

UNLAWFUL EVICTIONS

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01/01/2000

DATE EFFECTIVE
01/01/2000

REVISION NUMBER

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 Summonses 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.

*Mentally Ill or Emotionally Disturbed Persons (P.G. 216-05)
Personal Service Of Summonses Returnable To Traffic Violation Bureau Or Criminal Court (P.G. 209-09) Evictions, Repossessions and Other Civil Process (P.G. 214-13)*

RELATED PROCEDURES

FORMS AND REPORTS

**ACTIVITY LOG (PD112-145)
COMMON SUMMONSABLE OFFENSES (PD160-102)**

Patrol Guide
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