weeks ago and we noticed that the burglaries were happening in the vicinity of a few narcotics 'sets.' We did some buy and bust in the area and came up with some information on a prisoner debriefing. The perp gave some information about a crew of kids breaking into houses after school. We got a name from one of the perps and gave it to the squad," the Lieutenant revealed.*



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*At this time the Detective Squad Commander jumped in, "Yes Chief, we got a name from Narcotics and it matched a person we have on our Recidivist Burglar List. I know the list needs a little updating, but in this instance we got a hit on one of the local kids; a real bad kid, hanging around after school doing his dirty work. We went to talk to him, and when we get to his house he bolts. We put the description over the radio and patrol picked him up a few blocks away. He gave up the whole thing. We even recovered some property from his room on a consent search," the Squad Commander proudly described to the audience.*

*"Now that's what I'm talking about!" the Chief proclaimed. "That is the way it's all supposed to come together... teamwork!" "Now, let's get back to the school angle. How are we going to follow-up on this? I am sure he was not acting alone. There's work left to be done," the Chief continued.*

This is a typical exchange at Compstat. While not all exchanges feature success stories like this one, they all have common elements. The Compstat meetings demand that all enforcement/operational units in a specific area work together to address crime problems. The above account demonstrates that it is the Precinct Commander shouldering the responsibility for the crime problem, but the Narcotics Module, Detective Squad, and other units worked as a team to solve the problem.

### THE EFFECT OF COMPSTAT

In the above anecdote, the commander made mention of her weekly crime strategies meeting. While the Executive and Borough Compstat meetings are formal venues to discuss crime conditions, the real planning and strategizing is done at the precinct level. Every day across the City, Precinct Commanders and their counterparts in Transit and Housing coordinate, plan, discuss, meet, and strategize, etc., with each other to tackle crime. The product of these strategy sessions is the *plan*, of which you as the uniformed member on patrol are an integral part.



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The plan develops into the streets where targeted enforcement is conducted. The above exchange illustrates that the Narcotics Module performs enforcement in an area where they have received previous complaints with the understanding they might uncover intelligence information about the current rash of burglaries. A successful debriefing leads to intelligence that is passed along to the detective squad to develop further. The information eventually culminates in an arrest, a consent search, and more intelligence on the remaining participants in the crimes.

Prior to Compstat, cooperation between the different operational commands existed, but not to the extent described above. In this sense, the Compstat process enabled a blurring of organizational boundaries. Where different bureaus concentrated on their specific missions, Compstat forced a unified approach to crime, held the Precinct Commander accountable, and demanded that all other units work in cooperation to achieve shared crime reduction goals. The meetings, described by some scholars as almost ceremonial in nature, forced units to work together because they were eventually going to be called upon to account for their efforts in a public arena. This scrutiny demanded cooperation and teamwork in the overriding goal to reduce crime.

### **Format of Compstat Meetings**

The Compstat meetings permit the NYPD to evaluate its crime reduction efforts. The format of the meetings generally follow a predetermined sequence of precinct commands to present, but the specific details of the questioning often evolve as the meeting unfolds. This unpredictable nature of Compstat adds to the atmosphere of the Command and Control Center as the meetings are conducted. While it is impossible to list the exact items reviewed at each meeting, below is a list of frequently discussed meeting topics:

- A review of the crime statistics of each precinct attending;
- Questioning commanders about current cases of interest, crime patterns, or situations requiring attention;
- Requesting that precincts forward detailed and specific reports to their overhead command, showing what actions were taken to address crime conditions;
- Asking follow-up questions about cases, crime patterns, or situations mentioned at previous meetings. Minutes of meetings are taken and reviewed so that proper follow-up to cases and conditions can be discussed;





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- Commanders are not only expected to know about crime conditions in their areas of responsibility, but more importantly, they are expected to do something about it;
- Compstat meetings highlight solutions as well as problems. Innovative plans, and new ideas are shared and discussed;
- Compstat meetings are also an opportunity for the Executive staff to introduce new policy initiatives. They are also opportunities to identify middle managers that exhibit the leadership qualities necessary to improve the Department;
- Representatives from other patrol boroughs attend each meeting to take notes and report back to their commanders about new issues, trends and ideas.

### The Value of Teamwork

Operational commands are required to work together; sharing information is critical. Police officers across the City can no longer operate in a vacuum. Teamwork, cooperation and information sharing are essential to effective operations. Lack of coordination becomes very clear during the Compstat meetings. Commanders who are able to work together and channel their efforts are the most successful, and they rely on every member of their command to help in this effort. **Your individual contribution is important and central to the overall mission of the NYPD.**

Commanding Officers must react quickly to changing crime conditions. This often means hearing information while at Compstat, reading the minutes from another Patrol Borough's Compstat, or sharing information with a colleague from another precinct. This results in the development of new tactical plans for the precinct. Inevitably, you, as the uniformed member of the service on patrol, will be part of that plan. It is your obligation to stay informed about crime conditions and digest crime reduction plans as they are developed and implemented. Most times you will be asked to perform new tasks - or old tasks - in such a way as to address specific areas, in addition to responding to calls for service. Be mindful of your responsibility to the community and to the Department in this regard. The Commanding Officer has the overall picture in sight and is balancing the demands of the community, the needs of the command, and the policies of the department, to manage resources and reduce crime. Your active participation is vital to the success of the command and the Department as a whole.



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### Precinct Management

Compstat is not simply about crime. As time passed, the Compstat process quickly became a valuable mechanism in not only addressing crime problems, but an important tool in managing the day-to-day operations of precinct commands. A "Precinct Commander's Profile" is prepared each month and used by the executive corps of the NYPD to get a snapshot of command operations. The profile contains a wealth of information:

- Detailed information about the Precinct Commander (appointment date, assignment date, years on the job, years in rank, education and training, resident precinct, etc.);
- Overtime, both operational and new arrest;
- Total radio runs;
- Response times to crimes in progress;
- 10-84 compliance;
- Bribery arrests;
- CCRB complaints;
- Personnel strength;
- Domestic violence radio runs;
- DIR preparation compliance rate;
- Truants returned;
- UF-250's;
- Ride-Along program;
- House of Worship visits;
- Participation in training.

Most of the information listed above is captured for a month-to-month and year-to-year comparison, and the difference, or percentage of change, is provided. This information can be used to evaluate a particular precinct from month to month, or year to year, and compare precincts and boroughs to one another.

This profile is an important tool in evaluating the performance of precinct commands. There is an expression that "***what gets measured, gets done,***" and in the context of the profile, the NYPD tabulates and records dozens of important precinct performance measurements. This information gives Precinct Commanders an idea about what is important and what they should focus their efforts on. It also gives the Patrol Borough and the executive corps of the NYPD an opportunity to gauge the performance of Precinct Commanders at a quick glance, and provides a vehicle to include areas that are considered important to manage.



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### **Accountability**

One of the most important features of Compstat is accountability. It is one thing to say that operational commands are following the four steps toward crime reduction. It is another thing to hold people accountable for their actions. Also, one of the most fundamental elements of accountability is that you have to give people the power to make decisions and give them the authority to manage their resources before you can make them accountable. Compstat does both of these things, simultaneously giving Commanding Officers authority to manage their commands, and holding them accountable for the success, or failure, of their decisions.

For you personally, Compstat is important because it is the major method used by the Department to evaluate the performance of people who will command and supervise you. Consequently, they are certain to look carefully at how well you help them to achieve this goal.



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### *References*

Henry, Vincent E. (2002), The Compstat Paradigm: Management Accountability in Policing, Business, and the Public Sector, Looseleaf Law Publications, Inc., Flushing, NY.

Heskett, James L. (1996), "NYPD New," Harvard Business School Case Studies Program (N9-396-293), Harvard Business School Publishing, Boston, MA.

Kelling, George L. & William H. Sousa Jr. (2001), "Do the Police Really Matter? An Analysis of the Impact of New York City's Policing Reforms," Civic Report No. 22, Center for Civic Innovation, New York, NY.

New York City Police Department (2001), Compstat: Leadership in Action, NYPD, New York, NY.

New York City Police Department (2002), The Compstat Process, (Prepared for Executive Development Commanders' College), NYPD, New York, NY.

Silverman, Eli B. (1999), NYPD Battles Crime: Innovative Strategies in Policing, Northeastern University Press, Boston, MA.