

## Rules and Procedures

### Rule 400

August 15, 2007

#### Rule 400 - Special Officers

This Rule establishes the Boston Police Department's policies for Special Officers licensed by the Police Commissioner, but not employed by the City of Boston or the Boston Housing Authority. Its provisions are effective immediately, superseding all previously issued rules, and procedures, orders and directives concerning such licensed Special Officers. As used in this Rule, "Licensing Unit" shall mean the Boston Police Licensing Unit.

**Sec. 1 QUALIFICATION OF APPLICANTS:** Each person applying for a Special Officer's License, whether individually or as a corporate-sponsored applicant, shall meet the following qualifications to the satisfaction of the Licensing Unit:

- Be a United States citizen;
- Be at least 21 years of age;
- Reside within the Commonwealth of Massachusetts;
- Be able to read, write and understand the English language;
- Have a High School Diploma or General Equivalency Diploma (G.E.D.);
- Be capable of physically, emotionally and mentally performing the duties of a licensed Special Officer within the scope of this Rule;
- Be a suitable person of good moral character.

The BPD will take into account the following factors when considering candidates with prior arrests, convictions, restraining orders, or adjudications:

- Severity of prior offense(s);
- Specific safety concerns in view of the proposed assignment;
- Candidate's conduct since resolution of related legal matters.

Persons wishing to obtain or renew a Special Officer's license must pass a course of instruction and written test approved by the Police Commissioner.

**Sec. 2 APPLICATIONS:** All applicants for Special Officer Licenses shall present themselves in person to the Licensing Unit. Applicants shall fill out the application form completely and truthfully and signed it. Applicants shall pay fees established by the City Council for Special Officer licenses and badges before they are issued.

Applicants may complete applications for new licenses at any time. Applicants shall file applications for the renewal of licenses already in existence at least 30 days prior to expiration. In accordance with the provisions of Chapter 282 of the Acts of 1898, all licenses shall expire annually on the first day of April, except that the Licensing Unit may issue licenses in March,

valid for 12 months, beginning the next succeeding first day of April. Persons whose licenses have expired and have not been reissued may be prosecuted if continuing to act as Special Officers (M.G.L. c. 268, § 33, Impersonating a Police Officer).

**Sec. 3 LICENSES:** Special Officers under this Rule are licensed by the Police Commissioner to serve without pay from the City of Boston and are not considered employees of the City of Boston as a consequence of this appointment.

- A. The corporation or person applying for a license under this section shall be held liable for the official misconduct of officers appointed on such application.
- B. Each individual applicant must sign group applications made by or on behalf of more than one person. A duly authorized agent must sign applications from a corporation and must present a certified copy of a corporate vote authorizing the application. All applicants shall be required to state the nature of their interest in the property or locality for which the officer is to be appointed; that is to say, whether as owners, lessees, agents or managers.
- C. Based upon an employer's request or upon such other reason as the Police Commissioner may determine, a licensee may be forbidden to carry a firearm. This restriction shall be noted on their license (CBC St. 11 §15).

**Sec. 4 TRAINING:** All persons seeking a Special Officer license must pass a course of instruction approved by the Police Commissioner. After successful completion, applicants must pass a Licensing Examination developed and administered by the Police Department's Training & Education Division. The examination tests the applicant's knowledge of:

- His/her duties and responsibilities as a Special Officer;
- The law; and
- The proper use of non-lethal force.

The Training and Education Division shall also test applicants who are licensed to carry a firearm and who are authorized to carry one in the course of their employment. This test shall cover the proper use of deadly force, in addition to meeting the requirements of Section 10 of this rule, Firearms. The Training and Education Division shall test each Special Officer applicant on the weapon he/she will carry while on duty. Once qualified, the Special Officer shall only carry, while on duty, the firearm with which he/she qualified. Special Officers must take the Licensing Examination every three years.

**Sec. 5 POWERS AND AUTHORITY:** Special Officers licensed under the provisions of this Rule shall have, while their license is in force, the power of police officers to make arrests, preserve order and enforce the laws of the Commonwealth and ordinances of the City of Boston limited to the premises or locality specified in the license. Special Officers are prohibited from applying for or executing search warrants.

**Sec. 6 DUTY TO OBEY AND COOPERATE:** It is the duty of every licensed Special Officer to observe and obey this Rule and all orders of Boston police officers in matters involving the need for police service. It is the duty of every Special Officer to cooperate with Boston police

officers. Boston police officers, in turn, shall cooperate with a licensed Special Officer in the performance of his/her respective duties, rendering assistance as needed.

Whenever a Boston police officer responds to or is present at an incident, the judgment of the Boston police officer shall prevail. Except for those situations where the only involvement of the Boston police officer is to transport prisoners, the Boston police officer is responsible for the proper handling and reporting of such incident, in conformance with Department policies in effect at the time.

Participation by licensed Special Officers, on or off duty, in police action where police officers are present, shall be limited to identifying themselves to the officer(s) and offering their assistance.

Licensed Special Officers shall assist police officers, when requested, in preserving peace or taking a prisoner to a District Station.

All incidents requiring a police report in which a licensed Special Officer is involved shall be reported to the District Station responsible for the area in which the incident occurred. Such reports shall be submitted immediately after the incident.

**Sec. 7 BADGES AND IDENTIFICATION CARDS:** Upon payment of the established fee, the Licensing Unit shall issue a licensed Special Officer a Special Officer Identification Card that shall include:

- The Special Officer's name
- The name of his/her employer
- The location(s) where the Special Officer has police powers
- The Special Officer's photograph;
- Any restrictions
- The date of expiration of the Special Officer's license.

In addition, a licensed Special Officer shall carry the Special Officer Identification Card on his/her person at all times. A licensed Special Officer shall surrender his/her Special Officer Identification Card to the Licensing Unit at the end of his/her term of service or when he/she resigns, is suspended, or is discharged.

The Licensing Unit shall also issue a numbered badge to the Special Officer. The Licensing Unit shall record the badge number and keep it on file. Once issued, the Special Officer, when in uniform and in the performance of his/her duties, shall wear the badge affixed to the outermost garment over the left breast area. The Special Officer shall only wear the badge issued by the Licensing Unit. No other Special Officer badge shall be authorized or possessed. A licensed Special Officer shall surrender his/her Special Officer badge to the Licensing Unit at the end of his/her term of service or when he/she resigns, is suspended, or is discharged.

If a Special Officer Identification Card and/or Badge is stolen or lost, the licensed Special Officer shall immediately notify his/her employer who will notify the Licensing Unit in writing within 72 hours. The Licensing Unit then shall have the discretion to decide whether to issue or to decline to issue a new Special Officer Identification Card and/or Badge pending a decision by the Police Commissioner or designee, on whether or not to suspend or revoke the Special Officer's license.

Both the Special Officer Identification Card and the Special Officer badge shall remain the property of the Boston Police Department.

**Sec. 8 UNIFORMS:** Special Officers shall adhere to the following guidelines on uniform apparel:

- All Special Officers shall wear 4 to 8 pocket, straight-legged trousers, with a one-inch wide red-strip on the outside seam from the side pocket to the bottom hem. Uniform trouser legs shall not be bloused.
- Shirts may be any color except dark blue or gray. No insignia, with the exception of designation of rank, shall be permitted on shirt collars.
- Special Officers shall not wear tactical style uniforms (Military Fatigues or Battle Dress Uniforms) at any time.
- Special Officers licensed under this rule shall wear a "rocker" patch above their company issued shoulder patch(s). This "rocker" patch will plainly state, "Special Officer."
- Special Officers shall wear a uniform hat with or without a hat badge. If a hat badge is worn, it shall not be similar to the Boston Police Department hat badge, or have a shield shape, or have the word "Boston" or the City Seal or the word "Police" inscribed upon it. Black hatbands are the only bands authorized for use by Special Officers. Special Officers may not wear a baseball-type cap.

Before a company may assign an unarmed Special Officer to plainclothes duty or permit an unarmed Special Officer to wear "career apparel" the company must submit a written request to the Licensing Unit stating that the officer's duties require him/her to work in such attire. If approved, the Licensing Unit will note such permission on the officer's license. ***Under no circumstances will a Special Officer be allowed to carry a firearm while wearing plain clothes.*** Special Officers who are permitted to utilize "career apparel" may be allowed to carry a firearm under special circumstances as authorized only in writing by the Police Commissioner or the Licensing Unit Commander.

At the time of issuance or renewal of a Special Officers license, all Special Officers must appear in full uniform, or in career apparel approved by the Licensing Unit, for inspection by the Licensing Unit to insure compliance with Sections 8, 9, and 10 of Rule 400. No license shall be issued if any violations of Sections 8, 9, and 10 are found.

**Sec. 9 EQUIPMENT:**

The following restrictions concerning equipment apply to Licensed Special Police Officers while in the course of their employment.

- A. The *only* equipment authorized for use or possession by a Special Officer while on duty is a service baton comparable to a Mondanock expandable baton, Model number 9052, handcuffs and a flashlight. All Special Officers must participate in training approved by the Commissioner on the use of such equipment.
- B. Special Officers who are holders of a Firearm Identification Card may also carry a chemical propellant and must participate in training approved by the Police Commissioner regarding its use.
- C. The use of canines is prohibited. Blackjacks and slapsticks are prohibited for use by licensed Special Officers.
- D. Equipping and using motor vehicles with blue lights, sirens or vehicle logos and/or markings that include the words "Boston," "Police," "Public Safety" or the City Seal are prohibited. The Licensing Unit shall annually review all markings on vehicles.
- E. The use of motorcycles and/or all terrain vehicles (ATV's) is prohibited. The use of bicycles is permitted pursuant to the approval of the Licensing Unit.

#### **Sec. 10 FIREARMS:**

Applicants for a Special Officer's license who are also licensed to carry a firearm and are authorized to carry a firearm while in the course of their employment shall:

- A. Be required to go to the Boston Police Department Range for an examination as to their knowledge of the nomenclature, operation and safe handling of a firearm and the capabilities and effective range of their ammunition. A licensed Special Officers must demonstrate to the satisfaction of the examiner knowledge of the firearm he/she will carry on duty and must receive a qualifying score of 80% with such firearm. The Range instructor shall test the Special Officer with the firearm he/she carries on duty. Once qualified, the Special Officer shall only carry, while on duty, the firearm with which he/she qualified.
- B. Requalify with their firearm at least one additional time per year and submit proof of such successful requalification to the Licensing Unit.
- C. While on duty, Special Police Officers shall only carry .38 caliber revolvers having not less than a 4" barrel that are loaded with 158 grain, +P, hollow point ammunition. No plastic firearm or replica of any type of handgun is authorized.
- D. Special Officers licensed to carry a firearm shall take all reasonable precautions to secure personally owned weapon or the weapon issued to him/her by his/her employer and protect said weapons from loss, misuse, or theft.

#### **Sec. 11: POINTING OF FIREARMS:**

A Special Officer shall not point a firearm at persons except when reasonably justified under the circumstances. In situations involving the strong possibility of great danger, officers should carry their weapon in a position that will facilitate its speedy and safe use. While Special Officers should not point a weapon unless they are prepared to use it, the fact that they have done so must not be interpreted as an obligation to fire.

## **Sec. 12 USE OF FORCE:**

The law permits police officers to use reasonable force in the performance of their duties but only to the degree required to overcome unlawful resistance. This doctrine of "reasonable use of force" applies both to the use of firearms as well as to non-lethal force. The conditions under which a licensed Special Officer is permitted to use non-lethal force or deadly force, as defined below, are as follows:

**A. NON-LETHAL FORCE:** Amount of force that will generally not result in serious injury or death. Application of non-lethal force will generally be limited to defensive situations where (1) an officer or other person is attacked, or (2) an officer is met with physical resistance while making an arrest.

An officer may also use non-lethal force if, in the process of making an arrest, the officer is met with passive resistance, i.e., an individual who refuses to get out of an automobile, or a protester who is illegally occupying a particular place. Such force should be limited only to that which is reasonably necessary to move the subject or make an arrest. Any other officers present should assist an officer who encounters resistance. Two or more officers may effect an arrest without the use of force which one officer cannot complete without resorting to the use of force.

**B. DEADLY FORCE:** Degree of force likely to result in death or great bodily injury. The discharge of a firearm toward a person constitutes the use of deadly force even if there is no express intent to kill or cause great bodily injury.

Licensed Special Officers shall not discharge firearms in the performance of their duties other than for practice or training on a recognized and approved target range or similar authorized location, **except when there is no less drastic means to defend oneself or another from an unlawful attack that he/she has reasonable cause to believe could result in death or great bodily injury.**

A Special Officer shall not use a firearm as a signaling device or to summon assistance or for any other purpose except as provided herein.

**Sec. 13 MOVING/FLEEING VEHICLES:** Special Officers shall not discharge firearms from a moving vehicle. They shall not discharge firearms at a moving or fleeing vehicle unless the officer or another person is currently being threatened with deadly force by means other than the moving vehicle. For the purposes of this section, the moving vehicle itself shall not constitute the threatened use of deadly force. Therefore, officers shall move out of the path of any oncoming vehicle instead of discharging a firearm at it or any of its occupants. Moving to cover, repositioning and/or waiting for additional responding units to gain and maintain a tactically superior police advantage maximizes officer safety and minimizes the necessity for using deadly force.

The above prohibitions exist for three reasons:

- Bullets fired at moving motor vehicles are extremely unlikely to stop or disable the motor vehicle.
- Bullets fired may miss the intended target or ricochet and cause injury to officers or other innocent persons, and
- The vehicle may crash and cause injury to officers or other innocent persons if the bullets disable the operator.

**Sec. 14 REPORTING USE OF DEADLY FORCE OR NON-LETHAL FORCE:**

- A. Initial Notification of Use of Deadly Force: All licensed Special Officers who discharge their firearm or use deadly force shall immediately notify, via the 9-1-1 emergency number, the Duty Supervisor of the Boston Police Operations Division. Operations will make all appropriate notifications and an investigation shall be conducted in accordance with department Rule 303, Deadly Force.
- B. Reporting Requirements for Non-Lethal Force: Any licensed Special Officer using non-lethal force, or any weapon other than their firearm shall make or cause to be made a report to the Commander of the District wherein the incident occurred, immediately after the incident. If such use occurs outside the City of Boston, whether or not the incident occurs in the course of their employment, the officer shall immediately notify the Licensing Unit. The Licensing Unit shall then contact the appropriate city or town for a copy of the police report on the incident.
- C. In the event that the licensed Special Officer is injured and unable to write a police report, a Patrol Supervisor shall interview the officer and reduce their verbal report to writing. The Commander shall forward a copy of the licensed Special Officer's report, the investigating Superior Officer's report and a separate report which includes their findings and recommendations, through the chain of command, to the Licensing Unit no later than fifteen (15) days from the date of the incident.

**Sec. 15 DUTY WHEN ARRESTING AND TRANSPORTING PRISONERS:**

- A. When a licensed Special Officer has made an arrest, it shall be his/her duty to notify the Boston Police Department via the 9-1-1 emergency number, to disclose all pertinent facts and evidence to the Boston police officer(s) that respond and to surrender to such officer(s) custody of the prisoner. Licensed Special Officers are prohibited from transporting their own prisoners.
- B. Immediately after making an arrest and surrendering their prisoner to the responding Boston police officer(s), licensed Special Officers shall report to the District Station responsible for the area in which the licensed Special Officer has made the arrest. The licensed Special Officer shall complete an Incident Report (BPD form 1.1). Duty Supervisors shall ensure that the name(s) and Department identification numbers of the

officer(s) who transported the prisoner(s) are included in the licensed Special Officer's report.

- C. Special Officers shall never complete incident reports in cases of homicide, robbery, sexual assault or aggravated assault. In all such cases, Special Officers shall notify the Boston Police Department via the 9-1-1 emergency number and disclose all pertinent facts and evidence to the responding Boston police officer(s), who shall be responsible for completing a Boston Police incident report (BPD form 1.1). All weapons, controlled substances and contraband seized by licensed Special Officers shall immediately be turned in to the District Station responsible for the area in which the incident occurred. Other evidence seized by licensed Special Officers may be retained by them pending disposition of the case, but shall be properly itemized with their custody noted in the incident report.

**Sec. 16 STANDARD OF CONDUCT:** A licensed Special Officer is required to be knowledgeable of, and to comply with, this Department Rule and all relevant laws and ordinances. Violations or offenses which may result in disciplinary action being taken by the Police Commissioner, up to and including suspension or revocation of a Special Officer's license include, but are not limited, to the following:

- Violation of any section of this Rule;
- Violation of any Federal or State Law or Local Ordinance;
- Violating or becoming the subject of any no contact, protective or restraining order issued under M.G.L. c 208, 209, 209A, or 209C;
- Disrespectful treatment to a member of the Department and/or the general public;
- Drinking of alcoholic beverages while in the course of his/her employment;
- Illegal use of controlled substances;
- Abuse of prisoners, whether by word or act;
- Assumption of any police powers outside the jurisdiction of his/her license or when not in the course of his/her employment;
- Interference with any police officers while in the performance of their duties;
- Failure to obey a lawful order by any officer of the Boston Police Department;
- Violation of any firearm regulation or any violation of the conditions of the firearm license;
- Carrying any unauthorized equipment or firearm while in the course of his/her employment;
- Serving or acting as a licensed Special Officer for any security agency or business entity other than the one listed on his/her license;
- Serving or acting as a licensed Special Officer while under suspension.

**Sec. 17 CRIMINAL COMPLAINTS, ARRESTS OR VIOLATIONS OF THIS RULE; DUTY TO NOTIFY THE LICENSING UNIT:** Where a licensed Special Officer is arrested in the City of Boston and/or charged with the commission of a felony, the Commander of the arresting officer's unit shall notify the Licensing Unit in writing no later than the next business day. In all such instances, the Licensing Unit shall immediately suspend the Special Officer's license pending disposition of the



case. In the event that a licensed Special Officer is arrested or charged with a misdemeanor, the Commander of the arresting officer's unit shall contact the Commander of the Licensing Unit, who will determine whether the Special Officer's license shall be suspended pending completion of the investigation and disposition of the criminal complaints.

Additionally, where a licensed Special Officer is arrested and charged with the commission of a crime, the licensed Special Officer must notify the manager of the security company that employs the Special Officer and said manager must notify the Commander of the District in which the incident occurred. If the incident occurred within the City, the head of the Licensing Unit must be notified in writing no later than the next business day.

When a licensed Special Officer has been arrested, or where criminal charges have been filed against him/her, the Commander of the arresting officer's unit shall ensure that copies of any incident reports regarding the arrest or the filing of criminal charges are forwarded to the Licensing Unit.

Whenever a licensed Special Officer is arrested, the Duty Supervisor shall seize any badge and identification card in the possession of the arrested Special Officer that was issued by the Boston Police Department and any Firearms I.D. card or License to Carry a Firearm if the Boston Police Commissioner issued it. The Duty Supervisor shall forward this material to the Licensing Unit through the District Commander.

Any licensed Special Officer who is arrested or who learns that an application for a criminal complaint has been made against him/her or that a complaint or indictment has been issued against him/her shall immediately notify the Licensing Unit in writing. Such notification shall include a summary of the complaint sought or issued and the date of the hearing or trial.

Any Department employee who observes or becomes aware of an alleged violation of this Rule by a licensed Special Officer shall make a report to their District or Unit Commander. The District or Unit Commander shall forward a copy of any such report to the Licensing Unit. The Licensing Unit shall determine whether the Special Officer's license shall be suspended pending completion of the investigation and the findings regarding the reported Rule violation.

**Sec. 18 INVESTIGATION OF COMPLAINTS:**

If a complaint or allegation of misconduct has been made against a licensed Special Officer on a particular district, the Commander of that district shall designate a Superior Officer to investigate it. The Superior Officer shall immediately notify the company that employs the licensed Special Officer that a complaint or allegation of misconduct is being investigated.

The investigating Superior Officer shall make a written report stating his/her findings. After reviewing the investigating Superior Officer's report, the District Commander shall make a report to the Licensing Unit that includes his/her findings and recommendations.

The District Commander shall forward copies of all such reports through the chain of command to the Licensing Unit no later than fifteen (15) days from the date of the complaint. The Licensing Unit Commander shall forward reports and recommendations no later than 45 days from the date of the complaint to the Police Commissioner for possible disciplinary action. Nothing in this Rule shall prohibit the Internal Affairs Division from conducting an investigation into such complaints pursuant to BPD Rule #113, Section #6.

**Sec. 19 DISPOSITION AND NOTICE:**

If the Police Commissioner or designee determines that a licensed Special Officer has committed any violation of this Rule, the Police Commissioner or designee may issue an oral or written reprimand, or suspend or revoke the Special Officer's license. The Licensing Unit shall notify the licensed Special Officer and the company for which the Special Officer is working, of any such disciplinary decision, by certified mail, return receipt requested.

The Special Officer shall have the right of appeal of any disciplinary decision. The Special Officer may appeal a written reprimand, suspension or license revocation to the Police Commissioner, provided such an appeal is filed with the Licensing Unit within seven (7) days of receipt of notification of the disciplinary decision. The Licensing Unit shall notify the licensed Special Officer and the company for which the officer works of the Police Commissioner's decision on the appeal by certified mail, return receipt requested.

Edward F. Davis  
Police Commissioner