SEXUAL HARASSMENT, DISCRIMINATION, HARASSMENT, AND RETALIATION
POLICY AND COMPLAINT PROCEDURE

PURPOSE: This Rule is issued to revise Rule 114 (revised January 26, 2007) and replace Special Order 95-06, Sexual Harassment Policy, and amendments to that policy cited in Special Orders 96-15, 96-59, and 96-60, as well as Commissioner’s Memorandum 95-126.

SEC. 1 OVERVIEW: The Boston Police Department (the Department) affirms its commitment to appropriate and respectful workplace conduct in conformance with the City of Boston (the City) policy. The Department prohibits offensive conduct, discrimination, harassment, and retaliation, illegal under state and/or federal law, or City Ordinance, based on race, color, gender, national origin/ethnicity, religion, sexual orientation, age, veteran status, parental status, disability, or gender identity and expression, toward employees, citizens and visitors.

SEC. 2 SCOPE: All employees are expected to conduct themselves in a professional manner with respect and concern for their fellow employees and members of the public.

All employees have the right to file a complaint. The alleged harasser may be the complainant’s supervisor, a supervisor in another work area, or someone of higher, lower or equal rank. The complainant could be anyone affected by the offensive conduct, even in instances where the behavior is not directed at that person.

This policy is not designed or intended to limit the authority of the Department to discipline or take remedial action for workplace conduct which the Department deems unacceptable, regardless of whether that conduct satisfies the definition of sexual or other forms of harassment, discrimination or retaliation proscribed by state and/or federal law. Discrimination, harassment and retaliation are unlawful and will not be tolerated.

SEC. 3 DEFINITIONS: Discrimination, harassment and retaliation, of a sexual or other nature, are contrary to City and Department policy and are also illegal. Such conduct is defined as follows:

A. Discrimination—Conduct that conditions a person’s hiring, compensation, terms and conditions of employment or access to services, provided by the Department, based on that person’s race, color, gender, national origin/ethnicity, religion, sexual orientation, age, veteran status, parental status, disability or gender identity and expression unless otherwise permitted or required by applicable law.

B. Harassment (Hostile Work Environment)—Harassment is a form of discrimination. Harassing conduct of any type (oral, written, graphic or physical) directed against a person because of his or her race, color, gender, national origin/ethnicity, religion, sexual orientation, age, veteran status, parental status, disability or gender identity and expression, and which unreasonably interferes with the person’s work or creates a work environment that a reasonable person would find hostile, offensive, humiliating or
C. **Retaliation** - Retaliation is a form of discrimination whereby coercive, intimidating, threatening or interfering behavior or other negative employment actions are taken against an employee based on that employee:

1. Filing a charge or reporting a complaint of discrimination, harassment or retaliation;
2. Participating, cooperating or assisting in an investigation of discrimination, harassment or related retaliation complaint;
3. Opposing discriminatory, harassing or retaliatory practices; or
4. Associating with or supporting others who have engaged in protected activity.

Retaliation will be treated as a separate and additional severe offense.

D. **Sexual Harassment: Quid Pro Quo** - Quid Pro Quo or “this for that” is a form of sexual harassment where submission to or rejection of sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature is made, either explicitly or implicitly, a term or condition of employment or as a basis for employment decisions.

E. **Sexual Harassment: Hostile Work Environment** - Hostile work environment refers to sexual harassment and harassment based on gender or gender identity that occurs when such advances, requests or conduct is severe and pervasive and has the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating or offensive work environment.

**SEC. 4 EXAMPLES OF UNLAWFUL CONDUCT/HARASSMENT:** The following are some examples of conduct, which if unwelcome, and based on race, color, gender, national origin/ethnicity, religion, sexual orientation, age, veteran status, parental status, disability or gender identity and expression, may constitute harassment. This is not an exhaustive list.

A. Jokes that have a sexual, racial, ethnic, religious, disability, homophobic, age-ist connotation;
B. Belittling or mocking one’s culture or language;
C. Use of sexual, racial, or other epithets, slurs or derogatory comments;
D. Sexual advances - (verbal or physical) whether or not they involve physical touching;
E. Displaying sexually, racially or other suggestive, offensive or intimidating objects, pictures, cartoons, symbols;
F. Leering, whistling, brushing up against, sexual gestures, suggestive or insulting comments;
G. Inquiries into one’s sexual activities;
H. Written or oral reference to sexual conduct, or gossip regarding one’s sex life;
I. Commenting on an individual’s sexual activity, deficiencies or prowess;
J. Assault or coerced sexual acts;
K. Dissemination of sexually explicit voicemail, e-mail, graphics, downloaded materials, or web-sites;
L. Displaying materials, using language or physical conduct that shows hostility or aversion to a person’s race, color, national origin, religion, etc;
M. Denying employment opportunities because of such characteristics or association with someone of a particular race, gender, sexual orientation, national origin, religion, etc.
SEC. 5 EMPLOYEE COMPLAINT PROCEDURE: Any Department employee who believes that he/she has been subjected to harassment, retaliation and/or discrimination is strongly encouraged to initiate a complaint immediately. In order to provide for the complainant’s ease in filing a complaint, several procedural options are available. Complainants may notify any of the following individuals/agencies in person or by phone:

A. Any Superior Officer. The Superior Officer shall immediately make out a Special Administrative Report detailing the complainant’s allegations and submit it through the chain of command to the Bureau Chief. Upon notification, the District or Unit Commander shall immediately notify the Department’s Human Resources Division of the complaint.

B. Department’s Director or Deputy Director of Human Resources -- 617-343-4677.

C. The City of Boston’s Director or Deputy Director of Human Resources -- 617-635-3360.

D. Commander of the Internal Affairs Division, or, if unavailable, the on-call Internal Affairs investigator -- 617-343-4320.

E. State or Federal agencies or courts empowered to enforce anti-harassment, anti-discrimination and anti-retaliation laws. See end of policy for contact information.

Upon receipt of a complaint to the Department’s Human Resources Division and/or Internal Affairs Division, the office receiving such complaint shall consult with the Director or Deputy Director of Human Resources, Chief of the Bureau of Professional Standards or Commander of the Internal Affairs Division, and the Legal Advisor or his/her designee. Based on a recommendation by all three offices, the complaint will proceed to one of the following options depending on the severity of the incident and whether all parties agree to mediate the matter:

A. Mediation facilitated by a trained harassment facilitator designated by the Director of Human Resources. The list of trained harassment facilitators will be maintained by the Human Resources Division.

B. Internal Affairs Division formal complaint process, as outlined in Rule 109 of the Department’s Rules and Procedures.

SEC. 6 EMPLOYEE RESPONSIBILITIES: All employees are responsible for promoting an environment free from harassment, discrimination and retaliation and to this end are encouraged to be considerate of what other employees consider offensive or inappropriate conversation or behavior in the workplace.

SEC. 7 SUPERVISOR RESPONSIBILITIES: When Supervisors are notified of, or become aware of a problem or compelling evidence of a problem related to inappropriate conduct, that Supervisor must promptly notify his/her respective District Commander or Deputy Superintendent under whose command they work, in accordance with Section 5 of this Rule. Supervisory personnel will be held responsible for the conduct of an employee, which is known or should have been known to create, or which could create, harassment against an employee or member of the public, unless immediate and appropriate corrective action has been taken.
Supervisors must handle these matters with the utmost sensitivity and maintain confidentiality to the greatest extent practicable.

**SEC. 8 CONFIDENTIALITY:** The Department is sensitive to the feelings and well-being of all employees. Employees will be afforded confidentiality to every extent practicable.

**SEC. 9 INVESTIGATION PROCEDURE:** The Department takes allegations of harassment seriously and will respond promptly to such complaints. The complaint procedure is designed to facilitate a prompt internal review of the allegations and a fair and equitable resolution of the situation. It is also intended to stop future occurrences of the behavior. The investigation procedure generally involves the following fact gathering steps, regardless of the process chosen to address the complaint:

A. Listen to the complainant’s allegations.
B. Discuss the complained of actions with discretion, sensitivity, and due concern for the dignity of those people involved.
C. Inform the complainant that he/she may have a representative at the meeting to assist the complainant in his/her decision-making.
D. Inform the complainant of the Department’s harassment policy and complaint procedures and provide the complainant with a copy of the Department policy.
E. Inform the complainant that while every reasonable effort will be made to protect the confidentiality and privacy of the individuals involved, an investigation requires that the alleged harasser be informed of the specific allegations and witnesses be interviewed. All persons contacted or interviewed during the investigation will be requested not to discuss the subject matter of the investigation.
F. Conduct an investigation, including, but not limited to compiling written or oral statements from all involved in the situation, including witnesses; collecting personnel records that may establish facts (which may include pay records, job assignments, promotions, transfers, working hours, performance appraisals, etc.); and separately interviewing the person filing the complaint, witnesses, and the person alleged to have committed the harassment.
G. Inform the complainant that under the informal mediation process, the possible actions that could be taken or agreed to could consist of sensitivity training and / or discipline pursuant to Rule 109.
H. Notify the Commanders of the parties involved of the complaint process chosen so they may take immediate, remedial action concerning the allegations. District/Unit Commanders shall attempt to determine if there are any working conditions or practices that encouraged or permitted the alleged conduct to take place, and if so, eliminate them.

**SEC. 10 INTERVENTION-RESOLUTION:** If the complaint proceeds to the Internal Affairs Division, upon completion of the investigation a recommendation will be made that the complaint be found:

A. **Sustained** - The investigation disclosed sufficient evidence to support the allegations in the complaint.
B. **Unfounded** - The investigation revealed that the alleged conduct did not occur or did not constitute harassment.
C. **Not Sustained** - The investigation failed to prove or disprove the allegations.
The Department will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct, of the results of the investigation. Any Department employee, who is found after an investigation to have violated this policy, will be subject to disciplinary action up to and including termination.

SEC. 11 REMEDIES: Available remedies shall consist of:

A. Progressive disciplinary procedures, up to and including termination of employment, will be used against the harasser and/or appropriate supervisory personnel.
B. Employees who feel they have been discriminated against have 300 days from the date the alleged discrimination occurred to file a complaint with either or both of the following agencies:

   i. Massachusetts Commission Against Discrimination (MCAD)
      One Ashburton Place, Room 601
      Boston, MA 02108
      617-994-6000

   ii. United States Equal Employment Opportunity Commission (EEOC)
       JFK Federal Building
       475 Government Center
       Boston, MA 02203
       617-565-3200

William B. Evans
Police Commissioner