

Rules and Procedures

Rule 110

December 31, 2012

Rule 110 - ABSENCE FROM DUTY

This rule is issued to establish department policy concerning the absences of employees from duty. It is effective immediately, replacing Rules No. 36 & 38 of the 1950 Manual and superseding all previously issued orders and directives on this subject.

GENERAL RULE: No employee of this department shall be absent from duty except in accordance with this rule or contractual obligations without the consent of the Police Commissioner.

Sec. 1 VACATION AND SICK LEAVE FOR SWORN PERSONNEL: Chapter 146, Acts of 1947, as amended, govern annual vacations and sick leave allowances for police officers of the City of Boston.

VACATION AND SICK LEAVE FOR CIVILIAN AND MANAGEMENT PERSONNEL: The eligibility of these employees for vacation and sick leave benefits shall be determined by the current City of Boston compensation plan or by the current contract negotiated between the City of Boston and the employee's union.

Sec 2. ANNUAL VACATION AND SICK LEAVE ALLOWANCES: Shall be taken in accordance with the terms of this rule and Special Orders issued by the Police Commissioner.

The Police Commissioner shall arrange assignment of vacation periods for time or times as best serve the public interest. Vacation allowances may not be accumulated from one year to another without the authorization of the Police Commissioner. It shall be the policy of the Boston Police Department that sworn employees who have exhausted their allocated sick time shall have further absences charged to their vacation allowance, and shall be carried as a "vacation sick" on the district or unit time book. Civilian employees must follow the City of Boston Attendance Policy. An employee who, in this manner, exhausts all sick and vacation time must petition the Police Commissioner in writing for further leaves of absence. Service in any employ of the Commonwealth, the County of Suffolk or the City of Boston shall be included in computing the employee's length of service for vacation purposes.

Sworn personnel on sick leave who have accumulated summer vacation leave at the end of the summer vacation period or who have any vacation leave at the end of the calendar year shall be carried on vacation instead of sick-leave for the appropriate amount of time in order to exhaust these vacation credits prior to the end of the summer vacation period and the calendar year respectively.

Sec 3. COMPENSATION IN LIEU OF VACATION: Whenever the employment of an employee is terminated during a year by dismissal through no fault or delinquency on his part or by retirement or death without his having been granted the vacation to which he is entitled under this rule, he, or in the case of his death, his beneficiary, shall be paid at the regular rate of compensation payable to him at the termination of this employment, an amount in lieu of such vacation; provided that no monetary or other allowance has already been made. The word “beneficiary” as used in this section means the surviving beneficiary or beneficiaries, if any, lawfully designated by the employee under the retirement system of which he is a member or, if there be no such designated beneficiary, the estate of the deceased. Any employee reinstated or on leave of absence without pay may be credited with his vacation status and/or sick leave status at the termination his previous service and allowed such portion of this vacation, under Section One, as his actual service bears to full time for the same vacation year except that employees in military service shall be allowed full vacation credit.

Sec 4. LEAVES OF ABSENCE: Only the Police Commissioner may grant a leave of absence, with or without pay. A request for a leave of absence must be made in writing, on the prescribed department form, stating fully the reasons for the request and be submitted to the Commissioner, through Human Resources.

An employee who has exhausted all sick and vacation credits in a calendar year must petition the Police Commissioner in writing, for a leave of absence without pay for any subsequent absences during the year.

An employee who fails to petition the Commissioner within seven days after the beginning of such absence will be carried as absent without leave.

Sec. 5 SICK LEAVE: Employees of this department, after completing six months of continuous service, shall be allowed sick leave with pay for periods not to exceed fifteen working days for each year of service thereafter. Civilian employees shall accrue sick leave at the rate of 1 or 1 ¼ days for each month of actual service. Sick leave not used in any year may be accumulated.

Further sick leave may be granted, in special cases, by the signed authorization of the Police Commissioner. Sick leave with pay shall be granted to employees only when they are incapacitated for the performances of their duties by sickness, injury, and exposure to contagious diseases or by serious illness of a member of their immediate family. Notification of such absence shall be given as early as possible on the first day of absence. (Police Officers refer to Section #6 of this rule; civilian employees refer to Section # 7 of this rule.)

If such notification is not given such absence may, at the discretion of the Police Commissioner, be applied to vacation leave or leave without pay or the employee may be designated as absent without leave.

A Police Officer absent for a period of five days or more or absent more than ten working days in a calendar year may be required by the Police Commissioner to submit a physicians certificate as evidence that such absence was necessary.

A civilian employee may be required by the Police Commissioner to submit a physician's certificate for the necessity of absence from work in accordance with the provisions of the current contract negotiated between the City of Boston and the employee's union.

If any employee fails to file such a certificate within seven days after a request thereof, the Police Commissioner may, at his discretion, have such absence applied to vacation leave of absence without pay or he may designate the employee as being absent without leave.

Sec. 6 OFFICERS UNABLE TO REPORT FOR DUTY: A sworn officer who is unable to report for duty as scheduled shall report that fact by telephone to the Operations Division, on the designated line, as soon as possible and preferably at least two hours prior to the scheduled time to report; stating his name rank, I.D. number, District or Unit of assignment, and the tour of duty he is scheduled to work. The officer must also report whether the scheduled tour of duty is immediately before or after a day off.

Operations Division personnel shall record the information concerning officers reporting that they are sick on Department Form # 1938 and forward copies of all such forms to Staff Inspection and the Human Resources Division.

Immediately upon receipt of a reported absence the Operations Division shall notify the District or Unit to which the reporting officer is assigned; transmitting the information which the officer is required to supply (set out in the first paragraph of this Section). All information concerning an officer's failure to report for duty shall be entered in the District/ Unit Administrative Log and his absence recorded in the District/Unit detail book where he is assigned.

Sec. 6A OFFICERS RETURNING TO WORK OR DUTY AFTER ILLNESS: An officer returning from sick leave shall notify his assigned Command before the beginning of his next scheduled tour of duty, and if possible, at least two hours prior thereto. The Duty Supervisor shall then notify the Operations Division.

Sec. 7 CIVILIAN EMPLOYEES UNABLE TO REPORT FOR WORK: A civilian employee who is unable to report for work as scheduled shall notify his immediate supervisor as required by the current collective bargaining agreement. The employees supervisor shall obtain such information as is applicable (set out in Section # 6 of this Rule), enter the absence in the District/Unit Detail Book as a Department record and shall notify the Staff Inspection Division of the absence.

Sec. 8 PROLONGED ABSENCES: Police Officers absent for more than ten (10) consecutive days on account of illness or injury, not incurred in the performance of police duty, shall not be restored to duty until a certificate from an attending physician has been presented to the Personnel Division certifying that the officer is physically fit to resume police duty. Commanding

Officers may require certification by the Department physician before returning an officer to active duty status. Commanding Officers may return an officer to duty that has submitted a certificate of fitness signed by an attending physician. The Commanding Officer shall notify the Personnel Division of his action and forward a copy of the certification by the attending physician.

Sec. 9 PROLONGED ABSENCES BY CIVILIANS: A civilian employee, absent for 10 or more days because of non-work related sickness or injury, shall not be returned to work until a certificate from the attending physician has been presented to the Personnel Division or the employee has been examined and certified by a physician designated by this Department as being fit resume work.

A civilian employee who wishes to resume work and has a certificate of fitness signed by the attending physician, may submit such certificate to his supervisor or Commanding Officer. The Supervisor, or Commanding Officer may return the civilian employee to work pending examination by the Department Physician.

Sec. 10 EMPLOYEE ABSENCES RECORD: A record of the attendance of all personnel during the preceding day shall be submitted to the Payroll Unit by 10:00 a.m. of the following day, on the prescribed department form (Time and Absence Certificate). The record of attendance for Saturdays and Sundays shall be forwarded no later than 10:00 a.m. the following Monday. Time and Absence Certificates shall indicate the reasons for any absences and shall be signed by the Commanding Officer under the pains and penalties of perjury.

Sec. 11 MEDICALLY INCAPACITATED SECTION: After 30 calendar days of absence because of sickness, injury or disability, an employee shall be reassigned to the Medically Incapacitated Section.

An officer so assigned must obtain a certificate to return to duty from their attending physician and shall not be returned to duty until a physician designated by the Police Commissioner has examined the officer and certified that he is capable of performing assigned duties in whole or in part.

Civilian employees shall be returned to work from the Medically Incapacitated Section in accordance with the provisions of Section #9 of this Rule.

Sec. 12 OFFICERS BECOMING SICK WHILE ON DUTY: An officer becoming sick while on duty shall immediately report to his Duty Supervisor.

The Commanding Officer or Duty Supervisor shall have the officer transported to the Boston City Hospital for examination by a physician or surgeon.

In all cases of hospital referral, no officer shall be released from duty until he/she is so examined or unless his/her tour of duty has ended. No overtime will be authorized or approved in order that such an examination may be completed.

The officer's assigned district/unit will arrange transportation to the City Hospital in a department vehicle. Upon completion of the examination, the officer shall call his district/unit and request transportation back to his/her district/unit and request transportation back to his district/unit.

Sec. 13 CIVILIAN EMPLOYEE BECOMING SICK WHILE WORKING: A civilian employee becoming sick during a tour of work shall immediately notify his immediate superior or supervisor.

If a Commanding Officer or supervisor is in doubt as to the nature or duration of the sickness, injury or disability claimed by an employee, or any other reason, he may have the employee examined by a physician designated by the Police Commissioner.

Sec. 14 NOTIFICATION TO THE OPERATIONS DIVISION: The Duty Supervisor of a district or unit shall be responsible for notifying the Operations Division when an employee has reported becoming sick or is injured during a tour of duty. The supervisor shall also make the proper notation on the Administrative Log (Form 1.3.3), and in the District Detail Book.

Sec. 15 CIVILIAN EMPLOYEES BECOMING INJURED WHILE WORKING: A civilian becoming injured while working shall immediately notify his supervisor or Commanding Officer of such injury and, as soon as is practicable, shall submit a written report stating all of the facts of the incident. The supervisor or Commanding Officer receiving such a report shall complete a Massachusetts Division of Industrial Accidents "Standard Form for Employee's First Report of Injury" form (available at the Department Personnel Division) and submit the form together with a complete written report concerning the employee's injury to the Police Commissioner.

A civilian employee claiming injury sustained while working, is advised to notify the Massachusetts Division of Industrial Accidents by telephone, as soon as is practicable, since a delay in informing that division may cause the employee to lose compensation.

A civilian employee injured while working shall not resume work for this department until the employee has submitted to the Personnel Division a certificate from the Massachusetts Division of Industrial Accidents indicating that the employee has been certified as being fit to resume full employment, unless this requirement is waived by the Personnel Division of this Department.

Sec. 16 OFFICERS INJURED WHILE ON DUTY: In accordance with the provisions of M.G.L chapter 41, section 111F, when an officer is absent from duty because of temporary incapacity caused by injury sustained through no fault of his own, either while in the actual performance of his duty or when assigned to any special duty by a Superior Officer, and the existence of such incapacity is certified by his Commanding Officer and by a physician or surgeon approved by the Police Commissioner, full pay for lost time will be approved by the Police Commissioner. The burden of establishing that the incapacity exists and qualifies for injured leave pursuant to this

Section rests with the officer. The officer shall cooperate fully with the department in obtaining any and all medical and other evidence relevant to the determination of the appropriateness of the claim.

Sec. 17 HOSPITALIZATION OF OFFICERS INJURED WHILE ON DUTY: When police officers are injured in the performance of their duty, to the extent that medical or surgical treatment is necessary, they shall go to or be taken to the nearest hospital. If the officer so requests, he shall be taken to the hospital or doctor of his choice within the City of Boston. If the officer is held for treatment, his Duty Supervisor shall so inform the Operations Division which, in turn, shall notify the Departmental Hospital Liaison Officer.

Sec. 18 REPORTS REQUIRED: When an officer is disabled because of sickness or injury which may be related to his police duty, the officer shall submit a written report, recounting in detail the circumstances under which the injury or disability was incurred: including the time, the exact location, weather and lighting conditions (when relevant), together with the names and addresses of any witnesses to the event and all other information relevant to the incident. An officer that reports that he is unable to perform his duties because of injuries received while off duty shall submit a written report to his Commanding Officer forthwith.

The Commanding Officer shall recommend whether the department physician should examine the officer before resuming his duties.

Sec. 19 DELAYED REPORTS: An officer who is so severely injured, while on duty, that he cannot submit the written report, described in Section 17, during or upon completion of the tour of duty, shall submit such report as soon as he has recovered sufficiently from his injuries. In the event that an injured officer cannot submit a written report, a Superior Officer shall be assigned to procure an oral report from the injured officer. The investigative report shall not release a disabled officer from the necessity of submitting a written report as soon as he is able to do so.

Sec. 20 INVESTIGATIVE REPORTS: The Patrol Supervisor, or other immediate supervisor, of an officer who reports that he is disabled while on duty shall investigate the incident as soon as is practicable. An investigative report shall include, but not be limited to all of the following:

- A. A Registry of Motor Vehicles accident report whenever a motor vehicle is involved;
- B. Visiting the scene of the incident, recording relevant details;
- C. Interviewing officers and other witnesses having knowledge of the incident;
- D. A confirmation of any medical diagnosis.

Upon concluding the investigation, the supervisor shall submit a written report to the commanding officer and shall include a statement that his investigation has determined the following:

- A. Whether the reported disability could or could not have occurred as the disabled officer has reported;

- B. Whether the officer(s) involved adhered or did not adhere to Police Department procedures;
- C. Whether the incident was the result of carelessness, negligence, or improper conduct by any person or persons.

Sec. 21 COMMANDING OFFICER'S REPORT: Upon receiving a supervisor's investigative report (as required in Section #19), a Commanding Officer shall immediately submit a written report to the Police Commissioner, through channels, and recommend that the officer be placed in injured-on-duty status or be placed on ordinary sick leave. He shall state clearly the reasons for his recommendation, particularly if the officer has failed to comply with the provisions of this rule.

Sec. 22 REGULATIONS GOVERNING OFFICERS ABSENT FROM DUTY BECAUSE OF SICKNESS OR INJURY: The Police Commissioner may not allow pay from accumulated sick credit or for injury on duty status, if the reported sickness or injury proved to be feigned, simulated or exaggerated or:

- A. Arises from carelessness, negligence or improper conduct;
- B. Arises from over-indulgence in alcohol or the illegal use or abuse of narcotic drugs;
- C. If the officer shall fraudulently, by concealment, false statement or otherwise seek to deceive or mislead an attending physician or surgeon concerning his case;
- D. If the officer refuses or fails to conform to the instructions and/or recommendations of an attending physician or surgeon;
- E. If the officer fails to cooperate with the department in obtaining medical or other evidence relating to his incapacity and treatment therefore;
- F. If the officer fails to comply with the recommendations made by the Department Physician that are not in conflict with the instructions given by an attending physician.

Sec. 23 INDEMNIFICATION: The Police Commissioner shall determine whether it is appropriate under all circumstances for the City of Boston to indemnify an officer for reasonable hospital, medical, surgical, nursing, pharmaceutical, prosthetic and related expenses incurred as the natural and proximate result of a hazard peculiar to his employment, while acting in the performance and within the scope of his duty, without fault of his own.

Applications for indemnification will be submitted to the Police Commissioner, in duplicate on forms provided for this purpose and accompanied by an itemized original bill for each expense within six (6) months of the time the expense was incurred.

Sec. 24 INDEMNIFICATION ADVISORY BOARD: The Police Commissioner shall appoint three persons, one of whom shall be designated as secretary, to meet as an Advisory Board and review each application for indemnification. The advisory board shall recommend to the Police Commissioner whether such payments are appropriate. The approval of the Corporation Counsel for the City of Boston, or his designee, shall be obtained for each application for indemnification before the Police Commissioner will make a final determination.

Sec 25 RECURRENCE OF INJURIES: When an officer has returned to duty following an injury received in the line of duty and later reports to his Commanding Officer that he has sustained a recurrence of this disability, which requires further absence from duty, the following procedure shall be initiated:

- A. The officer shall immediately submit a written report to his Commanding Officer containing complete information concerning both the original disabling incident and the alleged recurrence. The officer's report shall be forwarded, through channels, to the Police Commissioner and a copy sent to the Personnel Division.
- B. The officer shall be carried in the Time Book for ordinary sick leave pending a medical examination and report.
- C. The officer's Commanding Officer shall request an immediate examination of the officer by the department physician.
- D. The officer shall be instructed to bring all medical reports concerning his disability to the examining physician.
- E. If the medical report of the Department physician indicates that the officer has sustained a recurrence of his original injury the Time Book shall be so amended.
- F. The burden of proof to establish a claim that the current disability is a recurrence of a prior injury sustained while on duty rests with the officer making such a claim.
- G. In all cases the recommendation and report of the department physician shall be the determining factors subject to the approval of the Police Commissioner.

Sec. 26 EXAMINATION BY PHYSICIANS: The department physician shall examine members of the force who report that they are injured while on duty immediately following the injury claim and prior to returning to duty unless the Personnel Division waives such examination. The department may designate medical specialists as a department physician for the limited purpose of individual examinations when the department determines a specialist's opinion is appropriate.

The Commanding Officer may return an officer absent for less than 10 days as a result of injuries sustained while on duty to duty pending an examination and certification by the department physician.

The Personnel Division may require from such an officer a detailed report of the officer's current condition, signed by an attending physician. The Personnel Division may also require a medical release from the officer for all medical records relating to the officer's incapacity from duty so that the Department Physician can obtain and review hospital, clinical and other medical evidence concerning the diagnosis and treatment of the officer.

Sec. 27 RETURN TO DUTY: Police officers who have been certified by the department physician as fit to return to duty shall return to duty on the date specified by the department physician.

Sec. 28 FAILURE TO RETURN TO DUTY: In the event that an officer absent from duty within the provisions of this Rule fails to return to duty within the time specified by the Department physician, his status shall be changed to “absent without leave” as of the date he failed to return duty.

Sec. 29 PHYSICIAN’S CONSULTATIONS: The physician(s) who has been attending a member of the force absent because of sickness, injury or disability incurred in the performance of his duty shall be afforded full opportunity to consult with the Police Department Physician as to the officers fitness to resume police duty. In the event that the officer sustained an on duty injury and the officers physician disagrees with the department physician’s evaluation of the officers fitness to resume duty, it shall be the responsibility of the officer to ensure that his physician submits a written adverse medical report to the Department of Personnel Division no later than twenty four hours before the officer’s scheduled return to duty. In such a case, the department physician and the employee’s physician shall jointly designate a physician agreeable to both who, at the City’s expense, shall examine the employee and render an advisory written medical opinion as to the employee’s fitness to return to duty; copies of which shall be transmitted by the employee to both the city’s physician and the employee’s physician. In the event that they are unable to agree upon a third physician, after the filing of the adverse medical report, a physician shall be jointly selected by them from a list or panel of physicians established or suggested by the Commissioner of Public Health for the Commonwealth of Massachusetts, upon which even such physician, at the city’s expense, shall examine the employee and render his advisory opinion as foresaid.

Pending receipt of such advisory opinion and action of the city physician thereupon, the City shall not require the employee to return to duty and shall continue to fully compensate him on paid injured leave for time lost due to such absence.

After consultation, the department physician shall make the final determination as to whether the officer is fit to return to duty.

Sec. 30 EXAMINATION OF SWORN PERSONNEL: Notwithstanding any other provisions of this rule, the Personnel Division shall have officers absent from duty for a period of three months or more, either on sick leave or on injured leave, examined by the department physician, following written notice being sent to the officer.

The department may utilize the department physician’s examination to initiate retirement or discharge proceedings as appropriate if the inability to resume employment is indicated.

Sec.31 GENERAL RESPONSIBILITY: The Auditing and Review Division shall evaluate the level of performance of Divisions, Districts and Units of the department in complying with the provisions of this rule.

Division personnel shall monitor the use of sick leave and shall document all sick leaves so that sick leave causes may be investigated and identified.

Edward F. Davis
Police Commissioner

Notes:

Amended by SO 12-023, issued 08/27/2012, Section 6 was replaced.

Amended by SO 12-045 issued 12/31/12, Sections 2, 4, 5 were amended, 11 spelling error was corrected.