

## Rules and Procedures

### Rule 400C

January 8, 2007

#### Rule 400C - CONSTABLES

This rule is issued to establish the Department's policies for Constables. The provisions of this rule are effective immediately, superseding all previously issued rules, procedures, orders and directives concerning Constables. As used in this rule, "Licensing Unit" shall mean the Boston Police Licensing Unit.

**Sec. 1 GENERAL CONSIDERATIONS:** Constables are appointed by the Mayor and are regulated by the Department pursuant to M.G.L. Chapter 41 Section 91 and the City of Boston Code (CBC) 2-7.2. The Police Commissioner can discipline any Constable, up to and including suspension of his/her license, and may recommend revocation of his/her license to the Mayor. The provisions of this rule apply both to those Constables who are not employed by the City of Boston and, except where specifically noted, to those Constables who are City of Boston employees under CBC 2-7.2.

**Sec. 2 APPLICANT QUALIFICATIONS:** Each person applying for a Constable's license shall:

- Be a United States citizen;
- Be at least 21 years of age;
- Reside within the City of Boston (except those Constables employed by the City of Boston who need not be residents per CBC 2-7.2);
- Be able to read, write and understand the English language;
- Have a high school diploma or general equivalency diploma (GED);
- Be a suitable person of good moral character;
- Be capable of physically, emotionally and mentally performing the duties of a licensed Constable within the scope of this rule;
- Be a person who has never been confined to any hospital or institution for mental illness, unless the applicant submits with his/her application an affidavit of a registered physician attesting that such physician is familiar with the applicant's mental illness, current health and current status, that the applicant is not disabled by the mental illness, and that such past mental illness does not prevent the applicant from acting responsibly as a Constable;
- Be a person who has never been under treatment or confinement for drug addiction or alcohol abuse (or habitual drunkenness) unless the applicant submits with his/her application an affidavit of a registered physician attesting that the physician knows the individual, the history of treatment, and that the applicant is deemed cured of the condition;
- Be a person who is not now the subject of a restraining order ("209A") or a temporary or permanent order of protection issued by any court; and

- Be a person who:
  - Has never been convicted of, or adjudicated a youthful offender or a delinquent child for the commission of a felony;
  - Has never been convicted of, or adjudicated a youthful offender or delinquent child for the commission of a misdemeanor punishable by more than two years in jail;
  - Has never violated any law involving the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition; and
  - Has never violated any law involving the use, possession or sale of controlled substances as defined by M.G.L. Chapter 94C.

**Sec. 3 APPLICATIONS:** All applications for Constable licenses shall be filed at the Licensing Unit. Application forms shall be filled out completely and truthfully, under the pains and penalties of perjury, and signed by the applicant. Completed applications are accepted at the Licensing Unit between January 2<sup>nd</sup> and February 15<sup>th</sup> of each year. All Constable applicants shall be subject to a criminal history background check and a registry of motor vehicles license check. The Licensing Unit may also, in its discretion, investigate the Applicant's credit history.

**Sec. 4 LICENSES:** The Mayor, under M.G.L. Chapter 41, Section 91 and CBC 2-7.2, appoints Constables to serve a three-year term, without pay and without benefits from the City of Boston. Constables are not considered employees of the City of Boston as a consequence of appointment, unless appointed and retained by the City of Boston as employees pursuant to CBC 2-7.2.

**Sec. 5 TRAINING AND TESTING:** Pursuant to CBC 2-7.2, as of July 1, 2007, all persons wishing to act as Constables in the City of Boston must pass a course of instruction approved by the Police Commissioner and paid for by the Applicant or Constable. Upon successfully completing this course, Applicants or Constables must also pass an examination developed and administered by the Licensing Unit. This examination shall include, but is not limited to, civil and criminal law, service of process, the proper use of force and the duties and scope of authority and responsibilities of Constables.

**Sec. 6 POWERS AND AUTHORITY:** The primary purpose of a Constable shall be the service of civil process. A Constable appointed by the City of Boston retains the traditional powers of a Constable and is specifically:

- Authorized to perform his/her duties in the City of Boston only. This jurisdiction may be expanded to include all of Suffolk County when a District or Superior Court in the City of Boston issues an arrest warrant that may only be executed elsewhere in Suffolk County; and
- Prohibited from applying for, or executing, search warrants.

An appointed Constable retains the right to charge for his/her services according to the laws of the Commonwealth and the Ordinances of the City and may charge reasonable additional fees. The Licensing Unit retains the right to request, at any time, a schedule of such fees from any Constable.

**Sec. 7 DUTY TO OBEY AND COOPERATE:** It is the duty of every Constable to observe and obey this rule. Constables shall also obey all orders of Boston Police Officers in matters involving the need for police action or service. It is the duty of every Constable to cooperate with Boston Police Officers. Boston Police Officers, in turn, shall cooperate with a Constable in the performance of his/her respective duties, rendering assistance as needed and only assuming control of a situation if required to maintain public safety.

When an incident involving a Constable requires reporting, Officers shall submit an incident report to the District responsible for the area in which the incident occurred. The Constable shall provide a copy of the incident report no later than 72 hours after the incident to the Licensing Unit.

**Sec. 8 BADGES AND IDENTIFICATION CARDS:**

- A. The Licensing Unit shall issue an identification card to a Constable upon his/her appointment and payment of required fees.  
The identification card shall include:
  - The Constable's name;
  - The name of his/her employer (if applicable);
  - The Constable's photograph;
  - Whether the Constable is also separately licensed to carry a firearm;
  - The date of expiration of the Constable's license; and
  - The Constable's license number.
- B. The Licensing Unit shall also issue an official City of Boston Constable badge to the Constable. The badge number shall correspond to the license number on the Constable's identification card.
- C. A Constable shall carry the Department issued identification card and badge while acting in his/her official duties. A Constable shall surrender his/her identification card and badge to the Licensing Unit at the end of his/her term of service, when he/she resigns or is suspended, or when his/her license expires or is revoked.
- D. If an identification card or badge is lost, the Constable shall notify the Licensing Unit either verbally or in person by the next business day and in writing within 72 hours. The Licensing Unit shall have the discretion to decide whether to issue or to decline to issue a new identification card or badge pending a decision by the Police Commissioner as to whether disciplinary action is warranted.
- E. All identification cards and badges remain the property of the Boston Police Department.

- F. A Constable shall prominently display his/her identification card and badge while performing his/her duties. A Constable shall only display or present the identification card and badge issued by the Boston Police Department. A Constable shall not display any other identification card or badge representing himself/herself as a Constable.
- G. Upon request from any member of the public, a Constable shall identify himself/herself as a City of Boston Constable, present his/her identification card and badge and provide his/her Constable license number to the inquiring party.
- H. Constables shall not duplicate, photocopy, or in any way replicate either the identification card or the badge issued by the Department.

**Sec. 9 EQUIPMENT RESTRICTIONS:** A Constable is prohibited from using or carrying certain equipment during the performance of his/her duties. A Constable shall not:

- Carry any service baton, handcuffs, chemical incapacitating agent or other weapon-like device unless he/she has been trained in the use of that implement in a course of instruction approved by the Police Commissioner;
- Use a dog (other than a dog licensed as a service dog) for any purpose; and
- Equip or use motor vehicles with blue lights, sirens or vehicle logos and/or markings that include the words "Boston," "Police," "Constables," or the city or state seal. The Licensing Unit may approve a separate application for the use of blue lights and/or a siren after due consideration of the individual Constable's suitability, needs, driving history and criminal history.

**Sec. 10 FIREARMS:** The Boston Police Department does not automatically grant a License to Carry a Firearm to persons holding a Constable's license. The Department does not give any preference to a Constable who applies for a License to Carry a Firearm.

**Sec. 11: USE OF FORCE:** Constables shall not use force unless absolutely necessary. A Constable shall make every effort to alert the Boston Police Department prior to an incident where the use of force may be necessary. If force is required and it is impossible to alert the Department prior to using such force, the Constable shall follow Boston Police Department Rules and Procedures 303, Deadly Force; 303A, Use of Less-Lethal Force; and 304, Use of Non-Lethal Force.

**Sec. 12: REPORTING THE USE OF FORCE WHILE ACTING AS A CONSTABLE:**

- A. **Initial Notification of Use of Deadly Force:** A Constable who discharges his/her firearm or uses deadly force while acting as a Constable shall immediately notify, through 911, the Boston Police Operations Division Duty Supervisor. The Duty Supervisor shall then follow all Department Rules and Protocols to investigate fully the incident as if any Officer had been involved. Any Constable using deadly force shall surrender his/her firearm to the responding Patrol Supervisor who shall forward the firearm to the Ballistics Unit for examination.

- B. Reporting Requirements for the Use of Non-Lethal Force:** Any Constable who uses non-lethal force while acting as a Constable shall immediately make or cause to be made a report to the District wherein the incident occurred. In the event that a Constable is injured and unable to write a police report, a Patrol Supervisor shall interview the Constable and reduce his/her verbal report to writing. The District Commander shall forward a copy of the Constable's report, along with the investigating Superior Officer's report and a separate report that includes their findings and recommendations, through the chain of command, to the Licensing Unit no later than 15 days from the date of the incident.

**Sec. 13 DUTY WHEN ARRESTING AND TRANSPORTING PRISONERS:**

Constables, upon arresting an individual, shall immediately transport that individual to the Court of Jurisdiction, or if that Court is closed, to the Keeper of the Jail (the Boston Police Department District Captain or Commander of the area in which the arrest occurred). The jail is to remain accessible to licensed Constables according to M.G.L. Chapter 40, Section 37. If a Constable discovers contraband, such as illegal drugs or firearm(s) during an arrest, he/she shall notify the Boston Police Department of the discovery either through 911 or directly at the local district and immediately relinquish any contraband to the custody and control of a Boston Police Officer.

**Sec. 14 STANDARD OF CONDUCT:** A Constable shall know and comply with this rule and all laws and ordinances. Violations or offenses that may result in disciplinary action being imposed by the Police Commissioner, up to and including license suspension and recommendation of revocation to the Mayor of the City of Boston, are:

- Violating of any section of this rule;
- Violating or being charged with violating any Federal or state law or local ordinance (as confirmed by annual review of applicant's or Constable's criminal record);
- Violating or becoming the subject of any no contact, protective or restraining order issued under M.G.L. Chapters 208, 209, 209A or 209C;
- Drinking alcoholic beverages while acting as a Constable;
- Using controlled substances (as defined in M.G.L. Chapter 94C);
- Abusing anyone by word or act;
- Assuming Constable or police powers outside the jurisdiction of his/her license;
- Interfering with police officers while in the performance of their duties;
- Failing to obey a lawful order by any officer of the Boston Police Department;
- Violating any firearm regulation or violating any conditions of the firearm license;
- Carrying unauthorized equipment or an unauthorized firearm while acting as a Constable;
- Serving or acting as a Constable while his/her Constable's license is suspended; or,
- Charging an unreasonable fee for any service rendered.

**Sec. 15 CRIMINAL COMPLAINTS, ARRESTS OR VIOLATIONS OF RULE 400C; DUTY TO NOTIFY THE LICENSING UNIT:**

- A. When a Constable is arrested and charged with the commission of any crime, he/she shall notify the Licensing Unit in person or by telephone no later than the next business day and in writing within 72 hours of the arrest. When a Constable is arrested and charged with a felony, the Licensing Unit shall immediately suspend the Constable's license pending disposition of the case. In the event that a Constable is arrested or charged with a misdemeanor, the Licensing Unit Commander shall determine whether the Constable's license shall be suspended pending completion of an investigation and disposition of the criminal complaint.
- B. When a Constable has been arrested, or when criminal charges have been filed against him/her, he/she shall ensure that copies of any incidents reports, applications for complaint or complaints regarding the arrest or the filing of criminal charges are forwarded to the Licensing Unit within 72 hours.
- C. When a Constable is arrested in the City of Boston, the Duty Supervisor shall seize the identification card and badge issued by the Boston Police Department in the possession of the arrested Constable and any Firearm Identification Card or License to Carry a Firearm. The District Commander shall forward all of these items to the Licensing Unit.
- D. Any Constable who is arrested or who learns that an application for criminal complaint has been made against him/her or that a complaint, indictment or restraining order has been issued against him/her shall notify the Licensing Unit by the next business day in person or by telephone and in writing within 72 hours. Such notification shall include a copy of the complaint sought or issued and the date(s) of any court proceeding(s).
- E. Any Department employee who observes or becomes aware of an alleged violation of this rule by a Constable shall make a report to his/her 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 Constable's license shall be suspended pending completion of an investigation and the findings regarding the report rule violation.

**Sec. 16 INVESTIGATION OF COMPLAINTS:** The Licensing Unit Commander, the Bureau of Professional Standards and Development, or designated representatives of each, shall investigate any complaints or allegations of misconduct under any section of this rule. An investigation shall commence upon a report of malfeasance by any licensed Constable. The Licensing Unit investigating officer shall submit a written report, with findings, to the Licensing Unit Commander for review. The Licensing Unit Commander shall forward reports and make recommendations no later than 45 days from the date of the complaint to the Police Commissioner for possible disciplinary action.

**Sec 17 DISPOSITION AND NOTICE:** If the Police Commissioner determines that a Constable has violated this rule, the Commissioner may issue an oral or written reprimand or a suspension. The Commissioner may also recommend revocation of the Constable's license to the Mayor of the City of Boston. The Licensing Unit shall notify the Constable by certified mail, return receipt requested, of any action taken by the Commissioner.

Edward F. Davis  
Police Commissioner

Notes:

- Amended by SO 07-016, issued April 2, 2007, update the organization names to reflect the new BPD organizational structures. Section 16.