



NYPD The Key

September 2021

The School founded with your success in mind.

I.O. 75 consolidated the rules re; prisoners wearing religious head coverings into a new procedure, 208-83

- Mostly they took the rules out of the three different procedures where they existed; Strip Search (208-05), the two Arrests General procedures (208-02 and 03), Photographable Offenses (208-07) and 210-08, Guidelines for Holding Pens (lodging).
- BUT, when this happens, we have to watch for subtle changes. This is where the difficult questions come from. They didn't just move the rules, they made slight but important changes along the way.
- Try these 2 questions, then spend some time making notes on the answer key and lesson that follows.

- Q1. When an arrestee is wearing a religious head covering, the arresting officer is to inform the prisoner that the head covering must be temporarily removed and searched. According to Patrol Guide Procedure 208-83 titled, "Arrests -Religious Head Covering Guidelines," which of the following is not a proper step to take to accomplish this?
- A) Advise prisoner that removal and search will be conducted in private, and that search will be conducted by a member of the service of the same gender.
 - B) Perform thorough search for weapons and contraband and, if available, use Tactical Hand-Held Metal Detector as appropriate.
 - C) Do not remove the head covering for safekeeping unless there is an articulable reason, based on articulable facts then known to the arresting officer, to believe it is likely to be dangerous to life, can be used to harm self or others, and with permission of the desk officer.
 - D) Comply with P.G. 221-13, 'Mentally Ill or Emotionally Disturbed Persons,' if prisoner refuses to remove religious head covering for search.

Q2. For an online arrest or DAT, arresting officers will photograph prisoner with religious head covering in place. Under certain conditions, photographs will be taken with the head covering removed (uncovered photographs). Regarding the taking of an uncovered photograph, which of the following is incorrect?

- A) Uncovered photographs will not be taken at the command of arrest.
- B) Uncovered photographs may be taken if there is reasonable suspicion that the arrestee has a distinguishing feature not otherwise fully visible (hair color, tattoos, piercings, visible injury, moles, birth marks, etc.) that is of investigative value to an open investigation or arrest.
- C) Uncovered photographs may be taken if there is reasonable suspicion that the arrestee committed the crime outside their residence while not wearing a head covering.
- D) If an uncovered photograph must be taken, the prisoner must be transported to the appropriate borough court section, where the photograph will be taken in a private area by a member of the service of the same gender.

ANSWERS

- Q1: D) This has been a valid step in the procedure since it was first published in 2017. I.O. 75 just removed it. And no, they didn't replace it with any directions for when the prisoner refuses.
- Q2: B) The investigative value must be to the **current** investigation or arrest!

Key Recap of changes to Religious Head Coverings from I.O. 75 of 2021

Search

- We no longer EDP them if they refuse to let us temporarily remove the head cover to search it.
- Now we use a Hand-Held Metal Detector if we have one.
- We remove for safekeeping if it's dangerous to life BUT, it no longer says; "or can facilitate escape or damage Department property."
 - They took those two out from this new procedure (208-83), but they remain as reasons to take *anything* away for safekeeping (belts, neckties, etc.) -see 208-03, step 12c. and 208-05, B (1).

Uncovered Photographs

- Used to be routine. The procedure said: "the Department is *required* to take an official Department photograph at the borough Court Section in which the arrestees head covering must be removed."
- NOW we need Reasonable Suspicion of one of two things:
 - A feature, valuable to the current case, is obscured OR
 - They committed the crime outside their residence while not wearing it.

Turn the page for the entire Key Lesson on the new 208-83

208-83 (I.O. 75) Arrests -Religious Head Coverings

Definitions

Religious Head Covering

- Appears to be related to a sincerely held religious belief, or that a prisoner advised is related to such (e.g., yarmulke, wig, habit, turban, kufi, headscarf, hijab, burqa, etc.).

Oval of the Face

- Forehead, eyes, nose, mouth, chin and jawline (the step has “cheeks” instead of “jawline”).

Uncovered Photograph

- Taken at BCS with cover removed, in private, by MOS of same gender, with reasonable suspicion that prisoner has a distinguishing feature not otherwise fully visible that is of investigative value to the current arrest/investigation or was arrested outside their residence while not wearing the cover.

Scope

- Prisoners must be searched for weapons and contraband and,
- Photographs must be taken.

The Procedure statement says;

- When an ARRESTEE is wearing a cover. So this does NOT pertain to stops (investigative encounters).

A/O

- Inform perp cover must be temporarily removed and searched.
- Advise it'll be done in private, by same gender.
- Search for weapons & contraband, use Tactical Hand-Held Metal Detector if available, as appropriate.
- DO NOT remove for safekeeping (like belts, shoelaces, neckties, etc) unless (two things):
 - An articulable reason based on articulable facts then known to A/O that cover is likely to be dangerous to life, can be used to harm self/others **AND**
 - Permission from D.O. to retain it when consistent with personal safety and safety of prisoner.

Desk Officer

- Approve/disapprove removal & retention for safekeeping or evidence.
- Provide temporary cover when removing and retaining cover for safekeeping or evidence, if nec.
 - NOTE says; voucher as evidence if RS cover is material to the investigation.
- CLE w. reason if done for safekeeping OR if disapproved.

Photographing for an online arrest or DAT

A/O

- Take photo w. cover on, ensure oval of the face (eyes, nose, mouth, forehead, cheeks, chin) is visible.
 - Covers that obscure the oval of the face **MAY BE REMOVED** to expose oval of face.

NOTE: Reiterates the definition of Uncovered Photo but adds examples. No “uncovered photo” unless

- Reasonable suspicion of distinguishing feature not otherwise fully visible with head cover in place (hair color, tattoos, piercings, visible injury, moles, birth marks, etc) that is of investigative value to the current investigation or arrest OR
- Reasonable suspicion they **committed the crime** outside their residence while not wearing it.
- If must take Uncovered Photo, **MUST** transport to BCS (where it will be done in private/same gender)
 - Uncovered Photo will **NOT** be taken at command of arrest!!

Desk Officer (if Uncovered Photo must be taken)

- Notify BCS Supervisor and make CLE with reason and name of the BCS Supervisor notified.
- Inform BCS (doesn't say supervisor) of gender (to have MOS of same gender available to take photo).
- Direct A/O-E/O to transport to BCS as necessary to complete arrest process.

Remaining steps are for BCS, you don't need to study them...

Additional Data

- Every effort should be made not to prolong detention beyond what is necessary to take official Dept photo while accommodating prisoner's sincerely held religious beliefs.
- May seek help of clergy / interpreter if appropriate to help perp understand the need to remove cover.
- Questions or additional guidance, call Legal Bureau.