



PATROL GUIDE

Section: Summonses		Procedure No: 209-39	
PERSONAL SERVICE OF TRANSIT ADJUDICATION BUREAU NOTICE OF VIOLATION (TAB/NOV) IN LIEU OF ARREST FOR A QUALIFIED INDIVIDUAL			
DATE ISSUED: 03/18/19	DATE EFFECTIVE: 03/18/19	REVISION NUMBER:	PAGE: 1 of 4

PURPOSE

To provide for the issuance of a Transit Adjudication Bureau Notice of Violation (TAB/NOV) in lieu of arrest for eligible individuals apprehended for violating New York City Transit Rules of Conduct (21 NYCRR, Chapter XXI, Part 1050) in the New York City Transit System.

SCOPE

Pursuant to section 1204(5-a) of the Public Authorities Law, any person committing one or more violations of the New York City Transit Rules of Conduct, shall be subject to either arrest and criminal prosecution in the Criminal Court of the City of New York or civil penalties imposed by the Transit Adjudication Bureau. Therefore, after careful consideration of the violator's criminal history and potential threat to public safety, members may take appropriate corrective action by issuance of a Transit Adjudication Bureau Notice of Violation (TAB/NOV) or Criminal Court summons in lieu of arrest, if qualified.

DEFINITIONS

TAB RECIDIVIST - A subject who has received three or more TAB/NOV within the last two years or has three or more unpaid/unanswered TAB/NOV within the last eight years. TAB Recidivists are not eligible to receive a TAB/NOV for violations of the NYC Transit Rules of Conduct.

TRANSIT OFFENDER - A subject who is on parole or probation or has three or more unsealed Theft of Services arrests in the last three years or has one or more unsealed arrest in the transit system for the following crimes:

- a. Within the last ten years:
 - (1) Murder
 - (2) Any sex offense
 - (3) Robbery
 - (4) Felony Assault
 - (5) Grand Larceny.
- b. Within the last three years:
 - (1) Felony weapon
 - (2) Assault/Menacing/Harassment
 - (3) Reckless Endangerment
 - (4) Larceny/possession of stolen property
 - (5) Criminal Mischief
 - (6) Forgery/fraud/unlawful credit card use
 - (7) Jostling.

PROCEDURE

When a person is observed violating a provision of the New York City Transit Rules of Conduct within the New York City Transit System:

UNIFORMED MEMBER OF THE SERVICE

1. Take violator into custody and inform violator of offense committed, unless physical resistance, flight or other factors render such notification impractical.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
209-39	03/18/19		2 of 4

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

2. Request violator to show proof of identity and residence.
3. Establish violator's identity and residence through observation of valid identification documents.
4. Request background check of violator through the local Transit District, and/or through the use of a mobile device, using the Domain Awareness System (DAS).
5. Issue violator TAB/NOV in lieu of arrest for observed violation(s), if qualified, and eject from the system, if appropriate.
 - a. Disqualifying factors for a TAB/NOV are:
 - (1) Violator has an active warrant
 - (2) Violator is wanted in connection with an active **INVESTIGATION CARD (PD373-163)** labeled "*Perpetrator – probable cause to arrest*"
 - (3) Violator is charged with other fingerprintable offense(s)
 - (4) Violator is not properly identified or valid residence cannot be ascertained
 - (5) A legitimate law enforcement purpose in addition to the initial violation can be articulated
 - (6) Violator is identified as a TAB Recidivist or Transit Offender.
6. Issue violator a Criminal Court summons in lieu of arrest for the observed violation(s), if qualified and:
 - a. Identified as a TAB Recidivist
 - (1) Use Transit Rule violation code if issuing summons for fare evasion.
 - b. Identified as a Transit Offender and the observed violation is other than fare evasion.
7. Remove violator to Transit District command or a designated arrest facility and inform desk officer of facts, if violator is disqualified from receiving a TAB/NOV or Criminal Court summons.

DESK OFFICER

8. Question officer regarding circumstances that led to arrest.
 - a. Conduct a DAS search to verify background of violator.
 - b. Determine whether violator should be issued a summons or processed as an online arrest.
9. Make a Command Log entry including the circumstances of the summons or arrest.

**UNIFORMED
MEMBER OF
THE SERVICE**

10. Process the violator as an online arrest if:
 - a. Violator has an active non-Summons Adjudication Part (SAP) warrant
 - b. Violator is charged with other fingerprintable offense(s)
 - c. Violator has evaded the transit fare and is designated a Transit Offender
 - (1) Charge violator with New York State Penal Law offense of Theft of Services.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
209-39	03/18/19		3 of 4

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

- d. A legitimate law enforcement purpose in addition to the initial violation can be articulated
- e. Violator cannot be properly identified or produce valid proof of residence.
 - (1) Allow violator to contact a third party in order to obtain appropriate identification and proof of residence.
 - (a) Delay arrest processing for a reasonable amount of time to allow for delivery of such document(s).
 - (2) Utilize Department computer systems and devices to ascertain identity of violator, including the viewing of digital booking photos, querying DAS and by using a Mobile Identification Device, if available.
 - (3) Issue a TAB/NOV or Criminal Court summons, as appropriate, if identity and valid residence are properly established.

DESK OFFICER

- 11. Comply with *P.G. 208-23, "Computerized Investigation Card System,"* if an active **INVESTIGATION CARD** labeled, "*Perpetrator – Probable Cause to Arrest*" exists, and:
 - a. Release violator to responding detective, after issuance of summons returnable to Criminal Court, unless violator is processed as an online arrest
 - b. DO NOT release a violator with an active **INVESTIGATION CARD** labeled, "*Perpetrator – Probable Cause to Arrest,*" if no detective is available to re-arrest the violator
 - (1) In this situation, process the Transit Rule violation as an online arrest and inform the assigned Assistant District Attorney of the circumstances.

VIOLATOR IS THE SUBJECT OF A SAP WARRANT:

DESK OFFICER

- 12. Direct the issuance of a Criminal Court summons.
 - a. Utilize the bar code reader to scan the served Criminal Court summons into the Electronic Summons Tracking System (ESTS).
 - b. Scan the "Original" copy of the Criminal Court summons into the network scanner.
 - c. Create a new summons envelope transmittal for the "Original" copy of the Criminal Court summons in ESTS and scan the Criminal Court summons directly to court.

**UNIFORMED
MEMBER OF
THE SERVICE**

- 13. Return the arrestee to the Criminal Court Arraignment Part, in the borough the current violation was observed, to appear on the warrant and the Criminal Court summons issued for the current violation.
 - a. The summons issuing officer does not have to be the escorting officer.
 - b. The arrestee does not have to be returned to the issuing borough court to vacate the SAP warrant. They can be returned to any Criminal Court in the City.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
209-39	03/18/19		4 of 4

UNIFORMED MEMBER OF THE SERVICE (continued)

14. Provide the “Original” copy of the Criminal Court summons prepared for the current violation, as well as a copy of the warrant(s), to the Associate Court Clerk of the Criminal Court Arraignment Part.
15. Wait with the individual while court staff retrieve the appropriate file(s) and/or add the matter(s) to the court’s calendar.
16. When called, bring the defendant before the court to adjudicate both the Criminal Court summons issued for the current violation and the outstanding warrant(s).
17. Be guided by the judge, court staff, and members of the service assigned to the borough Court Section regarding the release or continued custody of the defendant.

DESK OFFICER

18. Direct the issuing officer to release the person from the command and, if appropriate, eject them from the system, if there are no other reasons to detain the violator.

ADDITIONAL DATA

In all cases, when a Criminal Court summons is issued for an observed violation of New York City Transit Rules of Conduct, the Transit Rules violation code will be used for the charge.

*A Transit Offender will not be issued a **DESK APPEARANCE TICKET** when arrested for a crime committed within the New York City Transit System.*

RELATED PROCEDURES

Computerized Investigation Card System (P.G. 208-23)

FORMS AND REPORTS

DESK APPEARANCE TICKET INVESTIGATION CARD (PD373-163)

