SUBJECT: RULE 113B, TRANSGENDER POLICY

Special Order # 13-025, Transgender Policy is hereby rescinded.

Rule 113B, Transgender Policy is hereby issued superseding all previous rules, special orders, memos and directives on this subject.

Spearheaded by the Boston Police Department’s liaison to the LGBTQ community, improvements to Boston Police Department policies related to transgender individuals have been made based on the National Center for Transgender Equity’s Analysis of the Boston Police Department Policy, as well as review and input by advocacy groups, activists, the City’s Equity and Inclusion Cabinet, and the City’s Liaison to the LGBTQ community.

Specific improvements address recommendations regarding:

- Availability of Policy on Transgender Interactions
- Non-Discrimination Based on Gender Identity
- Non-Binary Recognition
- Transportation
- Placement in Temporary Lock Up
- Access to Medical Care in Lock up
- Removal of Appearance Related Items
- Bathroom Use

Please note, Rule 102 The Conduct and General Rights and Responsibilities of Department Personnel is being amended in a separate special order to include “gender identity” in Section 9 Respectful Treatment. Rule 318 Prisoners is also being amended in a separate special order requiring officers to report mileage when transporting all prisoners, not just female prisoners as was the previous requirement.

Commanding Officers shall ensure that this order and the attached Rule are posted on Department bulletin boards.

Gregory P. Long  
Superintendent In Chief
Section 1. General Considerations

Consistent with Rule 113A Bias-Free Policing, the Boston Police Department is committed to providing services and enforcing laws in a professional, nondiscriminatory, fair, and equitable manner. The Boston Police Department proactively engages with vulnerable populations to provide access to services, supports and opportunities. The Boston Police Department’s Civil Rights Unit investigates all allegations of Civil Rights violations, and the Bureau of Professional Standards investigates all citizen complaints made against officers or civilian personnel.

The purpose of this Rule is to establish guidelines for the appropriate treatment of transgender individuals who come into contact with the Boston Police Department. The policy of the Boston Police Department is to treat all individuals with dignity, respect, and professionalism. Officers shall at all times abide by Boston Police Department Rule 102 Conduct, Rights and Responsibilities Section 9 (Respectful Treatment) when interacting with transgender individuals. As with all Boston Police Department rules, violation of Rule 113B Transgender Policy may be subject to discipline per Rule 109 Discipline Procedure. The following considerations are a codification of existing procedures and practices.

Section 2 Definitions

**Common Use Name** – Non-birth name that a transgender individual uses in self-reference (this may or may not be in the individual’s legal name).

**Gender Expression** – Social characteristics and behaviors that are socially viewed as masculine, feminine, or androgynous. Gender expression is the external manifestation of one’s gender identity. This can include clothing, hair styles, names, pronouns, and other visual or social elements relative to masculinity, femininity, or androgyny.

**Gender Identity** refers to a person’s internal sense of and deeply held feeling about their own gender identity and its expression. It is viewed as a sincerely held aspect of one’s core beliefs about oneself. A person’s gender identity may or may not correspond to the person’s identified sex at birth and may change over one’s lifetime. The legal definition of gender identity does not require the individual to have had transitioning surgery or any other medical treatment and additionally that it is not asserted for any improper purpose. Gender Identity is distinguished from sexual orientation.
Non-Binary – Non-binary is a spectrum of gender identities that are not exclusively masculine or exclusively feminine – identities that are outside the gender binary.

Sex— An individual’s biological or anatomical assignment as male, female, or intersex.

Transgender Individual – A person whose gender identity differs from society’s expectation based on the sex they were assigned at birth.

Transgender Man – A person who transitions from female to male, meaning a person who was assigned female at birth, but identifies and lives as a man. A transgender man should be addressed using he/him or whatever pronouns they prefer. Some transgender individuals may use the pronouns “they/ them”.

Transgender Woman– A person who transitions from male to female, meaning a person who was assigned male at birth, but identifies and lives as a woman. A transgender woman should be addressed using she/her or whatever pronouns they prefer. Some transgender individuals may use the pronouns “they/ them”.

Section 3. Forms of Address

Officers shall address transgender individuals by the individual’s common use name. This is true even if the individual has not received legal recognition of the adopted name. In addressing or discussing a transgender person, officers will use pronouns appropriate for that person’s gender expression (she, her, hers, he, him, his). An officer should use “they/them” pronouns if a person articulates those are their pronouns or if an officer is unsure what pronoun to use. If officers are uncertain about which pronouns are appropriate, then officers will respectfully ask the individual.

Section 4. Restrooms

Transgender individuals are permitted to use the public restroom consistent with their identity in all Boston Police Department facilities.

Section 5. Calls for Service

Calls for service or complaints generated by transgender individuals shall be addressed and investigated in a manner that is consistent with all Department policies. No officer shall fail to respond to a call for service based on the gender identity or expression of the caller.

Section 6. Stop and Frisk

Officers shall continue to use standard practices and procedures when conducting “Field Stops” and “Frisks”, and shall abide by Rule 323 Field Interaction/Observation /Encounter Report (FIOE report). Additionally, a search or frisk shall not be performed for the sole purpose of determining an individual’s anatomical gender, and transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals.
Section 7. Prisoners

Section 7.1. Transportation

Whenever possible, a transgender prisoner shall be transported alone. Officers shall ensure that additional units are called in order to assist with transporting transgender individuals.

Consistent with Rule 318 Prisoners, as with all prisoners, it shall be the responsibility of the operator of the police vehicle to notify the Operations Division Dispatcher via radio transmission of the point of departure, the exact time and the odometer reading. Upon their arrival at their destination they will again notify the Operations Division and again give the time, vehicle mileage and odometer reading.

Section 7.2. Booking

The Booking Officer will process transgender prisoners, including persons held in protective custody and juveniles held in custody, according to normal booking procedures as outlined in Rule 318. When booking a transgender prisoner, the Booking Officer will include the prisoner’s common use name (i.e. name that the individual uses in self-reference) in the booking, either as the primary name or as the “also known as” (a.k.a.) name. The transgender prisoner will be booked under the name appearing on the prisoner’s government-issued identification, as well as under an a.k.a. name where applicable.

If no identification is available, then the Booking Officer will use the common use name for booking purposes, either as the primary or the a.k.a. name. The prisoner’s birth name will be used only if it is the prisoner’s legal name or it is required by a legitimate law enforcement purpose, including but not limited to, a prior arrest record.

Section 7.3. Searches

All searches of the transgender prisoner’s person will be conducted by two officers of the gender requested by the transgender prisoner, whenever possible. If two officers of the preferred gender are not available, the search shall nonetheless be conducted by two available officers. If the prisoner does not specify a preference, then the search will be conducted by officers of the same gender as the transgender prisoner’s gender expression (e.g., a transgender male prisoner’s expressing no preference should be searched by a male officer). The prisoner will also be required to complete the “Statement of Search Preference Form” prior to any search (Form #0076-BFS-0413). Any prisoner who refuses to complete the “Statement of Search Preference Form” shall be searched by officers of the same gender as the transgender prisoner’s gender expression. Officers shall refer to Rule 318D Strip and Body Cavity Searches regarding proper search procedures.
Section 7.4. Conditions during Holding

Whenever possible, a transgender prisoner shall be held in a cell without other prisoners. The Booking Officer and Duty Supervisor shall make all efforts to ensure that the prisoner is held without other prisoners, including looking at availability in any and all other district stations. Transgender prisoners should be placed in holding cells or holding areas consistent with their gender identity, to the extent possible.

Officers shall not remove appearance related items unless it is a safety issue.

Transgender prisoners requiring medical attention shall be handled as any other prisoner requiring medical attention in accordance with Rule 318. Transgender prisoners should have access to hormone medication if they have a prescription.

Gregory P. Long
Superintendent-in-Chief