



PATROL GUIDE

Section: Mobilization/Emergency Incidents		Procedure No: 213-20
RESPONSE TO FIRST AMENDMENT ACTIVITIES		
DATE EFFECTIVE: 09/10/21	LAST REVISION: I.O. 79	PAGE: 1 of 7

PURPOSE

To establish the duties and responsibilities of members of the service assigned to First Amendment activities.

SCOPE

Under the First Amendment of the United States Constitution, all people are afforded the right to free speech, peaceably assemble, and to petition the Government for redress of grievances. Members of the service will be deployed to demonstrations where it is clear that nonviolent participants are gathered to lawfully engage in the aforementioned activities. Members of the service must take care not to intrude upon the rights of expression or association of attendees while remaining neutral and maintaining the peace.

DEFINITIONS

FIRST AMENDMENT ACTIVITY: Where non-violent participants are lawfully assembled to exercise freedom of speech and to petition the government for a redress of grievances.

DE-ESCALATION: Taking action in order to stabilize a situation and reduce the immediacy of the threat so that more time, options, and/or resources become available (e.g., tactical communication, requesting a supervisor, additional members of the service and/or resources such as Emergency Service Unit or Hostage Negotiation Team, etc.). The goal is to gain the voluntary compliance of the subject, when appropriate and consistent with personal safety, and to reduce or eliminate the necessity to use force.

INCIDENT COMMANDER: The highest ranking uniformed police supervisor responsible for the command, control and coordination of all police operations at a First Amendment activity. The precinct commanding officer or executive officer will ordinarily be designated as the incident commander. If the First Amendment activity occurs or is scheduled to occur in two or more commands within the same patrol Borough, the patrol Borough commander or designee will be designated as incident commander, and in cases where the activity affects or is scheduled to affect more than one patrol Borough, the Chief of Patrol or designee will be designated as incident commander.

NONVIOLENT PARTICIPANT: An individual who participates in a First Amendment activity without the use of violent behavior.

PROTEST LIAISON: A uniformed member of the service assigned to the precinct's Community Affairs Unit or the Community Affairs Bureau and assigned to liaise with leaders and participants of a First Amendment activity. Command level Community Affairs personnel will liaise with participants in conjunction with Community Affairs Bureau personnel.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	LAST REVISION:	PAGE:
213-20	09/10/21	I.O. 79	2 of 7

DEFINITIONS (continued) VIOLENT BEHAVIOR: Includes, but is not limited to, the use of physical force, or tangible objects to hurt persons, damage property, cause fire, or the incitement or encouragement of such behaviors.

PROCEDURE When directed to respond to the scene of a First Amendment activity:

UPON BECOMING AWARE OF A SCHEDULED FIRST AMENDMENT ACTIVITY:

- | | |
|---|---|
| UNIFORMED MEMBER OF THE SERVICE | <ol style="list-style-type: none"> 1. Notify the Citywide Event Planning and Coordination Section. 2. Notify precinct commanding officer. |
| COMMANDING OFFICER | <ol style="list-style-type: none"> 3. Direct a precinct level member of the service assigned to a community affairs role to attempt to contact the activity’s organizers and report back any pertinent information, if not previously conducted. <ol style="list-style-type: none"> a. Ensure pertinent information is relayed to the Citywide Event Planning and Coordination Section. |
| CITYWIDE EVENT PLANNING AND COORDINATION SECTION | <ol style="list-style-type: none"> 4. Determine what resources will be necessary for scheduled activity based on type, location, anticipated participants, and other relevant factors. <ol style="list-style-type: none"> a. Liaise with commands and units as necessary to ensure appropriate staffing for scheduled activity. b. Notify affected agencies and municipalities, if necessary (e.g., Metropolitan Transportation Authority, Port Authority, New York City Transit, etc.). 5. Notify and confer with Borough Command and Bureau concerned, Community Affairs Bureau, Legal Bureau, Strategic Response Group (SRG) and Intelligence Bureau. |
| MEMBERS OF THE SERVICE ASSIGNED TO CRIMINAL JUSTICE BUREAU | <ol style="list-style-type: none"> 6. Notify District Attorney’s Office, if Mass Arrest Processing Center (MAPC) is activated. <ol style="list-style-type: none"> a. Legal Bureau will confer with concerned District Attorney’s Office when MAPC is not activated. |
| COMMUNITY AFFAIRS BUREAU/ PCT COMMUNITY AFFAIRS PERSONNEL | <ol style="list-style-type: none"> 7. Report to location and provide resources as requested by Citywide Event Planning and Coordination Section, Incident Commander, or other competent authority. 8. Assign a member(s) of the service as a protest liaison. |

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	LAST REVISION:	PAGE:
213-20	09/10/21	I.O. 79	3 of 7

**PROTEST
LIASION** 9. Wear uniform that is uniquely assigned to the Community Affairs Bureau, or attire deemed appropriate by Borough Command.

NOTE *Protest liaisons may not wear civilian attire.*

10. Make attempts to contact and establish a rapport with leaders of First Amendment activity before, during, and after activity, if identifiable.

NOTE *The purpose of establishing a rapport with First Amendment group leaders is to foster cooperation in supporting the group's activities and to attempt to have group leaders intervene before activities become unlawful.*

**INCIDENT
COMMANDER** 11. Respond to location of activity ahead of scheduled time and assume command of all police operations.

12. Determine if additional personnel and resources are needed.

a. Liaise with Citywide Event Planning and Coordination Section in determining appropriate staffing and resources.

13. Consider all available information and prepare plan of action after consulting with Citywide Event Planning and Coordination Section, Community Affairs Bureau, Legal Bureau, and borough commander or designee.

a. Develop a barrier configuration plan, if necessary, that ensures:

- 1) Orderly movement of persons attending event, as well as, those attempting to pass by or leave event, and
- 2) Safety lanes and frozen areas to provide access for police personnel.

NOTE *The plan of action should account for any possibility of counter-demonstration activities and their locations; including a contingency plan for unforeseen events (i.e., larger crowds, change of route, etc.). Barrier configuration for demonstrations should not unreasonably restrict access to, and participation in, the event. For example, attendees should be permitted to leave the event area at any time. In addition, if crowd conditions and other circumstances permit, participants should be permitted to leave and return to the same area. Sufficient openings in the barricades should be maintained for the purpose of permitting attendees to leave expeditiously and return to the event.*

14. Ensure uniformed supervisors account for responding personnel by utilizing **DETAIL ROSTER/ASSIGNMENT SHEETS (PD406-141)**.

15. Instruct responding members of the service regarding First Amendment activities.

a. Advise members of the service of engagement strategies and the duty to balance the participants' rights to free expression with the need to maintain public safety for both participants and non-participants alike.

16. Stage personnel at an appropriate distance away from the First Amendment activity in consultation with Community Affairs Bureau/precinct community affairs personnel, protest liaison, and the developing needs of the activity.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	LAST REVISION:	PAGE:
213-20	09/10/21	I.O. 79	4 of 7

NOTE *Personnel should be staged so that members of the service do not unnecessarily interfere with lawful First Amendment activities. If requested and present, uniformed members donning special equipment and uniforms should be staged off scene from the First Amendment activity, but positioned for any necessary rapid response consistent with safety and logistical considerations.*

- UNIFORMED MEMBERS ASSIGNED TO EVENT**
17. Respond to location of scheduled First Amendment activity as directed by competent authority.
 18. Follow instructions of Incident Commander.
 19. Comply with P.G. 213-05, "Duties at an Unusual Disorder," as necessary, if participants at First Amendment activity display violent behavior or engage in unlawful activity.
 - a. Wear dual purpose disorder control/scooter helmet at own discretion, if it is reasonably believed that safety is endangered or conditions warrant.
 20. Ensure participants' First Amendment rights to free expression are balanced with the need to maintain public safety.
 21. Attempt de-escalation techniques whenever encountering violent subjects, if feasible.
 22. Remain apprised of changing conditions.

UPON BECOMING AWARE OF A SPONTANEOUS FIRST AMENDMENT ACTIVITY:

- UNIFORMED MEMBER OF THE SERVICE**
23. Notify Patrol Supervisor.
 24. Respond to location of First Amendment activity and assume role of Incident Commander until relieved by ranking uniformed member of the service.
 25. Notify Communications Section and request command resources to respond to location as necessary.
 - a. Stage responding command resources an appropriate distance away from spontaneous First Amendment activity pending arrival of Incident Commander, unless circumstances necessitate an immediate police response.

NOTE *If available, command personnel assigned in a community affairs role will be requested to respond to spontaneous First Amendment activity.*

- PATROL SUPERVISOR**
26. Respond to location of First Amendment activity and take command of all police operations until relieved by higher authority.
 27. Notify desk officer of available information, including:
 - a. Location of activity,
 - b. Activity type,
 - c. Purpose of activity,
 - d. Size and demeanor of group,
 - e. Planned routes, and
 - f. Other pertinent information.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	LAST REVISION:	PAGE:
213-20	09/10/21	I.O. 79	5 of 7

- DESK OFFICER** 28. Notify and relay information provided by the patrol supervisor to:
- a. Commanding Officer,
 - b. Operations Unit, and
 - c. Overhead command.
- OPERATIONS UNIT** 29. Notify the following commands:
- a. Community Affairs Bureau
 - b. Intelligence Bureau, and
 - c. Citywide Event Planning and Coordination Section.
- INCIDENT COMMANDER** 30. Respond to location and relieve patrol supervisor by taking command of all police operations.
31. Follow steps “12” through “16.”
- UNIFORMED MEMBER OF THE SERVICE ASSIGNED TO EVENT** 32. Report to location of First Amendment activity as directed by Citywide Event Planning and Coordination Section/Operations Unit or competent authority.
33. Follow instructions of Incident Commander.
34. Comply with [P.G. 213-05, “Duties at an Unusual Disorder,”](#) as necessary, if participants at First Amendment activity display violent behavior or engage in unlawful activity.
- a. Wear dual purpose disorder control/scooter helmet at own discretion, if it is reasonably believed that safety is endangered or conditions warrant.
35. Ensure participants’ First Amendment rights to free expression are balanced with the need to maintain public safety.
36. Attempt de-escalation techniques whenever encountering violent subjects, if feasible.
37. Remain apprised of changing conditions.
- COMMUNITY AFFAIRS BUREAU PERSONNEL** 38. Report to location and provide resources as requested by the Citywide Event Planning and Coordination Section/Operations Unit or other competent authority.
- INCIDENT COMMANDER/DESIGNEE** 39. Assign a member(s) of the service as a protest liaison.
- PROTEST LIAISON** 40. Make attempts to contact and establish a rapport with leaders of First Amendment activity before, during, and after activity, if identifiable.

NOTE *The purpose of establishing a rapport with First Amendment group leaders is to foster cooperation in supporting the group’s activities and to attempt to have group leaders intervene before activities become unlawful. Command personnel assigned to a Community Affairs role will work in conjunction with the Community Affairs Bureau.*

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	LAST REVISION:	PAGE:
213-20	09/10/21	I.O. 79	6 of 7

ADDITIONAL DATA

Citywide Events Planning and Coordination Section is available from 1000 hours to 1800 hours Monday through Friday. All other times, notify the Operations Unit.

Where appropriate and consistent with personal safety, de-escalation techniques may reduce or eliminate the need to use force and increase the likelihood of gaining a subject's voluntary compliance. In all cases, the primary duty of all members of the service is to protect human life. Where tensions should rise during a First Amendment activity, members of the service will prioritize de-escalation whenever possible.

Responding members of the service assigned to the Community Affairs Bureau, or to a community affairs role at their command, will not be assigned to patrol or enforcement functions except in exceptional circumstances during a First Amendment activity.

When notified that a First Amendment activity is to occur, the Incident Commander will cooperate with leaders of First Amendment activity to the extent possible, balancing their right to free expression with the need to maintain public safety. Citywide Events Planning/Coordination Section or Operations Unit will notify Legal Bureau as soon as possible to assist in planning and to arrange for response of a Department attorney, if needed.

This procedure governs the preparation for, and duties related to, peaceful, non-violent, lawful First Amendment activities. In the event that participants engage in unlawful, destructive or violent activity, duties performed by members of the service will be dictated by [P.G. 213-05, "Duties at an Unusual Disorder."](#)

While discretion is frequently exercised at First Amendment activities, this procedure does not limit the authority of members of the service to effect arrests or take other enforcement action for unlawful acts committed during such activities, particularly, if such unlawful acts are likely to cause public unrest or prevent law enforcement from maintaining the peace.

Members of the service are reminded that body-worn cameras should not be activated at a demonstration unless engaged in one of the actions listed in step "4" of [P.G. 212-123, "Use of Body-Worn Cameras."](#) Members are additionally reminded that in accordance with the Handchu Consent Decree, investigations involving political activity may not be conducted without the express written approval of the Deputy Commissioner, Intelligence and Counterterrorism as per [P.G. 212-72, "Guidelines for Uniformed Members of the Service Conducting Investigations Involving Political Activities."](#)

The Legal Observer Program is a comprehensive system of legal support coordinated by the National Lawyers Guild (NLG) and the New York Civil Liberties Union (NYCLU). Recognizing the importance of their work, the Department permits properly identified legal observers free access through police lines at the scene of any First Amendment activity. Legal observers generally wear bright green hats (NLG) or blue hats and blue vests (NYCLU). All members of the service will extend every courtesy and cooperation to observers. Observers shall be permitted to remain in any area, or observe any police activity, subject only to restrictions necessitated by personal safety factors, as determined by the Incident Commander.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	LAST REVISION:	PAGE:
213-20	09/10/21	I.O. 79	7 of 7

**ADDITIONAL
DATA
(continued)**

When the Incident Commander is assigned to a group starting in one Borough and traveling over a bridge or walking into a contiguous Borough, the transition of the march/protest between Incident Commanders must be a direct transfer and include a full debrief on the condition experienced, including but not limited to demeanor of the group, damage to property, and any other attribute that would suggest unlawful activity. If there is no relieving Incident Commander, the initial commander will remain with the group and notify the Operations Unit. The Operations Unit will facilitate identifying a relieving Incident Commander, if available. Should there be a need to relieve personnel resources following a march across contiguous Boroughs, the Operations Unit will facilitate identifying relieving personnel. If there is no personnel available, the current personnel assigned will remain with the march/protest.

TEAM ASSIGNMENTS

ENFORCEMENT DUTY - Required to implement appropriate arrest tactics or summons activity under the supervision of sergeants and lieutenants as enforcement teams, or during preplanned or spontaneous arrest situations.

PROTECTING VULNERABLE, SENSITIVE OR CRITICAL LOCATIONS - Responsible for correctly identifying locations and providing security for designated areas.

ESCORT DUTY – Responsible for Identifying and providing a system of escorts for other service providers, protected persons or sensitive groups.

TRAFFIC DUTY – Responsible for identifying borders of the event and assigning members to appropriate roadways to:

- a. Detour traffic around the area,*
- b. Facilitate use of alternate routes, and*
- c. Prevent injury to pedestrians by creating a system of controlled crossings.*

**RELATED
PROCEDURES**

*Guidelines for Uniformed Members of the Service Conducting Investigations Involving Political Activities (P.G. 212-72)
Use of Body-Worn Cameras (P.G. 212-123)
Duties at an Unusual Disorder (P.G. 213-05)
Policing Special Events/Crowd Control (P.G. 213-11)
Duties and Responsibilities at Special Events (P.G. 213-15)*

**FORMS AND
REPORTS**

DETAIL ROSTER/ASSIGNMENT SHEET (PD406-141)