

Rules and Procedures

Rule 400A

March 21, 1996

Rule 400A - Special Officers - City of Boston or Boston Housing Authority

This Rule establishes the Boston Police Department's policies for Special Officers that are licensed by the Police Commissioner and employed either by the City of Boston or the Boston Housing Authority (BHA). Its provisions are effective immediately, superseding all previously issued Rules, procedures, orders and directives concerning such licensed Special Officers. As used in this Rule, "Licensing Unit" shall mean the Boston Police Licensing Unit.

General Considerations: Boston Transportation Department Traffic Enforcement Officers licensed as Special Officers under this Rule are licensed for the sole purpose of writing tickets for parking violations. Boston Police Cadets licensed as Special Officers under this Rule are licensed only for purposes of writing tickets for parking violations and for directing traffic. Traffic Enforcement Officers and Cadets are not granted the right to make arrests or serve criminal process.

Sec. 1 Qualification of Applicants: Each person applying for a Special Officer's License shall meet the following qualifications to the satisfaction of the Licensing Unit.

- A. Be a United States Citizen;
- B. Be a resident of the City of Boston, unless employed by the BHA;
- C. Be at least 21 years of age, except for Boston Police Cadets who must be at least 18 years of age;
- D. Be able to read, write and understand the English language;
- E. Have a High School Diploma or General Equivalency Diploma (G.E.D.);
- F. Be capable of physically and mentally performing the duties of a licensed Special Officer within the scope of this Rule;
- G. Be a suitable person of good moral character, without any felony convictions;
- H. After July 1, 1996, 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 Application: All applications for Special Officer Licenses shall be made at the Licensing Unit.

A. APPLICATION FORMS: Application forms shall be filled out completely and truthfully and signed by the applicant.

B. FEES: Fees for Special Officer Licenses, as established by the City Council, are waived for employees of the City of Boston whose applications for a Special Officer license are sponsored by their City agency or department in connection with their employment.

C. FILING OF APPLICATIONS: Applications for new licenses may be filled out at any time. Application for the reissue of licenses already in existence should be filed at least 30 days before their 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 licenses may be issued in March, to be 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 (G.L. c. 268, § 33, Impersonating a Police Officer).

Sec. 3 Licenses: To be employed as a Special Officer by the City of Boston, all persons must apply for and be granted a Special Officer's license by the Police Commissioner.

A. SPECIAL POLICE DIVISION: Personnel employed by the Department of Property Management, the Boston Housing Authority and the Department of Health and Hospitals, upon the written application of the officer or board in charge of their department or agency, may be licensed as Special Officers by the Police Commissioner (CBC St. 11 §15; Chapter 365 of the Acts of 1965; Chapter 295 of the Acts of 1965; Chapter 674 of the Acts of 1950; Chapter 282 of the Acts of 1898; Memorandum of Understanding between City of Boston and BHA). All such licensed Special Officers are under the direction of the Special Police Division of the Bureau of Field Services (Boston Police Rule 101; Commissioner's Memorandum 94-34).

B. FIRE DEPARTMENT PERSONNEL: The Police Commissioner may license Special Officers upon the written application of the Fire Commissioner of the City of Boston. Only officers of the fire department and inspectors of the fire prevention division may be licensed (CBC St. 11 §15; Chapter 674 of the Acts of 1950).

C. OTHER CITY EMPLOYEES: The Police Commissioner may, upon the written application of the officer or board in charge of a department of the City of Boston, license Special Officers for such department, without fee (CBC St. 11 §15; Chapter 365 of the Acts of 1965; Chapter 295 of the Acts of 1965; Chapter 674 of the Acts of 1950; Chapter 282 of the Acts of 1898). Officers and boards of the City of Boston applying for the appointment of persons as licensed Special Officers shall certify that such persons are City employees.

Sec. 4 Training:

A. After July 1, 1996, all persons employed by the City of Boston or the BHA wishing to be licensed Special Officers must first pass a course of instruction, the content of which has been approved by the Police Commissioner.

B. Upon successfully completing the aforementioned course of instruction, persons wishing to be licensed Special Officers shall be required to pass a test developed and administered by the Training & Education Division which tests their knowledge of the law, of the proper use of non-lethal force and of the duties and responsibilities of Special Officers. Applicants who are licensed to carry a firearm and who are authorized to carry one in the course of their employment will also be tested on the proper use of deadly force, in addition to meeting the requirements of Section 11, Firearms.

Sec. 5 Powers and Authority:

A. Except for the limitations imposed under "General Considerations" on Transportation Department Traffic Enforcement Officers and Boston Police Cadets, 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 the ordinances of the City of Boston limited to the premises or locality specified in the license. Licensed Special Officers are prohibited from applying for or executing search warrants.

B. Licensed Special Officers appointed on the application of the Fire Commissioner of the City of Boston, pursuant to this rule, shall have, while their license is in force, the power to enforce all laws, ordinances, rules and regulations in force in Boston pertaining to fires and extinguishment thereof, the prevention of fires, fire perils and other related matters, including the movement through Boston of fire department vehicles proceeding to any fire alarm.

Sec. 6 Duty to Obey: 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.

Sec. 7 Duty to Cooperate:

A. It is the duty of every licensed Special Officer to cooperate with Boston police officers. Boston police officers shall cooperate with licensed Special Officers in the performance of their respective duties.

B. 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.

C. 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.

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

E. 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. Reports shall be submitted immediately after the incident.

Sec. 8 Badges and Identification Cards:

A. Licensed Special Officers shall be issued a Special Officer Identification Card, which shall include their name, name of their employer, location or locations where the licensed Special Officer has police powers, their photograph, any restrictions and the date of expiration of said license. In addition, the Special Officer Identification Card shall be carried on their person at all times. Licensed Special Officers shall surrender their Special Officer Identification Card to the Licensing Unit at the end of their term of service or when they resign, are suspended or are discharged. In case a Special Officer Identification Card is lost, the licensed Special Officer shall immediately notify their employer who will notify the Licensing Unit in writing. The Licensing Unit shall have the discretion to decide whether to issue or to decline to issue a new Special Officer Identification Card pending a decision by the Police Commissioner on whether or not to suspend or revoke the Special Officer's license.

B. When in uniform and acting in the capacity of a licensed Special Officer, only breast and hat badges which have been issued by their agency or department and approved by the Police Commissioner will be worn. Breast badges will be worn on the outside of the outer garment over the left breast. All breast badges will be numbered and recorded on file at the Licensing Unit.

C. Fire Department Employees: Licensed Special Officers employed by the Fire Department shall carry the Special Officer Identification Card issued by the Licensing Unit at all times.

Sec. 9 Uniforms:

A. Licensed Special Officers employed by the City of Boston whose department or agency does not have a uniform approved or authorized by the Police Commissioner must wear a uniform that meets the following criteria:

1. Trousers shall have a one-inch wide red stripe on the outside seams from the side pocket to the bottom hem.
2. Shirts may be any color except dark (LAPD) blue or gray. No insignia shall be worn on the shirt collar.

B. Licensed Special Officers under the direction of the Special Police Division shall only wear uniforms that have been approved by the Police Commissioner. The Commander, Special Police Division, shall ensure that an updated copy of the uniform specifications for each department or agency under the direction of the Special Police Division is forwarded to the Licensing Unit where it will be kept on file.

C. Licensed Special Officers employed by the Boston Fire Department shall wear the uniform or plainclothes attire approved by the Fire Commissioner.

D. Except for licensed Special Officers employed by the Boston Fire Department, at the time of issuance or renewal of licenses, all licensed Special Officers must appear in full uniform for inspection by the Licensing Unit. Licensed Special Officers required to wear their uniform at the time of issuance or renewal will not be issued a license if any violations of Section 9, 10 and 11 of this Rule are found. Employers who employ Special Officers whose duties require them to wear "career apparel" or who are assigned to plainclothes duty must submit a written request to the Licensing Unit stating that their duties require them to work in such clothes. If approved by the Police Commissioner, "career apparel" or plainclothes may be worn by such officers and that approval shall be noted on their license. At the time of issuance or renewal of licenses, any approved "career apparel" or plainclothes attire must be worn.

Sec. 10 Equipment:

The following restrictions concerning equipment apply to licensed Special Officers while in the course of their employment:

A. The only equipment authorized for use or possession by a licensed Special Officer are service baton, handcuffs and a flashlight. Special Officers who are holders of a Firearm Identification Card may also carry a device or instrument which contains a liquid, gas or powder designed to incapacitate. However, no Special Officer is authorized to carry any service baton, handcuffs or chemical incapacitating agent while in the course of their employment unless they have been trained in their use.

B. The use of dogs for any purpose by a licensed Special Officer is forbidden.

C. Equipping and using motor vehicles with blue lights and sirens must be authorized by the Registrar of Motor Vehicles upon the application of the Police Commissioner, pursuant to G.L. c. 90, §§ 7E and 16.

Sec. 11 Firearms:

Special Officers employed by the City of Boston or the BHA who are also licensed to carry a firearm and are authorized to carry a firearm while in the course of their employment:

A. Shall 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. Licensed Special Officers must demonstrate to the satisfaction of the examiner knowledge of their firearm and receive a qualifying score of 80% with such firearm.

B. Shall be responsible for maintaining a degree of expertise in the use and handling of all firearms approved for their carrying. Specifically, licensed Special Officers shall requalify with their issued firearm(s) on a course of instruction approved by the Massachusetts Criminal Justice Training Council at least one additional time per year. A qualifying score of 80% or higher is required.

C. Upon meeting the above requirements, licensed Special Officers shall only carry firearms and ammunition which are issued by their department or agency and approved by the Police Commissioner. If their department or agency authorizes, but does not supply or issue a firearm, the only firearm that may be carried is a .38 cal. revolver having not less than a 4" barrel and loaded with 158 grain, +P, hollowpoint ammunition. No plastic firearm or replica of any type of handgun is authorized.

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. An officer who encounters resistance should be assisted by any other officers present. 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 under the following circumstances:

1. There is no less drastic means to defend himself or another from an unlawful attack which the officer has reasonable cause to believe could result in death or great bodily injury; or
2. There is no less drastic means available to apprehend a fleeing felon when the officer has probable cause to believe that: (1) the subject has committed a felony during the commission of which the subject inflicted or threatened to inflict deadly force upon the victim, or (2) that there is substantial risk that the felon in question will cause death or great bodily injury if their apprehension is delayed.

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

Sec. 13 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 who shall direct that a Patrol Supervisor respond to the scene and shall also make the appropriate notifications within the Department. Upon being notified of an incident involving the use of deadly force by a licensed Special Officer, the Commander of the District wherein the incident occurred shall respond to the scene and shall designate a Superior Officer to conduct a follow-up investigation on such use of deadly force by a licensed Special Officer. The investigating Superior Officer shall submit a preliminary report to the Commander within 72 hours.

B. Reporting Requirements for both Deadly Force and Non-lethal Force: Any licensed Special Officer using deadly force, 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.

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. In addition, any licensed Special Officer using deadly force shall surrender their firearm to the responding Patrol Supervisor, who shall forward the firearm to the Ballistics Unit for examination. 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. 14 Duty when Arresting:

A. When an arrest has been made by a licensed Special Officer, it shall be the Special Officer's duty to notify the Boston Police Department via the 9-1-1 emergency number, to disclose all pertinent facts and evidence to any Boston police officer(s) that respond and to surrender to such officer(s) custody of the prisoner. Only Licensed Special Officers that are members of the Fire Department or are under the direction of the Special Police Division may transport their own prisoners. In all such cases, prisoners must be handcuffed with their hands behind their back and be accompanied in the transport vehicle by at least two licensed Special Officers.

B. All persons arrested by licensed Special Officers shall be taken to the District Station responsible for the area in which the licensed Special Officer has made the arrest, where an Incident Report (BPD form 1.1) shall be completed by the licensed Special Officer.

1. Except as described below, Boston police officers who transport prisoners for licensed Special Officers shall only complete an incident report on the transport itself under "Service for other Departments", using the same CC number as the Special Officer who made the arrest.

C. Special Officers shall never complete incident reports in cases of homicide or sexual 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, who shall be responsible for completing an 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. 15 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:

A. Violation of any Section of this Rule.

B. Violation of any Federal or State law or local ordinance.

C. Violating or becoming the subject of any no contact, protective or restraining order issued under G.L. c. 208, 209, 209A or 209C.

D. Drinking of alcoholic beverages while in the course of their employment.

E. Illegal use of controlled substances.

F. Abuse of prisoners, whether by word or act.

G. Assumption of any police powers outside the jurisdiction of their license or when not in the course of their employment.

H. Interference with any police officers while in the performance of their duties.

I. Failure to obey a lawful order by any officer of the Boston Police Department.

J. Violation of any firearm regulation or any violation of the conditions of the firearm license.

K. Carrying any unauthorized equipment or firearm while in the course of their employment.

L. Serving or acting as a licensed Special Officer for any security agency or business entity other than the one listed on their license.

M. Serving or acting as a licensed Special Officer while under suspension.

Sec. 16 Criminal Complaints, Arrests or Violations of this Rule; Duty to Notify the Licensing Unit:

A. Where a licensed Special Officer is arrested and 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 criminal complaints.

Whenever licensed Special Officers are arrested or have criminal charges filed against them, 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.

B. 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 which was issued by the Boston Police Department. This material shall be forwarded to the Licensing Unit through the District Commander.

C. Licensed Special Officers who are arrested or who learn that an application for a criminal complaint has been made against them or that a complaint or indictment has been issued, 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.

D. 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. 17 Investigation of Complaints: Complaints or allegations of misconduct involving licensed Special Officers shall be investigated by a Boston Police Superior Officer assigned to the District wherein the conduct being complained of occurred and designated as the investigating Superior Officer by the District Commander. An investigation shall be instituted in all reported instances of offenses committed by or complaints against licensed Special Officers. The investigating Superior Officer shall make a written report stating their findings. After reviewing the investigating Superior Officer's report, District Commanders shall make a report which includes their findings and recommendations. Copies of all such reports shall be forwarded through the chain of command to the Licensing Unit, no later than forty-five (45) days from the date of the complaint, for possible disciplinary action by the Police Commissioner.

Sec. 18 Disposition and Notice: If the Police Commissioner determines that a licensed Special Officer has committed any violation of this Rule, the Police Commissioner may issue an oral or written reprimand, or suspend or revoke the Special Officer's license. The Special Officer shall have the right of appeal to the Police Commissioner, provided that the appeal is made in writing within seven (7) days of receipt of the notification. The Licensing Unit shall notify the licensed Special Officer of the Police Commissioner's actions by certified mail, return receipt requested.