

# ARNOLD & PORTER LLP

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May 31, 2016

## **VIA ECF**

Honorable Analisa Torres  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007-1312

Re: *Ligon, et al. v. City of New York, et al.*, 12-CV-2274 (AT),  
*Davis, et al. v. City of New York, et al.*, 10-CV-0699 (AT),  
Recommendation regarding NYPD TAP and NYCHA  
Stop Policies and Related Documents

Dear Judge Torres,

I am pleased to submit my recommendations regarding the following documents, which deal with NYPD policies and practices concerning enforcement activities in and near residences enrolled in the Trespass Affidavit Program (“TAP”) and New York City Housing Authority (“NYCHA”) buildings. I believe that each of the proposed NYPD documents meets the requirements of the remedial order in *Ligon* (Dkt. No. 120) and the court’s order approving the settlement in *Davis* (Dkt. No. 339).

My recommendations relate to the following documents attached:

1. **Interim Order—P.G. 212-59, Interior Patrol of Multiple Dwelling Buildings Enrolled in the Trespass Affidavit Program, and P.G. 208-03, Arrests—General Processing;**
2. **Operations Order—Pilot Program—Trespass Affidavit Program (TAP) Monthly Assessment—Patrol Borough Bronx;**

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3. **Interim Order—P.G. 212-60, Interior Patrol of Housing Authority Buildings;**  
and
4. **Trespass Crimes—Fact Sheet and Supporting Deposition.**

In addition, I am attaching:

5. **Interim Order—Revision to Administrative Guide 303-27, Trespass Affidavit Program, and P.G. 202-26, Crime Prevention Officer.**

This fifth document is attached for information purposes and is not being submitted for the court's approval at this time.

## Background

In *Ligon*, the plaintiffs challenged the NYPD's policies and practices relating to stop and frisk and trespass arrests inside and outside TAP buildings. They moved for a preliminary injunction relating to a subset of their claims, specifically, to stops on suspicion of trespass made outside TAP buildings in the Bronx. The plaintiffs prevailed, and their relief was incorporated in the remedial order issued on August 12, 2013 that covered both *Floyd v. City of New York* and *Ligon* (*Ligon*, Dkt. No. 120). The case remains open, and the parties have engaged in extensive settlement negotiations on the plaintiffs' remaining claims.

The discussions that led to the current recommendations were complicated by several factors. First, the *Ligon* plaintiffs and the NYPD agreed that it made no sense for the changes resulting from the preliminary injunction to apply in the Bronx only; thus, they agreed that the changes would apply city-wide. Second, because from time to time, NYPD officers can be

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assigned to conduct interior patrols in both TAP and NYCHA buildings, it is important that the two patrol guide sections be consistent to avoid confusion. Therefore, the *Ligon* and *Davis* plaintiffs and the NYPD agreed that the NYPD would not promulgate a revised P.G. 212-60 (relating to NYCHA buildings) until there was a resolution of the issues relating to the TAP buildings, even though a revised P.G. 212-60 had already been approved by the court as part of the settlement in the *Davis* case. As a practical matter, this meant that any changes made to P.G. 212-60 to reconcile it with the TAP patrol guide would not diminish the remedies that the *Davis* plaintiffs had already achieved.

The recommendations set out more fully below address these concerns. The new P.G. 212-59 (relating to TAP buildings) would apply throughout the city. It and the other recommendations concerning the TAP program meet the requirements of the remedial order. Changes have been made to the P.G. 212-60 approved by the court in order to reconcile it with the recommended P.G. 212-59 without diminishing what was achieved in the *Davis* settlement.

**1. Interim Order—P.G. 212-59, Interior Patrol of Multiple Dwelling Buildings Enrolled in the Trespass Affidavit Program, and P.G. 208-03, Arrests—General Processing**

The remedial order in *Ligon* requires the NYPD to revise its procedure for patrolling buildings enrolled in the Trespass Affidavit Program (TAP). Under the order, stops inside and outside TAP buildings must comply with the NYPD's stop and frisk policies, P.G. 212-11. The

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new procedure must state that “mere presence” near, entry into, or exit out of a building enrolled in the Trespass Affidavit Program, without more, is not sufficient to establish reasonable suspicion for a stop on suspicion of trespass. The new procedure must also state that “mere presence” in a TAP building, or entry into or exit from a TAP building, does not constitute an “objective credible reason” for a *DeBour* Level 1 approach and request for information. The revised procedures governing stops in and around TAP buildings, P.G. 212-59, incorporate these requirements.

**2. Operations Order—Pilot Program-Trespass Affidavit Program (TAP)  
Monthly Assessment—Patrol Borough Bronx**

This Operations Order establishes a pilot program for increased supervisory review of stops on suspicion of trespass in the Bronx. This recommendation applies only to the Bronx for reasons explained here.

The remedial order resulting from the preliminary injunction in *Ligon* requires that the NYPD develop procedures for (1) ensuring that stop report forms are completed for all trespass stops outside TAP buildings in the Bronx, and (2) for reviewing the constitutionality of those stops. The NYPD believes, and the plaintiffs agree, that this procedure should encompass stops conducted not only outside TAP buildings but also inside TAP buildings. The Operations Order submitted to the court makes this change. The goal is to learn from this pilot program and then to use what is learned to inform what the program might be when instituted city-wide.

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**3. Interim Order—P.G. 212-60, Interior Patrol of Housing Authority Buildings**

This Interim Order reconciles P.G. 212-60 with the proposed new P.G. 212-59. As stated, the changes in P.G. 212-60 do not diminish the remedies the *Davis* plaintiffs had achieved in the settlement previously approved by the court.

**4. Trespass Crimes Fact Sheet and Supporting Deposition**

As part of the *Davis* settlement, the parties agreed on a new form to be completed by officers when they make a trespass arrest in a NYCHA building. Officers will document and provide information about the stop and the trespass arrest on a “Trespass Crimes Fact Sheet.” The new form was included in the *Davis* settlement documents and has been approved by the court. The approved form has not yet been promulgated by the NYPD because the *Davis* and *Ligon* plaintiffs and the Department agreed that one form should be used for trespass arrests in both TAP and NYCHA buildings. The parties have now agreed on a Trespass Crimes Fact Sheet that will be used in both circumstances. The submitted form also combines the Trespass Crimes Fact Sheet with a supporting deposition that could be used by the district attorneys in the criminal proceedings. Both the recommended P.G. 212-59 (TAP) and P.G. 212-60 (NYCHA) reference the Trespass Crimes Fact Sheet and require a supervisor to sign off on the form.

**5. Interim Order—Revision to Administrative Guide 303-27, Trespass Affidavit Program, and Patrol Guide 202-26, Crime Prevention Officer**

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The Trespass Affidavit Program applies only to selected private dwellings that meet certain requirements, sign up, and are accepted into the program. This Interim Order specifies steps members of the service will follow in the administration of the program. Administrative Guide 303-27 is referenced in the proposed new P.G. 212-59. The parties are not seeking the court's approval of this Administrative Guide section at this time. It is contemplated, however, that the revised Administrative Guide will be promulgated by the NYPD when documents 1 through 4 are promulgated.

The parties in *Davis* and *Ligon* have informed me that they support the approval of these recommendations.

Respectfully submitted,

*/s/ Peter L. Zimroth*

Peter L. Zimroth  
Monitor

- Attachments: (1) Interim Order—P.G. 212-59 and P.G. 208-03
- (2) Operations Order—Pilot Program—Trespass Affidavit Program (TAP)  
Monthly Assessment—Patrol Borough Bronx
- (3) Interim Order—P.G. 212-60
- (4) Trespass Crimes—Fact Sheet and Supporting Deposition
- (5) Interim Order—A.G. 303-27 and P.G. 202-26

# **Attachment 1**



## DRAFT INTERIM ORDER

SUBJECT: <b>REVISION TO PATROL GUIDE 212-59, "INTERIOR PATROL" AND PATROL GUIDE 208-03, ARRESTS – "GENERAL PROCESSING"</b>		
DATE ISSUED:	REFERENCE:	NUMBER:
<b>05-20-16</b>	<b>*P.G. 212-59 AND P.G. 208-03</b>	<b>DRAFT 11</b>

1. In order to enhance the interior patrol of multiple dwelling buildings enrolled in the Trespass Affidavit Program, Patrol Guide 212-59, "Interior Patrol" has been revised.

2. Therefore, effective immediately, Patrol Guide 212-59, "Interior Patrol" is **SUSPENDED** and the following new procedure entitled, "Interior Patrol of Multiple Dwelling Buildings Enrolled in the Trespass Affidavit Program" will be complied with:

### PURPOSE

To prevent, detect and take necessary enforcement action regarding illegal activity occurring in lobbies, stairwells, interior hallways, rooftops, basements and other common areas of multiple dwelling buildings enrolled in the Trespass Affidavit Program (TAP) that are not owned by the New York City Housing Authority, in a manner that respects the rights of TAP building residents and guests.

### SCOPE

Authorization for interior patrol, the tactically planned patrol of the common areas of multiple dwelling buildings, is obtained through the Trespass Affidavit Program. Members of the service shall conduct all inquiries, interactions, and enforcement activities in Trespass Affidavit Program buildings with the courtesy, professionalism, and respect to which all persons are entitled in their own homes. This procedure must be applied consistent with *Patrol Guide 212-11, "Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops."* *Patrol Guide 212-11* and the corresponding training materials establish the parameters for all investigative encounters irrespective of location of occurrence.

### PROCEDURE

To conduct interior patrols in residential multiple dwelling buildings enrolled in the Trespass Affidavit Program:

### PLATOON COMMANDER/ PATROL SUPERVISOR/ ASSIGNED SUPERVISOR

1. Ensure **TRESPASS CRIMES – OWNER'S AFFIDAVIT(S) (PD651-051)** or New York County District Attorney's Supporting Affidavit(s) for the scheduled locations(s) were signed by the Owner/Managing Agent within the last six months.
2. Assign teams of two or more uniformed members of the service to conduct interior patrol at designated times and locations.
  - a. Schedule interior patrols based on times when illegal activities are prevalent.
3. Consider the appropriate number of teams necessary to perform a particular interior patrol.
  - a. The number of uniformed members that are required to conduct a particular interior patrol assignment should be based on the size of the building, the number and location of exits, and the nature of the crimes being addressed.



**PLATOON  
COMMANDER/  
PATROL  
SUPERVISOR/  
ASSIGNED  
SUPERVISOR  
(continued)**

4. Instruct uniformed members performing interior patrol that, absent exigent circumstances, two or more uniformed members must remain together at all times.
5. Ensure all interior patrols are conducted in an appropriate manner with special attention to:
  - a. Proper tactics
  - b. Required equipment (e.g., serviceable flashlight, O.C. spray, etc.)
  - c. Radio transmissions
  - d. Proper documentation (e.g., **ACTIVITY LOG [PD112-145]** entry, **STOP REPORT [PD383-151]**, **WHAT IS A STOP? [PD383-153]** informational card, etc.).

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THE SERVICE**

6. Respond to location at designated time and coordinate activities with other assigned uniformed members.
7. Notify Communications Section radio dispatcher utilizing radio code 10-75I, and make an **ACTIVITY LOG** entry of the time and street address upon entering the building.
8. Inspect front, rear and other exterior doors, and the interior of the lobby.
  - a. Determine whether doors are secured.
9. Document in **ACTIVITY LOG** whether signs prohibiting trespassing are legible and prominently displayed in areas where persons entering the building can readily see them.
  - a. If signs are missing, illegible or defaced, notify the crime prevention officer.
10. Proceed to top floor of building by elevator, if operable, otherwise by using the stairs.
  - a. Patrol the roof, roof landing, elevator rooms, and any other accessible installations.
  - b. Patrol each floor, staircase and hallway within the building from the top floor to the ground floor
  - c. Patrol all accessible basement areas.
11. Be alert for persons who may be engaged in criminal activity.
  - a. Conduct all investigative encounters in accordance with *P.G. 212-11, "Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops,"* and, if applicable, with the procedures for trespass investigations as set forth in step "12," below.
  - b. If a person is stopped, a **STOP REPORT** shall be prepared pursuant to *P.G. 212-11, "Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops,"* and an **ACTIVITY LOG** entry shall be made to document the encounter.
    - (1) Check the appropriate box indicating the stop is related to a Trespass Affidavit Program building.

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(continued)**

- c. Take police action pursuant to *P.G. 208-01, "Law of Arrest"* or *Patrol Guide Series 209, "Summonses,"* only if there is probable cause to believe that a person has committed a felony or misdemeanor, or the person committed a violation in the officer's presence.

**NOTE**

*Mere presence in or near a building enrolled in the Trespass Affidavit Program does not provide a basis to approach and conduct an investigative encounter, nor does it establish reasonable suspicion for a stop. When approaching a person based only on an objective credible reason (Level 1 Request for Information), members are prohibited from requesting consent to search the person.*

12. Trespass Investigation: Be alert for persons who may be engaged in Criminal Trespass.
  - a. Level 1 Request for Information: If there is an objective credible reason to approach such a person based on observed behavior or other credible information, a member of the service may approach and ask in a non – threatening and non – accusatory manner:
    - (1) If he or she lives in the building
    - (2) If he or she is visiting someone in the building
    - (3) If he or she has business in the building.
  - b. Level 2 Common Law Right of Inquiry: If, based on the answers to questions in the initial encounter and/or observed behavior, there is a founded suspicion of Criminal Trespass, take reasonable measures to verify the person's authorization to be in the building.

**NOTE**

*Do not use a tone or take steps that would create a situation where a reasonable person would not feel free to leave when there is less than reasonable suspicion that the person is a trespasser.*

- c. Level 3 Terry Stop: Stop a person in accordance with *P.G. 212-11, "Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops,"* and take reasonable measures to investigate only if there is reasonable suspicion to believe that the person has committed, is committing, or is about to commit Criminal Trespass. Such measures include, but are not limited to, the following:
  - (1) Temporarily detaining the person while another uniformed member visits the building resident whom the person claims to be visiting; and/or
  - (2) Requiring the person to accompany uniformed member to the apartment of the building resident whom the person claims to be visiting.

**NOTE**

*Merely passing through a door that has a broken lock or that has been propped open does not, alone, constitute reasonable suspicion of criminal activity.*

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MEMBER OF  
THE SERVICE  
(continued)**

- d. Take police action pursuant to *P.G. 208-01, "Law of Arrest"* or *Patrol Guide Series 209, "Summonses,"* only if there is probable cause to believe that the person committed Trespass. A reasonable investigation is ordinarily necessary to determine whether probable cause exists.
  - (1) Make **ACTIVITY LOG** entry describing the details of arrest/summons.
  - (2) Document investigative steps taken prior to making the arrest or issuing the summons including the factors used to determine that the person knowingly entered or remained unlawfully particularly if signs are not present or visible.
  - (3) Utilize Department-issued smartphone to photograph sign(s) prohibiting trespassing or document the warning and the location in **ACTIVITY LOG**.

**NOTE**

*Even if there is probable cause to arrest a person for trespassing, officers may exercise their discretion to refrain from arresting that person, and instead instruct that person to leave under appropriate circumstances.*

- e. In all cases when an arrest is made for Criminal Trespass, the arresting officer must:
  - (1) Prepare a **TRESPASS CRIMES – FACT SHEET (PD351-144)** and submit to the Desk Officer for review
  - (2) Prepare a **STOP REPORT**, if appropriate
  - (3) Submit the **TRESPASS CRIMES – OWNER’S AFFIDAVIT** or New York County District Attorney’s Supporting Affidavit, as appropriate, for the building to the desk officer.
- 13. Notify Communications Section radio dispatcher upon exiting the building and make an **ACTIVITY LOG** entry indicating the time the interior patrol was completed and any conditions noted.

**DESK OFFICER**

- 14. Ensure that the completed **TRESPASS CRIMES – FACT SHEET** and the **TRESPASS CRIMES – OWNER’S AFFIDAVIT** or New York County District Attorney’s Supporting Affidavit, as appropriate, are included in the arrest package for all arrests that include a charge of Criminal Trespass.
- 15. Review the **TRESPASS CRIMES – FACT SHEET** for accuracy and completeness and endorse in the appropriate space on the form.
  - a. Have **TRESPASS CRIMES – FACT SHEET** photocopied.
  - b. Return original **TRESPASS CRIMES – FACT SHEET** to the arresting officer for inclusion in the arrest package.
- 16. Have photocopies of **TRESPASS CRIMES – FACT SHEETS** placed in chronological order in a binder and maintained at the desk.

**ADDITIONAL DATA**

*During the course of an interior patrol, members of the service are likely to encounter other persons in the building. While detecting trespassers inside buildings enrolled in the Trespass Affidavit Program is an important public safety function, it is equally critical that members of the service treat residents and their guests with courtesy, professionalism and respect at all times.*

*If a member of the service has reason to seek to determine if a person is authorized to be in the building, the member may ask for the person’s voluntary cooperation. When feasible and consistent with safety, advise the person that the purpose of the interior patrol is to keep the building safe and ensure that only tenants and their invited guests are within the building, and advise the person that he or she is free to leave (unless the person is under arrest or detained in a Level 3 stop). A person’s refusal or inability to produce identification or provide information does not elevate the level of the encounter. However, if the individual refuses or is unable to explain his or her presence in the building, the member may instruct the person that he or she must leave the building or be subject to arrest for Trespass.*

*The **TRESPASS CRIMES – OWNER’S AFFIDAVIT (PD651-051)** will be utilized for Department Trespass Affidavit Program buildings in the Bronx, Brooklyn, Staten Island and Queens. The New York County District Attorney’s Office manages a Trespass Affidavit Program in Manhattan and utilizes its own supporting affidavits.*

*The **TRESPASS CRIMES – FACT SHEET (PD351-144)** will be prepared in every instance, including Manhattan, where a uniformed member of the service effects a Trespass arrest in a building participating in a Trespass Affidavit Program.*

**RELATED PROCEDURES**

*Law of Arrest (P.G. 208-01)  
Arrests – General Processing (P.G. 208-03)  
Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops (P.G. 212-11)  
Interior Patrol of Housing Authority Buildings (P.G. 212-60)  
Trespass Affidavit Program (A.G. 303-27)  
Summonses (P.G. 209 Series)*

**FORMS AND REPORTS**

**ACTIVITY LOG (PD112-145)**  
**STOP REPORT (PD383-151)**  
**WHAT IS A STOP? (PD383-153)**  
**TRESPASS CRIMES – OWNER’S AFFIDAVIT (PD651-051)**  
**TRESPASS CRIMES – FACT SHEET (PD351-144)**

- 3. Patrol Guide 208-03, “Arrests – General Processing” is amended as follows:
  - a. **ADD** new subdivision “**h**,” following step “**23**,” opposite actor “ARRESTING OFFICER,” on page “**6**” to read:

**“ARRESTING OFFICER**      **h.**      **TRESPASS CRIMES – FACT SHEET (PD351-144), if appropriate.**  
**(1) Prepare the form if the arrest includes a charge for Trespass or Criminal Trespass.”**

- b. **REVISE** “*FORMS AND REPORTS*” on page “**13**” to read:

**“FORMS AND REPORTS**

**ACTIVITY LOG (PD112-145)**  
**ARREST REPORT - SUPPLEMENT (PD244-157)**  
**ARREST DOCUMENTATION CHECKLIST (PD240-010)**  
**COMPLAINT REPORT WORKSHEET (PD313-152A)**  
**DAT ARREST PACKAGE (PD260-123)**  
**DESK APPEARANCE TICKET INVESTIGATION (PD360-081)**  
**JUVENILE ARREST INVESTIGATION/PROBATION INTAKE REPORT WORKSHEET (PD277-151A)**  
**MEDICAL TREATMENT OF PRISONER (PD244-150)**  
**MIRANDA WARNINGS FOR JUVENILE INTERROGATIONS (PD244-1413)**  
**MISSING – UNIDENTIFIED PERSON REPORT (PD336-151)**  
**ON-LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)**  
**PRISONER PEDIGREE CARD (PD244-092)**  
**PRISONER TRANSPORT DISPATCH (PD171-132)**  
**PROPERTY CLERK INVOICE (PD521-141)**  
**PROPERTY CLERK INVOICE WORKSHEET (PD521-141A)**  
**REQUEST FOR LABORATORY EXAMINATION REPORT (PD521-168)**  
**SUPPORTING DEPOSITION (PD244-060)**  
**TRESPASS CRIMES – FACT SHEET (PD351-144)**  
**UNUSUAL OCCURRENCE REPORT (PD370-152)**  
**Omniform Complaint Revision”**

4. **REVISE** references to Patrol Guide 212-59, “Interior Patrol” in Patrol Guide 212-11, 212-60, Administrative Guide 303-27 and wherever else it appears in the Department Manual to read:

**“Patrol Guide 212-59, ‘Interior Patrol of Multiple Dwelling Buildings Enrolled in the Trespass Affidavit Program”**

5. Upon publication, this Interim Order has been incorporated into the On-Line Patrol Guide and the On-Line Administrative Guide.

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

**BY DIRECTION OF THE POLICE COMMISSIONER**

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**INTERIM ORDER NO. DRAFT 11**

# **Attachment 2**



## DRAFT OPERATIONS ORDER

SUBJECT: <b>PILOT PROGRAM - TRESPASS AFFIDAVIT PROGRAM (TAP) MONTHLY ASSESSMENT - PATROL BOROUGH BRONX</b>	
DATE ISSUED:	NUMBER:
<b>05-25-16</b>	<b>DRAFT 5</b>

1. Effective immediately, precincts within Patrol Borough Bronx will review Level 3 stops for criminal trespass conducted directly **inside of, outside of, rear of, and/or adjacent** to buildings enrolled in the Trespass Affidavit Program (TAP), and will record the results on the new Department form entitled, “**Monthly Assessment Report Stops at TAP Buildings – Bronx**” (see Appendix “A”).

2. Therefore, in order to ensure precincts within Patrol Borough Bronx review the constitutionality of Level 3 stops for criminal trespass inside of, outside of, rear of, and/or adjacent to TAP buildings, the following new procedure will be complied with:

**PURPOSE** To review the constitutionality of Level 3 stops for criminal trespass conducted directly inside of, outside of, rear of, and/or adjacent to buildings enrolled in the Trespass Affidavit Program (TAP) and record the results of the review on the **Monthly Assessment Report Stops at TAP Buildings – Bronx**.

**PROCEDURE** When conducting a review of Level 3 stops for criminal trespass inside of, outside of, rear of, and/or adjacent to buildings enrolled in the Trespass Affidavit Program (TAP):

**INTEGRITY CONTROL OFFICER**

1. Determine the number of **STOP, QUESTION AND FRISK REPORT WORKSHEETS (PD344-151A)** prepared for criminal trespass Level 3 stops conducted directly inside of, outside of, rear of, and/or adjacent to buildings enrolled in TAP.
2. Account for all of the **WORKSHEETS** prepared.
  - a. Select for review in sequential order, either the first 20 or last 20 **WORKSHEETS** prepared for the month, if between 20 and 100 **WORKSHEETS** were prepared
  - b. Select for review in sequential order, either the first 20 percent or last 20 percent of **WORKSHEETS** prepared for the month, if more than 100 **WORKSHEETS** were prepared
  - c. Select all **WORKSHEETS** for review if fewer than 20 **WORKSHEETS** were prepared.
3. Review the selected **WORKSHEETS** and the corresponding **ACTIVITY LOG (PD112-145)** entries of uniformed members of the service for the constitutionality of the stop, the frisk, if conducted, the search, if conducted, and any force, if used.
  - a. Examine each **WORKSHEET** to ensure completeness.
  - b. Determine whether the stop, as articulated on the **WORKSHEET** and the **ACTIVITY LOG**, was based upon reasonable suspicion and whether the uniformed member of the service preparing the **WORKSHEET** documented the circumstance of the stop in their **ACTIVITY LOG**. If the person was frisked, determine whether the frisk was supported by a reasonable suspicion that the person



**INTEGRITY  
CONTROL  
OFFICER  
(continued)**

was armed and dangerous; if searched, whether there was a sufficient basis for the search, and if force was used, whether the force was reasonable under the circumstances.

**NOTE**

*In making these determinations, consider whether the facts and information as conveyed by the member and recorded on the **WORKSHEET** and in **ACTIVITY LOG** support the conclusion that the member's actions were reasonable.*

4. Confer with the uniformed member of the service who prepared a deficient **WORKSHEET** and instruct member on:
  - a. The constitutional basis of conducting a stop, frisk, and search
  - b. The Department's policy on use of force
  - c. The Department's policy on conducting stops inside of, outside of, rear of, and/or adjacent to TAP buildings
  - d. Documenting appropriate **ACTIVITY LOG** entries.
5. Confer with the immediate supervisor of uniformed member of the service requiring corrective guidance, as well as, any supervisor signing off on a **WORKSHEET** that does not describe reasonable suspicion for the stop, or reasonable suspicion for the frisk, if conducted, and search, if conducted, on the **WORKSHEET** and in **ACTIVITY LOG**.
6. Ensure uniformed member of the service and supervisor are retrained by the precinct training sergeant on the constitutionality of stops, frisks and searches and record the training on the **Monthly Assessment Report Stops at TAP Buildings – Bronx**.
  - a. Take disciplinary action when appropriate.
7. Confer with the precinct training sergeant to determine individual training needs.
8. Document each review conducted of the constitutionality of the stop, frisk and search, as well as, the conferral with the uniformed member of the service preparing the **WORKSHEET** and **ACTIVITY LOG** and the reviewing supervisor, on the **Monthly Assessment Report Stops at TAP Buildings – Bronx**.
  - a. Attach a copy of the reviewed **WORKSHEET** and a copy of the **ACTIVITY LOG** entry to the **Monthly Assessment Report Stops at TAP Buildings – Bronx**.
9. Forward the **Monthly Assessment Report Stops at TAP Buildings – Bronx** and attachments to the borough executive officer by the 10<sup>th</sup> of the following month.
  - a. Detail all steps taken to improve the constitutionality of stops, frisks and searches made, including any training and/or any disciplinary action taken.
  - b. Include negative reports.



- TRAINING SERGEANT**
10. Conduct command level training to ensure compliance with the Department’s policy regarding TAP.
- a. Periodically review and identify precinct-wide training needs, individual training needs and necessary remedial actions.
  - b. Record training sessions in the command training log indicating the subject of the training, as well, as the identities of the participating uniformed members of the service
- COMMANDING OFFICER**
11. Assume responsibility for the integrity of the administration of TAP.
- a. Consult with executive officer, integrity control officer, platoon commanders, special operations lieutenant, training sergeant, and patrol/unit supervisors to ensure the constitutionality and effectiveness of TAP.
  - b. Ensure that **Monthly Assessment Report Stops at TAP Buildings – Bronx** and all attachments are forwarded to the borough executive officer by the 10<sup>th</sup> of the following month.
- BOROUGH EXECUTIVE OFFICER**
12. Ensure that each precinct submits a **Monthly Assessment Report Stops at TAP Buildings – Bronx** and oversee the proper execution of this pilot program.
13. Review all of the **Monthly Assessment Report Stops at TAP Buildings – Bronx**.
14. Endorse and forward all of the **Monthly Assessment Report Stops at TAP Buildings – Bronx** with appropriate recommendations to Chief of Patrol, Resource Management Section by the 15<sup>th</sup> of the month.
- CHIEF OF PATROL, RESOURCE MANAGEMENT SECTION**
15. Endorse and forward all documents to the Risk Management Bureau.
16. Retain copy of all documents for file.

3. Integrity control officers in participating precincts will photocopy and use **Monthly Assessment Report Stops at TAP Buildings – Bronx** (Appendix “A” of this Order) as necessary.

4. Commanding officers of precincts within Patrol Borough Bronx will ensure that the contents of this Order are brought to the attention of members of their commands.

**BY DIRECTION OF THE POLICE COMMISSIONER**

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**OPERATIONS ORDER NO. DRAFT 5**



**MONTHLY ASSESSMENT REPORT  
STOPS AT TAP BUILDINGS – BRONX**

**APPENDIX “A”**

Precinct \_\_\_\_\_

Serial Number	Date ( <i>Stop Conducted</i> )	Tax ID of UMOS	Date of Conferral with UMOS	Findings ( <i>for each stop reviewed</i> ); Describe	Corrective Action ( <i>if any</i> ); Describe	Tax ID of Supervisor	Date of Conferral with Supervisor (if any)

Precinct Integrity Control Officer's Name

Signature

Date

Commanding Officer's Name

Signature

Date

# **Attachment 3**



## DRAFT INTERIM ORDER

SUBJECT: <b>REVISION TO PATROL GUIDE 212-60, "INTERIOR PATROL OF HOUSING AUTHORITY BUILDINGS"</b>		
DATE ISSUED:	REFERENCE:	NUMBER:
<b>05-20-16</b>	<b>*P.G. 212-60</b>	<b>DRAFT 8</b>

1. In order to enhance the interior patrol of New York City Housing Authority buildings, Patrol Guide 212-60, "Interior Patrol of Housing Authority Buildings" has been revised.

2. Therefore, effective immediately, Patrol Guide 212-60, "Interior Patrol of Housing Authority Buildings" is **SUSPENDED** and the following new procedure will be complied with:

**PURPOSE** To assist the New York City Housing Authority (NYCHA) in enforcing its rules, limiting criminal activity, providing a safe and secure environment and ensuring the habitability of its residential buildings by performing interior patrols in a manner that respects the rights of Housing Authority residents and guests.

**SCOPE** Members of the service shall conduct all inquiries, interactions and enforcement activities in and around NYCHA buildings with the courtesy, professionalism, and respect to which all persons are entitled in their own homes. This procedure must be applied consistent with *Patrol Guide 212-11, "Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops."* *Patrol Guide 212-11* and the corresponding training materials establish the parameters for all investigative encounters irrespective of location of occurrence.

**PROCEDURE** To conduct interior patrols in NYCHA buildings. Uniformed members of the service shall frequently inspect the interior of Housing Authority buildings on assigned posts as follows:

**UNIFORMED MEMBER OF THE SERVICE**

1. Notify Communications Section radio dispatcher, utilizing radio code 10-75I, and make an **ACTIVITY LOG (PD112-145)** entry of the time and street address upon entering the building.
2. Notify Video Interactive Patrol Enhanced Response (VIPER) unit by radio, if VIPER cameras present.

**VIPER UNIT MEMBER**

3. Advise uniformed member of conditions that:
  - a. Require attention
  - b. Significantly affect safety.
4. Provide ongoing assistance to uniformed member of the service performing interior patrol.

**UNIFORMED MEMBER OF THE SERVICE**

5. Inspect front, rear and other exterior doors and door locks, intercom system, and the interior of the lobby.
6. Inspect elevators and ascertain if they are operable.
  - a. Notify Housing Authority Emergency Service Department maintenance personnel of inoperable elevators.

**UNIFORMED  
MEMBER OF  
THE SERVICE  
(continued)**

7. Document in **ACTIVITY LOG** whether signs prohibiting trespassing are legible and prominently displayed in areas where persons entering the building can readily see them.
  - a. If signs are missing, illegible or defaced, prepare a **FIELD REPORT (PD 313-1511)**.
8. Proceed to top floor of building by elevator, if operable, otherwise by using the stairs.
  - a. Patrol the roof, roof landing, elevator rooms, and any other accessible installations.
  - b. Patrol each floor, staircase and hallway within the building from the top floor to the ground floor.
  - c. Patrol all accessible basement areas.
9. Inspect elevator doors on each floor, taking immediate action when necessary.
  - a. Notify Housing Authority Emergency Service Department or NYPD Emergency Service Unit personnel immediately and remain at scene and secure location until unsafe condition has been corrected if:
    - (1) Elevator door glass is missing
    - (2) Outer elevator door opens when elevator is not present
    - (3) Any other dangerous condition concerning elevators exists.
10. Notify the Housing Authority in accordance with the procedure set forth in *P.G. 207-29, "Field Reports,"* by preparing a **FIELD REPORT** regarding:
  - a. Any damage or defect related to the intercom system, lobby door or lobby door lock
  - b. Any missing or defective signs, including signs that designate restricted areas and prohibit entry in those restricted areas, and/or any missing alarms to restricted areas
  - c. Any other condition that potentially compromises the safety or security of the building, its residents or authorized visitors
  - d. Violations of NYCHA "House Rules" and regulations.
11. Be alert for persons who may be violating Housing Authority rules and regulations within NYCHA property.
  - a. Upon encountering persons who are violating a Housing Authority rule, take appropriate police action pursuant to *P.G. 207-29, "Field Reports,"* unless there is a basis for criminal enforcement.
  - b. Observation of a violation of any Housing Authority rule, regardless of whether it is also a criminal offense, may, at a minimum, provide an officer with an objective credible reason to approach the person to inquire further.
  - c. Do not stop a person in accordance with *P.G. 212-11, "Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops,"* for a violation of Housing Authority rules unless the rule violation is also a criminal offense. Mere lingering in a common area, without more, is not a criminal offense for which a person may be stopped or arrested.

**INTERIM ORDER NO. DRAFT 8**

**UNIFORMED  
MEMBER OF  
THE SERVICE  
(continued)**

- d. Do not take police action pursuant to *P.G. 208-01, "Law of Arrest,"* for a violation of Housing Authority rules unless the rule violation is also a criminal offense.
- 12. Be alert for persons who may be engaged in criminal activity.
  - a. Conduct all investigative encounters in accordance with *P.G. 212-11, "Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops,"* and, if applicable, with the procedures for trespass investigations as set forth in step "13," below.
  - b. If a person is stopped, a **STOP REPORT (PD383-151)** shall be prepared pursuant to *P.G. 212-11, "Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops,"* and an **ACTIVITY LOG** entry shall be made to document the encounter.
    - (1) Check the appropriate box indicating the stop is related to a NYCHA building.
  - c. Take police action pursuant to *P.G. 208-01, "Law of Arrest"* or *Patrol Guide Series 209, "Summonses,"* only if there is probable cause to believe that a person committed a felony or misdemeanor or the person committed a violation in the officer's presence.

**NOTE**

*Mere presence in or near a NYCHA building does not provide a basis to approach and conduct an investigative encounter, nor does it establish reasonable suspicion for a stop. When approaching a person based only on an objective credible reason (Level 1 Request for Information), members are prohibited from requesting consent to search the person.*

- 13. Trespass Investigations: Be alert for persons who may be engaged in Criminal Trespass.
  - a. Level 1 Request for Information: If there is an objective credible reason to approach such a person based on observed behavior or other credible information, a member of the service may approach and ask in a non – threatening and non – accusatory manner:
    - (1) If he or she lives in the building
    - (2) If he or she is visiting someone in the building
    - (3) If he or she has business in the building.
  - b. Level 2 Common Law Right of Inquiry: If, based on the answers to questions in the initial encounter and/or observed behavior, there is a founded suspicion of Criminal Trespass, take reasonable measures to verify the person's authorization to be in the building.

**NOTE**

*Do not use a tone or take steps that would create a situation where a reasonable person would not feel free to leave when there is less than reasonable suspicion that the person is a trespasser.*

**UNIFORMED  
MEMBER OF  
THE SERVICE  
(continued)**

- c. Level 3 Terry Stop: Stop a person in accordance with *P.G. 212-11, "Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops,"* and take reasonable measures to investigate only if there is reasonable suspicion to believe that the person has committed, is committing, or is about to commit Criminal Trespass. Such measures include, but are not limited to, the following:
  - (1) Temporarily detaining the person while another uniformed member visits the building resident whom the person claims to be visiting; and/or
  - (2) Requiring the person to accompany uniformed member to the apartment of the building resident whom the person claims to be visiting.

**NOTE**

*Merely passing through a door that has a broken lock or that has been propped open does not, alone, constitute reasonable suspicion of criminal activity.*

- d. Take police action pursuant to *P.G. 208-01, "Law of Arrest"* or *Patrol Guide Series 209, "Summonses,"* only if there is probable cause that the person committed Trespass. A reasonable investigation is ordinarily necessary to determine whether probable cause exists.
  - (1) Make **ACTIVITY LOG** entry describing the details of arrest/summons.
  - (2) Document investigative steps taken prior to making the arrest or issuing the summons including the factors used to determine that the person knowingly entered or remained unlawfully particularly if signs are not present or visible.
  - (3) Utilize Department-issued smartphone to photograph sign(s) prohibiting trespassing or document the warning and the location in **ACTIVITY LOG**.

**NOTE**

*Even if there is probable cause to arrest a person for trespassing, officers may exercise their discretion to refrain from arresting that person, and instead instruct that person to leave under appropriate circumstances.*

- e. In all cases when an arrest is made for Criminal Trespass, the arresting officer must:
    - (1) Prepare a **TRESPASS CRIMES – FACT SHEET (PD351-144)** and submit to the desk officer for review
    - (2) Prepare a **STOP REPORT**, if appropriate
    - (3) Prepare a **COMPLAINT REPORT (PD313-152)**.
14. Restricted Areas:
- a. Restricted areas are limited to those areas specifically designated as restricted by Housing Authority rules and regulations.

**INTERIM ORDER NO. DRAFT 8**

**UNIFORMED  
MEMBER OF  
THE SERVICE  
(continued)**

- b. In the absence of conspicuously posted rules, do not arrest a person for trespassing in a restricted area of a building (including the roof, roof landing or boiler room), unless probable cause is established that the person knows that their presence in the restricted area is prohibited (e.g., the member of the service knows that the person has been previously found in that same type of restricted area of a Housing Authority development, notwithstanding the fact it may have been a different Housing Authority development, based on the officer's prior experiences with the person or information communicated to the officer).
  - c. In the absence of such conspicuously posted rules or regulations, a person found on a roof or roof landing or in a boiler room, or any other restricted area, should be:
    - (1) Instructed to leave such area if he or she is a resident or authorized visitor and there is no other basis to arrest such person, or
    - (2) Instructed to leave the building if he or she is an unauthorized visitor and there is no other basis to arrest such person.
  - d. Prepare a **FIELD REPORT** anytime a person is observed in a restricted area and there are no conspicuously posted rules.
  - e. Any person may be arrested for trespassing on a roof or roof landing or in a boiler room or in any other restricted area if he or she refuses to leave after instructed.
- 15. Notify Communications Section radio dispatcher upon exiting the building and make an **ACTIVITY LOG** entry indicating the time the interior patrol was completed and any condition noted.
  - 16. Alternate between outside area patrol and interior patrol of Housing Authority grounds and buildings, unless otherwise directed.
  - 17. Patrol each building on assigned post.

**MEMBERS  
ASSIGNED TO  
RMP DUTIES**

- 18. Comply with above requirements, if not on an assignment, when available to perform interior patrol.

**PLATOON  
COMMANDER/  
PATROL  
SUPERVISOR/  
ASSIGNED  
SUPERVISOR**

- 19. Instruct uniformed members performing interior patrol that, absent exigent circumstances, two or more uniformed members must remain together at all times.
- 20. Ensure all interior patrols are performed in an appropriate manner with special attention to:
  - a. Proper tactics
  - b. Required equipment (e.g., serviceable flashlight, O.C. spray, etc.)
  - c. Radio transmissions
  - d. Proper documentation (e.g., **ACTIVITY LOG** entry, **STOP REPORT, WHAT IS A STOP? [PD383-153]** informational card, **FIELD REPORT** etc.).

**INTERIM ORDER NO. DRAFT 8**



- DESK OFFICER**
21. Ensure that the completed **TRESPASS CRIMES – FACT SHEET** is included in the arrest package for all arrests that include a charge of Criminal Trespass.
  22. Review the **TRESPASS CRIMES – FACT SHEET** for accuracy and completeness and endorse in the appropriate space on the form.
    - a. Have **TRESPASS CRIMES – FACT SHEET** photocopied.
    - b. Return original **TRESPASS CRIMES – FACT SHEET** to the arresting officer for inclusion in the arrest package.
  23. Have photocopies of **TRESPASS CRIMES – FACT SHEETS** placed in chronological order in a binder and maintained at the desk.

- PSA/PRECINCT COMMANDING OFFICER**
24. Review available sources and identify buildings which are in need of increased interior patrols.
  25. Assign and direct members to perform patrols at directed locations.

**ADDITIONAL DATA**

*During the course of an interior patrol, members of the service are likely to encounter other persons in the building. While detecting trespassers inside NYCHA buildings is an important public safety function, it is equally critical that members of the service treat residents and their guests with courtesy, professionalism and respect at all times.*

*If a member of the service has reason to seek to determine if a person is authorized to be in the building, the member may ask for the person's voluntary cooperation. When feasible and consistent with safety, advise the person that the purpose of the interior patrol is to keep the building safe and ensure that only tenants and their invited guests are within the building, and advise the person that he or she is free to leave (unless the person is under arrest or detained in a Level 3 stop). A person's refusal or inability to produce identification or provide information does not elevate the level of the encounter. However, if the individual refuses or is unable to explain his or her presence in the building, the member may instruct the person that he or she must leave the building or be subject to arrest for trespass.*

**RELATED PROCEDURES**

*Complaint Reporting System (P.G. 207-01)  
Field Reports (P.G. 207-29)  
Law of Arrest (P.G. 208-01)  
Arrests – General Processing (P.G. 208-03)  
Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops (P.G. 212-11)  
Interior Patrol of Multiple Dwelling Buildings Enrolled in the Trespass Affidavit Program (P.G. 212-59)  
Summonses (P.G. 209 Series)*

**FORMS AND REPORTS**

**ACTIVITY LOG (PD112-145)**  
**COMPLAINT REPORT (PD313-152)**  
**FIELD REPORT (PD313-1511)**  
**STOP REPORT (PD383-151)**  
**TRESPASS CRIMES – FACT SHEET (PD351-144)**  
**WHAT IS A STOP? (PD383-153)**

5. Upon publication, this Interim Order has been incorporated into the On-Line Patrol Guide.
6. Any provisions of the Department Manual or other Department directive in conflict with the contents of this Order are suspended.

**BY DIRECTION OF THE POLICE COMMISSIONER**

**DISTRIBUTION**  
**All Commands**

**INTERIM ORDER NO. DRAFT 8**

# **Attachment 4**



**TRESPASS CRIMES – FACT SHEET  
AND SUPPORTING DEPOSITION**  
PD 351-144 (Rev. 03-16)

**NOTE:** This Form Must be Completed by the Officer Who Made the Observations that Led to the Defendant’s Arrest.

Defendant’s Name: \_\_\_\_\_ Arrest No.: \_\_\_\_\_

I, \_\_\_\_\_, Shield No. \_\_\_\_\_, a New York City Police Officer/Detective assigned to the \_\_\_\_\_ (command), deposes and swears as follows:

On \_\_\_\_\_ (date), at \_\_\_\_\_ (time), at \_\_\_\_\_ (location), while on patrol inside this dwelling, an apartment building where people reside, I observed the defendant inside this location as described below.

1. At this time, a sign stating in substance:

- No trespassing                       Tenants and their guests only
- No loitering                               Anyone who remains unlawfully upon these premises will be prosecuted
- Other: \_\_\_\_\_

was posted at/on (Indicate location of sign) \_\_\_\_\_

**For NYCHA arrests only:** If the defendant was arrested for presence in a restricted area (e.g. the roof), was there a conspicuously posted sign at that location that prohibited entry in that specific restricted area?  Yes  No

IF YES, where was that sign? \_\_\_\_\_

2. I  DID  DID NOT observe the defendant entering the apartment building. IF YOU DID:

a) How did the defendant gain access to the building? \_\_\_\_\_  
\_\_\_\_\_

b) Did you observe the door to be locked?  Yes  No

3. How long did you observe the defendant before you approached him or her? \_\_\_\_\_

4. Where was the defendant when he/she was first approached?

- Lobby     Stairwell     Roof     Roof Landing     Basement     Hallway
- Outdoors (describe) \_\_\_\_\_  Other \_\_\_\_\_

5. Describe the factors that led you to approach and question the defendant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Was the defendant asked any of the following questions? If yes, please provide the substance of the defendant’s response(s) below. \*

- a) Do you live in the building?  Yes  No IF ASKED, response: \_\_\_\_\_
- b) Do you have identification?  Yes  No IF ASKED, response : \_\_\_\_\_
- c) Are you visiting someone in the building?  Yes  No IF ASKED, response: \_\_\_\_\_
- d) Did the defendant provide a name of the person he or she was visiting?  Yes  No IF YES, response: \_\_\_\_\_
- e) Did the defendant provide an apartment number?  Yes  No IF YES, Apt No. \_\_\_\_\_  
IF YES, did you go to the apartment the defendant indicated?  Yes  No IF Yes, what happened?

\_\_\_\_\_  
\_\_\_\_\_

\* CPL § 710.30 notice is served for defendant’s statement(s) which was/were made at or about the time of the above incident

f) Do you have business in the building?  Yes  No IF ASKED, response: \_\_\_\_\_

g) Did the defendant make any other statements not indicated in No. 6(a) - 6(f) above?  Yes  No IF Yes, the defendant also stated in substance: \_\_\_\_\_

**NOTE:** If you were unable to verify that the defendant was a tenant or an authorized guest, did you direct the defendant to leave before the arrest?  Yes  No

7. The statements provided in No. 6 were made at approximately \_\_\_\_\_ (time) at \_\_\_\_\_ (location) on \_\_\_\_\_ (date).

I was present for the statements provided in No. 6 above.  Yes  No **If you were not present, provide the information of at least one officer who was present for such statements:**

Name: \_\_\_\_\_ Shield No. \_\_\_\_\_

8. Were there any other facts beyond the statements listed in No. 6 that caused you to believe that the defendant was not a tenant, guest or on business in the building prior to arrest?

9. The defendant did not have permission or authority to be inside the dwelling based on information and belief the source of which is as follows: (you must choose one)

I observed the defendant trespass inside a New York City Housing Authority building. I am a member of the New York City Police Department and as such I am an agent of this dwelling and defendant did not have permission and authority to enter or remain in the area he/she was found.

The attached owner's/managing agent's affidavit, which was signed within the last six months, authorizes members of the NYPD to act as an agent of the owner/managing agent of said dwelling pursuant to the Trespass Affidavit Program (TAP). (Attach owner/managing agent affidavit).

10. Was arrest evidence or contraband recovered from the defendant?  Yes  No

a) If YES, describe the evidence and EXACTLY where the evidence was recovered. If it was recovered from the defendant's person indicate where on their person:

b) Did you recover the evidence?  Yes  No. If NO, did you observe the recovery of the evidence?  Yes  No.

c) Indicate officer who recovered evidence:

Rank/Name \_\_\_\_\_ Shield No. \_\_\_\_\_ Tax No. \_\_\_\_\_

d) Describe WHEN the evidence was recovered (e.g. before the arrest, during a frisk, incident to arrest):

e) At what location was the evidence recovered (e.g. at the scene, in the precinct/command)

**False statements made herein by Deponent are punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law.**

Deponent/Officer's Signature

Date

Print Rank/Full Name

Tax No.

Command

**Verification by Desk Officer:**

Desk Officer's Signature

Date

Print Rank/Full Name

Tax No.

Command

# **Attachment 5**



## DRAFT INTERIM ORDER

SUBJECT: <b>REVISION TO ADMINISTRATIVE GUIDE 303-27, "TRESPASS AFFIDAVIT PROGRAM" AND PATROL GUIDE 202-26, "CRIME PREVENTION OFFICER"</b>		
DATE ISSUED:	REFERENCE:	NUMBER:
<b>03-14-16</b>	<b>*A.G. 303-27 AND P.G. 202-26</b>	<b>DRAFT 1</b>

1. In order to enhance the effectiveness and documentation of interior patrols conducted in multiple dwelling buildings that participate in the Department's Trespass Affidavit Program (TAP), Administrative Guide 303-27, "Trespass Affidavit Program" has been revised. In addition, the **TRESPASS CRIMES - FACT SHEET (PD351-144)** has been revised and will be prepared in every instance where a uniformed member of the service effects an arrest for trespass, including in any building participating in the Trespass Affidavit Program. Uniformed members are reminded that the **TRESPASS CRIMES - OWNER'S AFFIDAVIT (PD651-051)** will continue to be utilized for TAP buildings in the Bronx, Brooklyn, Staten Island and Queens (the New York County District Attorney's Office manages a Trespass Affidavit Program in Manhattan and utilizes its own supporting affidavits). Commands may not alter the content of these forms for any purpose and may not use any form other than **TRESPASS CRIMES - OWNER'S AFFIDAVIT** to enroll a building in the Trespass Affidavit Program. Any request from a District Attorney's Office to make changes to either of these forms must first be referred to the Legal Bureau.

2. Therefore, effective immediately, Administrative Guide 303-27, "Trespass Affidavit Program" is **SUSPENDED** and the following procedure will be complied with:

**PURPOSE** To obtain authorization from a multiple dwelling building's owner/authorized agent to conduct interior patrols, in buildings that are not owned by the New York City Housing Authority.

**SCOPE** Authorization for interior patrol, the tactically planned patrol of the interior hallways, stairways and rooftops of multiple dwelling buildings is obtained through the Department's Trespass Affidavit Program. Patrolling multiple dwelling buildings for criminal activity, including trespassing under the Trespass Affidavit Program, is a valuable problem-solving tool, as well as an important component of the Department's crime reduction strategy.

**PROCEDURE** When recent incidents, including but not limited to, criminal activity and/or complaints at or near a residential multiple dwelling building within the last 12 months indicate that the Department's Trespass Affidavit Program would be useful:

**CRIME PREVENTION OFFICER**

1. Confer with members of the community and analyze current crime trends to identify multiple dwelling buildings appropriate for the Trespass Affidavit Program.
2. Confer with the commanding officer to ensure that the buildings enrolled in the Trespass Affidavit Program can be patrolled with sufficient frequency to reduce criminal activity and/or address community complaints at these residential multiple dwelling buildings.

**CRIME  
PREVENTION  
OFFICER  
(continued)**

3. Obtain authorization, except in Manhattan, from the multiple dwelling building's owner/authorized agent to participate in the Trespass Affidavit Program.
  - a. Have the owner/authorized agent sign a **TRESPASS CRIMES - OWNER'S AFFIDAVIT (PD651-051)** which authorizes the Department to conduct interior patrols for a period of six months.
  - b. Ensure that **TRESPASS CRIMES – OWNER'S AFFIDAVIT(S)** or New York County District Attorney Trespass Affidavits, as appropriate, are properly signed and permit the arrest of persons in the building who are not:
    - (1) Residents; OR
    - (2) Guests; OR
    - (3) Otherwise authorized to be in the building.
  - c. Participating owners/authorized agents must post signs informing all persons entering, in substance, that trespassing is prohibited.
  - d. The signs should be posted in areas where persons entering the building can readily observe them. Suggested locations for these signs include, but are not limited to, the vestibule entrance, vestibule, above the elevator, courtyard, roof, any restricted area and other common areas.

**NOTE**

*The crime prevention officer will notify the building's owner/authorized agent if it is reported that the signs are missing, illegible or defaced.*

- e. Obtain from the owner/authorized agent the keys to the building.
4. Prior to the expiration of a building's six-month enrollment in the program, confer with members of the community and analyze current crime trends to determine if the condition has been corrected or if a continuation of interior patrols in the building is warranted.
5. If additional interior patrols are necessary, recommend to the commanding officer that the building be enrolled for another six-month period.
6. Evaluate any requests to renew enrollment and determine whether the building would benefit from six more months of interior patrols before the **TRESPASS CRIMES - OWNER'S AFFIDAVIT** or New York County District Attorney Trespass Affidavit, as appropriate, expires.

**NOTE**

*Prior to the expiration of a building's first six months in the program, the command's crime prevention officer or another member of service as designated by the commanding officer, will evaluate whether to renew a building's participation in the program for an additional six months. This determination should be based on recent incidents, including but not limited to criminal activity and complaints during the preceding six month period.*

**COMMANDING  
OFFICER**

7. Prior to the expiration of a building's second consecutive six month enrollment in the Trespass Affidavit Program, determine whether to renew the building's participation in the program for another six months, based on recent incidents, including but not limited to criminal activity and complaints during the preceding six month period.

**INTERIM ORDER NO. DRAFT 1**



**COMMANDING OFFICER (continued)**

- a. Submit a report on **Typed Letterhead** notifying the borough commander whenever a determination is made to continue enrollment beyond one year indicating the basis for the decision.
8. Direct the crime prevention officer or other designated member of the service to complete the renewal of participation in the Trespass Affidavit Program by fulfilling the requirements of step “3.”
9. Whenever a building is not renewed for participation in the TAP program, have the building owner/authorized agent instructed to notify the residents in writing.
10. Submit a quarterly report on **Typed Letterhead** to the Chief of Patrol through channels, identifying those buildings that were evaluated and the final determination for each building.

**PATROL BOROUGH COMMANDER**

11. Review the request to renew enrollment of building in the program beyond one year.
12. Make a recommendation to the Chief of Patrol.

**CHIEF OF PATROL**

13. Review requests to renew participation in the Trespass Affidavit Program for any building beyond one year.

**CRIME PREVENTION OFFICER**

14. Maintain copies of **TRESPASS CRIMES – OWNER’S AFFIDAVIT(S)** or New York Country District Attorney’s supporting affidavits, as appropriate.
15. Maintain a current list of Trespass Affidavit Program buildings containing the following information:
  - a. Address and description of location
  - b. Nature of problem(s) or condition(s)
  - c. Times when illegal activity is prevalent
  - d. The expiration date for the affidavit.
16. Ensure that the following are accessible to the desk officer at all times:
  - a. **TRESPASS CRIMES – OWNER’S AFFIDAVIT(S)** or New York County District Attorney's supporting affidavits, as appropriate
  - b. **TRESPASS CRIMES - FACT SHEET(S) (PD351-144)**
  - c. List of current Trespass Affidavit Program buildings.
17. Contact the Legal Bureau for approval if a District Attorney’s Office makes a request to modify either the **TRESPASS CRIMES - OWNER’S AFFIDAVIT** or the **TRESPASS CRIMES - FACT SHEET**.

**ADDITIONAL DATA**

*Commanding officers may utilize precinct community affairs officers and/or neighborhood coordination officers (NCOs) to assist in identifying buildings that are appropriate for the Trespass Affidavit Program. Special care should be taken to enroll multiple dwelling buildings that have both demonstrated a specific need for interior patrol based on complaints and an owner/authorized agent committed to providing secured access to the building and willing to comply with the requirements of the program.*

*The Community Affairs Bureau, Crime Prevention Division will offer resources (e.g., organize tenant patrol, physical survey of building, etc.) to eradicate existing illegal activity and deterrence from future occurrences.*

**INTERIM ORDER NO. DRAFT 1**

**ADDITIONAL DATA**  
(continued)

The **TRESPASS CRIMES – OWNER’S AFFIDAVIT (PD651-051)** will be utilized for Department Trespass Affidavit Program buildings in the Bronx, Brooklyn, Staten Island and Queens. The New York County District Attorney’s Office manages a Trespass Affidavit Program in Manhattan and utilizes its own supporting affidavits. Therefore, to enroll a multiple dwelling building in Manhattan, members of the service should refer the owner/authorized agent to the New York County District Attorney’s Community Affairs Unit.

The **TRESPASS CRIMES - FACT SHEET (PD351-144)** will be prepared in every instance where a uniformed member of the service effects a trespass arrest including in any building participating in a Trespass Affidavit Program.

For Trespass Affidavit Program buildings in New York County, the crime prevention officer will act as liaison to the New York County District Attorney’s Community Affairs Unit. All Department and New York County District Attorney Trespass Affidavit Program affidavits expire six months from the date the owner/authorized agent signed affidavit.

**RELATED PROCEDURES**

Interior Patrol of Multiple Dwelling Buildings Enrolled in the Trespass Affidavit Program (P.G. 212-59)

**FORMS AND REPORTS**

**TRESPASS CRIMES - OWNER'S AFFIDAVIT (PD651-051)**  
**TRESPASS CRIMES - FACT SHEET (PD351-144)**

3. Patrol Guide 202-26, Crime Prevention Officer” is amended as follows:
  - a. **ADD** new step “**19,**” opposite “CRIME PREVENTION OFFICER,” on page “**2**” to read:

<p>“<b><u>CRIME PREVENTION OFFICER</u></b></p>	<p><b>19.</b></p>	<p><b><u>Administer the Trespass Affidavit Program in accordance with Administrative Guide 303-27, ‘Trespass Affidavit Program’.</u></b></p>
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4. Commands will requisition the following revised form with the revision date of [Rev. XX-XX] through the Quartermaster Section using the following information:

<u>INDEX NUMBER</u>	<u>PD NUMBER</u>	<u>TITLE</u>
XXXX	PD351-144 [Rev. XX-XX]	TRESPASS CRIMES - FACT SHEET

5. Effective immediately, existing copies of the above listed form with a revision date prior to [Rev. XX-XX] are **OBSOLETE** and should be destroyed upon receiving the revised Department form.

6. Upon publication, this Interim Order has been incorporated into the On-Line Administrative Guide and On-Line Patrol Guide.

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

**BY DIRECTION OF THE POLICE COMMISSIONER**

**DISTRIBUTION**

**All Commands**

**INTERIM ORDER NO. DRAFT 1**