

P.G. 214-12 Unlawful Evictions

Date Effective: 01-01-00

PROCEDURE

To protect the rights of a person who is being or has been unlawfully evicted from his dwelling unit.

DEFINITIONS

UNLAWFUL EVICTIONS - Purpose of the law is to discourage, through the imposition of substantial criminal and civil penalties, unlawful evictions to occupants of dwelling units, by methods which often involve:

- a. Force and violence, or
- b. The denial of essential services, or
- c. Other serious Building Code and Health Code violations.

The law makes it unlawful for any person to evict or attempt to evict an occupant by:

- a. Using or threatening to use force, or
- b. Interruption or discontinuance of essential services (heat, electricity, water), or
- c. Removing the occupant's possessions from the dwelling, or
- d. Removing the entrance door or
- e. Removing, plugging or rendering inoperable the entrance door lock, or
- f. Changing the lock on such entrance door without supplying the occupant with a key.

Unless a Warrant of Eviction or Government Order to Vacate has been executed, the protective provisions of this law apply in the following circumstances:

- a. When an individual occupies a dwelling unit pursuant to a lease; or
- b. When an individual has lawfully occupied a dwelling unit for thirty (30) or more consecutive days; or
- c. When an individual occupies a dwelling unit within a hotel which is subject to registration under the rent stabilization law (generally single-room occupancies [S.R.O.'S]) and has requested a lease pursuant to provisions of the rent stabilization law.

DWELLING - Any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings. Qualifying "dwellings" include:

- a. One (1) or two (2) family homes

b. Multiple dwellings.

DWELLING UNIT - Any residential accommodation within a dwelling.

MULTIPLE DWELLING - A dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied, or is intended, arranged or designed to be used or occupied, as the residence or home of three (3) or more families living independently of each other. A multiple dwelling includes apartment buildings and hotels. A multiple dwelling does not include:

a. A hospital, convent, monastery, asylum or public institution, or

b. A fireproof building used wholly for commercial purposes except it may contain one (1) janitor's apartment, and one (1) penthouse occupied by not more than two (2) families.

OWNER - Any person, firm or corporation directly or indirectly in control of a dwelling.

NOTE: A tenant who subleases his dwelling unit is in the position of an "owner" with respect to his sub-tenant.

PROCEDURE

When a uniformed member of the service has probable cause to believe that a person has been unlawfully evicted from his dwelling unit:

UNIFORMED MEMBER OF THE SERVICE

1. Prepare summons in cases where the violator is properly identified and occupant is permitted to reenter the dwelling.

a. Follow P.G. 209-09, "Personal Service Of Sumonses Returnable To Traffic Violations Bureau Or Criminal Court."

b. Prepare a separate summons for each offense

c. Make summons returnable to the decentralized Criminal Court located in the borough of issuance:

(1) Consult ACTIVITY LOG insert COMMON SUMMONSABLE OFFENSES (PD160-102) for borough court locations

(2) Enter return dates for each borough as indicated in ADDITIONAL DATA statement below

d. Complete "Information Section" on rear of summons.

(1) Specific details of the violation must be provided.

NOTE: If offense was committed in the presence of officer, the officer will sign the Information. When not committed in officer's presence, the officer must ascertain that a crime was committed and request complainant to sign the Information. If complainant refuses, officer may sign, "based on information and belief," provided all details as related to the officer by the complainant are included in the Information.

If a civilian is the complainant, delete the word "Complainant" and substitute the word "Officer" on the bottom two (2) lines of front of summons. In addition, draw line through the words, "I personally observed the

commission of the offense charged above" immediately above the "Rank/Signature of Complainant" caption. In addition, in every case in which a civilian complainant is involved, the name, address, and telephone number of the complainant will be entered along the left margin on the reverse side of the summons.

e. Personally serve violator with Criminal Court (pink) copy of summons.

f. Process remaining copies according to normal procedures.

2. Effect an arrest where the violator:

a. Cannot be properly identified, or

b. Refuses to permit occupant to re-enter or who through physical obstruction prevents the occupant from re-entering.

NOTE: When an arrest is necessary, the violator shall be brought to criminal court for prompt arraignment. A desk appearance ticket shall not be issued.

3. Refer evicted persons who are unable to secure temporary housing to Department of Social Services, Emergency Assistance Unit, 241 Church Street, telephone number (212) 344-5241.

ADDITIONAL DATA

Return dates are to be scheduled at least twenty one (21) days from date summons was issued, on the day of the week indicated, according to borough where summons was issued:

* Manhattan	Wednesday, Thursday, Friday
* Queens	Tuesday
* Bronx	Friday
* Brooklyn	Monday
* Staten Island	Thursday

Unlawful eviction is a class "A" misdemeanor, however, it is not a fingerprintable offense.

Substantial civil penalties may also be sought through Corporation Counsel in appropriate cases.

When it has been determined that a continuous pattern of unlawful eviction activity exists at a particular location, the precinct commander will confer with Legal Bureau personnel regarding initiation of civil action through the Corporation Counsel.

If there is a potential for violence between Family/Household members, the demanding of entrance under this procedure is not required. Officers may decline to issue a summons or effect an arrest for unlawful eviction in domestic violence cases.

RELATED PROCEDURES

Mentally Ill or Emotionally Disturbed Persons (P.G. 216-05)

Personal Service Of Sumonses Returnable To Traffic Violations Bureau Or Criminal Court (P.G. 209-09)

Evictions, Repossessions and Other Civil Process (P.G. 214-13)

FORMS AND REPORTS

ACTIVITY LOG (PD112-145)

COMMON SUMMONSABLE OFFENSES (PD160-102)

P.G. 214-13 Evictions, Repossessions And Other Civil Process

Date Effective: 01-01-00

PURPOSE

To protect life and property and preserve the peace when involved in the enforcement of eviction warrants or other civil process.

SCOPE

Uniformed members of the service should be cognizant that incidents to which they respond may be the outgrowth of a civil process. The authority to break and enter pursuant to purely civil process such as repossessions, evictions and civil commitments is given to the city marshal/sheriff. The only assistance which the police must render to a marshal is the general mandate of the New York City Charter to preserve the peace and protect life and property.

PROCEDURE

When requested to assist in the execution of an eviction warrant or other civil process:

DESK OFFICER

1. Assign uniformed member of the service to assist at location involved.

UNIFORMED MEMBER OF THE SERVICE

2. Respond to location and examine identification of city marshal/sheriff and if eviction is involved, examine warrant.

NOTE: 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. The execution of a warrant of eviction is the sole responsibility of the city marshal/sheriff. Where a forced entry is authorized, a city marshal/sheriff is required to do so in the least disruptive way. Uniformed members of the service will not assist in breaking a door or damaging other property to effect a warrant of eviction. The city marshal is responsible for this action, when necessary and authorized.

IF SUBJECT OF AN EVICTION OR OTHER CIVIL PROCESS REFUSES TO ALLOW ENTRY OR LEAVE VOLUNTARILY:

UNIFORMED MEMBER OF THE SERVICE

3. Notify desk officer and request response of a patrol supervisor, before any further action is taken.

PATROL SUPERVISOR

4. Respond to scene and assess situation.

NOTE: If subject of eviction warrant or other civil process appears to be emotionally disturbed comply with P.G. 216-05, "Mentally Ill or Emotionally

Disturbed Persons."

IF SUBJECT OF EVICTION OR OTHER CIVIL PROCESS ALLOWS ENTRY:

UNIFORMED MEMBER OF THE SERVICE

5. Enter premises with city marshal/sheriff and landlord/representative and remain until eviction or civil process is executed.

6. Make following entry in ACTIVITY LOG (PD112-145):

a. Name and shield number of city marshal/sheriff

b. Time of entry into tenant's premises

c. Location of tenant's premises in building

d. Name of tenant

e. Note if tenant is present or not

f. Whether city marshal/sheriff or landlord/representative will be responsible for the tenant's property.

(1) If the landlord/representative endorses the eviction warrant indicating that he takes responsibility for the property in the premises, the eviction is complete.

(2) If the landlord/representative does not take responsibility for the property in the premises, the city marshal must arrange for removal.

NOTE: The city marshal/sheriff or the landlord/representative is not permitted to place the property from the premises on the sidewalk. A vehicle must be on the scene and property loaded immediately.

g. Name and address of moving company

h. Name of the driver of each moving van

i. Time each moving van left

j. Location of warehouse where property will be stored.

7. Notify desk officer when the eviction is completed.

RELATED PROCEDURES

Mentally Ill or Emotionally Disturbed Persons (P.G. 216-05)

Motor Vehicle Repossessed/Parking Violations Bureau Scofflaw Removal program (P.G. 212-48)

Unlawful Evictions (P.G. 214-12)

Hostage Barricaded Persons (P.G. 212-38)

FORMS AND REPORTS

ACTIVITY LOG (PD112-145)