

## Rules and Procedures

### Rule 326

June 23, 1995

#### Rule 326 - LICENSED PREMISES INSPECTION/PAID DETAILS

This Rule establishes guidelines and procedures for the conduct of Police Officers performing paid details in licensed premises and supersedes all previously issued Rules, Orders, Memorandums and Directives. Also, this Rule establishes Departmental policy relative to the manner in which Boston Police Officers report violations of the Laws of the Commonwealth and the Rules and Regulations of the Boston Licensing Board (hereafter referred to as the "Licensing Board") and the Mayor's Office of Licensing and Consumer Affairs (hereafter referred to as the "Licensing Division").

##### Sec. 1 GENERAL CONSIDERATIONS:

As agents of the Licensing Authorities, Officers may enter upon and inspect licensed premises (see [M.G.L. c. 138 § 63](#); [c. 140 § 21E](#); [c. 140 § 210](#)). However, in the absence of a search warrant, officers are prohibited from using force to gain entry. Any person who hinders, delays or refuses to admit an Officer in the performance of his duty is committing a criminal offense ([M.G.L. c. 138 § 63A](#)). Any such incident shall be reported to the Licensing Board and Licensing Division in accordance with this order.

Sec. 2 POLICY: All Police Officers acting in the capacity of agents of Licensing Authorities must concern themselves with all crimes and violations of Licensing rules that are committed WITHIN or ABUTTING licensed premises. Serious assaults, unlawful possession or use of weapons, sale or possession of controlled substances and receiving stolen property (to mention just a few examples) which take place on or abutting the premises are to be brought to the attention of the Licensing Authorities. The following selected rules and regulations, the terms and conditions of which are applicable to licensed premises, if violated, constitute a serious threat to public safety as well as interfering with and disturbing the public peace. They are:

1. There shall be no disorder, indecency, prostitution, lewdness or illegal gambling on or abutting the licensed premises.
2. There shall be no overcrowding, blocked aisles or obstructed fire exits. No increase in the capacity of the licensed premises will be valid unless a petition is duly filed by the licensee and approved by the appropriate Licensing Authority.

PLEASE NOTE THE CLEAR AND PRESENT DANGER FOR THE PUBLIC IN THE OVERCROWDING OF LICENSED PREMISES. This condition places a grave responsibility on all Police Officers in the Department to strictly monitor such conditions and to vigorously enforce violations of such regulations.

3. With the exception of liquor sold in packaged goods stores, all alcoholic beverages sold in licensed premises must be opened and consumed on the premises. (Patrons and/or employees are not allowed to enter or leave the premises with drinks or containers of alcoholic beverages).

4. Officers are also to concern themselves with any other violations of the alcoholic beverage laws which may come to their attention.

5. In any circumstances where a Licensed Premises Violation is also a criminal violation, Police Officers shall pursue both administrative and criminal complaints. (e.g., overcrowding, sale to minors, et al).

Sec. 3 PROCEDURES: In conformance with Rule 103, s. 19 and Rule 104A, s. 14, all sworn personnel are required to be knowledgeable of conditions in and around licensed premises. Accordingly, all Supervisors shall make periodic inspections and all sworn personnel shall take notice of all licensed premises on their assigned area and report all violations. While it is the policy of this Department that licensed premises inspections shall be conducted by Supervisors and Detectives, uniformed Police Officers must be alert to violations which they may encounter during the course of their normal duties.

All personnel will adhere to the following procedures when entering a licensed premises:

A. Code 10 - Personnel who enter a Licensed Premises for the purpose of a Code 10 will notify the Operations Division that they are entering a licensed premises and state the location.

B. Radio Calls - Officers responding to a radio call will notify the Patrol Supervisor, via the Operations Division, if the location of a call is a licensed premises. They shall inform the Operations Division of the business name and exact address of the premises in question.

C. Inspections - Supervisors and Detectives who conduct a licensed premises inspection will notify the Operations Division immediately prior to entering the premise, stating the address and the appropriate radio code for a licensed premises inspection. Personnel conducting a licensed premise inspection will announce a "Code 35."

D. Investigations - Personnel who enter a licensed premises during the course of an investigation are not required to announce a "Code 35." However, they shall record the name and address of the licensed premises on their daily activity log and include the fact that they were in a licensed premises in their report subsequent to the investigation.

Sec. 4 VIOLATION INSIDE OR ABUTTING A LICENSED PREMISES:

Whenever an Officer becomes aware of a violation INSIDE or ABUTTING a licensed premises, the following action will be taken:

A. Notify Operations of a licensed premises violation and request that a Patrol Supervisor be dispatched to the scene.

B. A Licensed Premises Inspection Notice (Form 1981 revised) - will be made out by a Supervisor or a Detective.

Check the appropriate box in the upper left corner to indicate whether inspection of a licensed premises resulted in either a VIOLATION or NO VIOLATION of law, city ordinance or administrative rules and regulation.

If the VIOLATION box is checked - answer the questions noted. (1) Were Police called? Did the Licensee or the Manager notify the Police Department? (2) Was a Police Officer assigned? Complete all other blocks on the form. Be specific if a violation of the law.

If the VIOLATION box is checked - CC# is to be obtained and entered on the form in the upper left corner of the form.

If the NO VIOLATION box is checked - i.e., the on premises investigation revealed no violations, complete only those blocks designated by an (\*).

C. Incident Report (BPD Form 1.1) - If the VIOLATION box is checked, an Incident Report (BPD Form 1.1) describing the facts and circumstances of what transpired inside or abutting the licensed premises must be completed by the officer who observed the violation or responded to the incident. Additionally, a special stamp stating "Licensed Premises Violation" must be applied to the upper left hand corner and Box 83 of the 1.1 (or written in by hand, if no such stamp is available).

D. Distribution of the Licensed Premises Inspection Notice:

When a violation is found, distribution will be made as follows:

White Copy - Licensee Copy

The remaining four (4) copies of the inspection notice shall be sent to the BPD Licensing Unit for distribution. Prior to forwarding the remaining four (4) copies of the inspection notice to the Licensing Unit, a photocopy of the notice shall be made and kept in the District Commander's files.

When no violation is found, all five (5) copies of the inspection notice shall go to the BPD Licensing Unit for distribution. Prior to forwarding all original copies of the inspection notice to the Licensing Unit, a photocopy of the notice shall be made and kept in the District Commander's files.

Sec. 5 GENERAL RESPONSIBILITIES OF POLICE OFFICER PERFORMING PAID DETAILS AT LICENSED PREMISES:

A. Police Officers are first and foremost employees of the Boston Police Department. The fact that a business is providing compensation to the City of Boston for the services of the Officer shall have no relevance in the performance of official duties. Officers are primarily responsible for enforcing the laws of the Commonwealth, City Ordinances, insuring compliance with rules and regulation of the Licensing Authorities and protecting the safety of the public. They shall not act in any other capacity, such as checking I.D. cards or acting as doormen or ticket takers for the management.

B. Except for paid details where a Superior Officer is also assigned, no Officer will be assigned to perform more than two (2) paid details at the same licensed premises during any calendar month.

C. No Officer shall be assigned or shall accept a paid detail at a licensed premises if his scheduled tour of duty prohibits him from being present at the detail location for a minimum of four (4) hours.

D. Officers performing paid details at licensed premises will remain at the detail location for the full duration of the detail.

For the purposes of Section 5B, 5C and 5D of this rule, a Licensed Premises shall be defined as "a premises where the primary business is the sale or distribution of alcoholic beverages." It does not include sporting or entertainment businesses where the sale or distribution of alcoholic beverages is the secondary business (e.g. , Fenway Park, Symphony Hall).

E. Any violation of laws, licensing regulations or conflicts involving management and police personnel at licensed premises shall require an immediate on-air request for a Patrol Supervisor.

F. All Officers performing paid details at licensed premises will do so in full uniform, unless there is permission from the District Commander to do otherwise.

G. Police Officers performing paid details at licensed premises are responsible for both the inside and outside condition of the premises.

H. The standard rate of compensation for Officers performing paid details is established by the Police Commissioner and is not subject to any variation, except by the Police Commissioner in conjunction with the collective bargaining agreement(s).

I. Officers shall not accept cash as a legitimate payment for a detail. The only acceptable form of payment for a detail is a City of Boston payroll check which is made out to the Officer.

J. Pursuant to [Rule 102](#), Section 22, of the Rules and Procedures of the Boston Police Department, Officers shall not solicit, seek or accept any gift or gratuity, including food, drink or admission to public transportation or public amusements for themselves or others, from any individual, merchant or business establishment, when it can be construed to involve their position as an employee of the Boston Police Department.

K. Pursuant to [M.G.L. c. 268A, § 2](#) (a) and (b), any offer of any present or future consideration in an attempt to influence a municipal employee or any such act by a municipal employee in order to obtain any such consideration is a three (3) year felony.

Sec. 6 RESPONSIBILITY OF SUPERVISORY PERSONNEL - PATROL SUPERVISOR: The Patrol Supervisor shall respond to all requests for assistance or notices of violations occurring at licensed premises and shall be responsible for ensuring that all Licensed Premise Inspection Notice forms (BPD 1891) and Incident Reports are completed and, where applicable, issued in accordance to this rule. Furthermore, Supervisors will:

A. Ensure that details performed at licensed premises are conducted in accordance with stated Department policy and pursuant to the Laws of the Commonwealth, City Ordinances and the Rules and Regulations of the Licensing Authorities.

B. Fully and correctly complete BPD Form 1891 for each premises he inspects or responds to an incident occurring at.

C. Make periodic inspections of detail officers at licensed premises as their work load allows.

D. Ensure that licensed premises are operated in an orderly fashion and not so as to constitute a public nuisance.

E. Forward all copies of reports relative to licensed premises to the District Commander.

Sec. 7 COMMANDING OFFICER: It will be the responsibility of the District Commander to establish a file for all licensed premises where Inspection Notices have been issued and be certain that all Licensed Premises Inspection Notices are forwarded to the BPD Licensing Unit.

District Commanders shall:

A. Issue Licensed Premises Inspection Notice books (BPD 1891) to Supervisory personnel, Detectives and Police Officers he so designates.

B. Ensure that Licensed Premises Inspection Notice Audit Summary sheets (BPD Form 2400) are completed and that all forms are accounted for. Completed audit forms shall be forwarded to the Auditing and Review Division, OII, and then to the Licensing Unit for safekeeping.

C. Forward, on a weekly basis, Licensed Premises Violation/Inspection Weekly Summary Form (BPD Form 2710), covering the period beginning Sunday, 12:01 a.m. and ending Saturday, 12:00 p.m. (Midnight), listing a summary of all licensed premises violations/inspections issued by sworn personnel during the inspection of Licensed Premises.

Sec. 8 AUDITING AND REVIEW DIVISION: The Auditing and Review Division shall conduct tri-annual inspections of all District files relative to Licensed Premises Inspection Notices to insure compliance with Department policy and procedures.

Sec. 9 PUBLIC NUISANCES: Whenever a pattern of incidents develop to the degree that the Licensed Premises appears to be operating as a public nuisance, the District Commander will forward a complete report to the Police Commissioner and a copy to the BPD Licensing Unit. The BPD Licensing Unit shall forward a copy of all such reports to the Licensing Board and/or Licensing Division, whichever is appropriate.

Case law has established that there is a legal precedent for documenting incidents and securing evidence to support a public nuisance complaint. It is necessary to provide proper documentation, based on the observations of the Police Department, that a pattern of incidents has been established over a period of time which should support a public nuisance complaint. Incidents which present problems for residents in neighborhoods both outside and in the vicinity of such establishments are as follows:

- Controlled substance offenses
- Disorderly conduct
- Excessive noise
- Public drinking of alcoholic beverages
- Accosting and annoying residents
- Soliciting
- Assaults
- Obstructing/impeding pedestrian and vehicular traffic

The above is not complete, however, it is to be used as a guideline in documenting certain incidents which affect the peace and tranquillity of a neighborhood. (See inside cover of Licensed Premises Inspection Notice book for a more detailed list of violations and laws.)