

Boston Police Department

Discipline Matrix

Confidential Draft

Updated May 4 2022

DRAFT

Introduction

The mission of the Boston Police Department is Community Policing. The Department is dedicated to working with the community to fight crime, reduce fear and improve the quality of life in our neighborhoods. Integral to this mission and to build trust with all members of the community, it is vital for the Department to set standards of performance and conduct for its members, both sworn and civilian, and to hold them accountable for when those standards are not met. These guidelines promote greater confidence internally by providing a system that is fair, proportionate, and equitable while promoting trust within the greater community through transparency and confidence in the quality of services by the Department. The Boston Police Department would like to acknowledge the New York City Police Department as the creator of an extraordinary Discipline Matrix which the Boston Police Department modeled after.

Police officers are more visible to the community than most other persons in government or public service. Public scrutiny, and sometimes public criticism, is directed not only at police performance but also at the behavior of those who deliver police services. The establishment of proper standards for police behavior must take into account not only the expectations of the citizen but also the importance of respecting the individual rights of police employees. The Boston Police Department recognizes that its employees have certain basic personal rights and restricts those rights only where necessary to ensure the integrity of the Department and the highest quality of police service are maintained¹.

Discipline has too long had the connotation of simple punishment; this rule envisions a disciplinary process which incorporates the idea of training both for effective self-discipline and for a group discipline, or *esprit de corps*. To accomplish this design, the rule recognizes the wide spectrum of discipline and through such provisions as the five-day suspension program and the district personnel records places discipline at a level where it can respond better to the individual member². All police officers are subject to retraining as well as any punishment.

The Police Commissioner may modify these Guidelines as appropriate to address emerging issues and advance the goals of the disciplinary system described herein.

BPD Values

It is the policy of the Boston Police Department that every action of the Department as an organization, and those of the individuals who act on its behalf, will reflect the highest standards of honesty and integrity. In all of our dealings, whether with the public, other elements of the

¹ Boston Police Department Rule 102, THE CONDUCT AND GENERAL RIGHTS AND RESPONSIBILITIES OF DEPARTMENT PERSONNEL, Section 2, *General Considerations*

² Boston Police Department Rule 109, Discipline Procedure Section 2, *Discipline*

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criminal justice system, or with each other, we will act in accordance with the ethical standards that are set forth below. Additionally, it is the responsibility of each and every member of the Boston Police Department to adhere to those standards and to take all necessary and prudent actions to expose those who knowingly violate the public trust. It is the responsibility of the Department to prevent, detect and correct instances of misconduct, administrative or criminal, within the organization³. The Boston Police Department has pledged to treat the community with:

- *Respect*- Treat people with dignity
- *Trustworthiness*- Convert worthy intentions, professional competence, and good character
- *Voice*- Allow a person to share his/her/their point of view
- *Neutrality*- make bias free decisions⁴

Community Policing and the Disciplinary System

The Boston Police Department is dedicated to working in partnership with the community to fight crime, reduce fear and improve the quality of life in our neighborhoods. Our Mission is Community Policing⁵. The Boston Police Department is committed to strengthening relationships and building trust with the community. The BPD's model of community policing and engagement has been recognized nationally. This model includes extensive outreach; innovative programs, events and activities; and connecting those in need with services, supports and opportunities⁶. As an integral part of this philosophy, the Department's rules and regulations set standards of performance and conduct, and establish fair consequences for failing to adhere to these standards. The Guidelines contained herein help promote trust and respect by providing greater transparency and insight into the disciplinary system. At the same time, it promotes greater confidence in the process among officers who will be able to see the system as fair, proportional, and equitable.

The Disciplinary System

Goals of the Disciplinary System

Discipline has too long had the connotation of simple punishment; the rule envisions a disciplinary process which incorporates the idea of training both for effective self-discipline and for a group discipline, or esprit de corps. To accomplish this design, the rule recognizes the wide

³ Boston Police Department Rule 113 , Public Integrity Policy, Section 3 *Policy*

⁴ Boston Police Commissioner's Special Order 21-25, Diversity, Equity and inclusion (DEI) policy; *Procedural justice*

⁵ Boston Police Department, Mission Statement, BPnews.com

⁶ Police Commissioner's Special Order 21-25, Diversity, Equity and inclusion (DEI) policy; *Importance of Diversity in building trust with the community*

spectrum of discipline and through such provisions as the five-day suspension program and the district personnel records places discipline at a level where it can respond better to the individual member.⁷ As noted, a disciplinary system must be fair and equitable in order to be effective. Discipline must be fairly administered, reasonably consistent, designed to achieve a desired result and premised upon standards that are generally understood Department-wide. The goals of the disciplinary system include:

- Correcting or modifying inappropriate behavior and rehabilitating the member of the service
- Educating personnel and the community regarding agency standards
- Providing reasonable notice of the standards by which conduct will be judged and the likely consequences of the failure to adhere to Department rules and policies
- Resolving disciplinary matters impartially and in a prompt and efficient manner
- Retraining personnel who exhibit a lack of understanding of Department policies and procedures Addressing the harm, or risk of harm, arising from misconduct and the effects of misconduct both inside and outside the Department
- Deterring future misconduct
- Imposing appropriate penalties that are fair, proportional and rational
- Ensuring the good order and efficiency of the Department
- Establishing a culture of accountability and individual responsibility
- Listening to community concerns about officer misconduct and implementing improvements to address them

The desired results to be achieved by the imposition of discipline in a particular case are properly dependent on all the facts and circumstances of each case. The final outcomes may vary and are based upon a consideration of numerous factors including, but not limited to, the nature and seriousness of the misconduct, the circumstances under which the misconduct was committed, the harm or prejudice arising from the misconduct, and the existence of any relevant mitigating or aggravating circumstances.

Discipline Generally

Discipline in the BPD is broadly defined, encompassing actions designed to remediate inappropriate behavior, and imposed in a variety of ways, largely determined by the seriousness of the substantiated misconduct. The least serious procedural violations may result in “instruction,” a method of re-training through which a commanding officer instructs a member of the service on proper procedures, or “reprimand,” where members of the service are admonished for low-level violations. The Department may also require members of the service to participate in other forms of training to address deficiencies, at any time. Depending upon the nature of the

⁷ Boston Police Department, Rule 109 Discipline procedure; Section 2 *Discipline*

misconduct, training will be delivered by the appropriate subject matter expert(s) and in a suitable venue. Successful completion of the training is memorialized as part of the disciplinary case record.

Technical violations of Department procedures may be addressed through discipline imposed at the district by the Captain and/or Command Level, through a process referred to as “Five Day Rule.” The Five Day Rule procedure allows commanding officers to maintain order in their commands and impose discipline without initiating a disciplinary hearing⁸. The Police Commissioner may delegate any member of the department the authority to impose immediate suspensions of five days or less. That delegation shall be in writing and shall specify the name or position of the member to whom the authority has been delegated and shall specify whether the authority is limited to a particular division or bureau of the Department. The delegation shall be in full force and effect unless and until it is revoked by a subsequent written notice by the Police Commissioner⁹.

In order to enhance transparency and ensure the integrity of internal investigations and adjudications of Departmental disciplinary proceedings, the Department has issued guidelines to members of the service regarding recusal from involvement in disciplinary proceedings or investigations when there is an actual or perceived conflict of interest based on a personal or familial relationship with a subject.

The Investigative Process

Depending on the nature of a misconduct allegation, the investigation of such allegation may be investigated by either the Department or Office of Police Accountability and Transparency (“OPAT”).

Civilian complaints against police officers are investigated by the Internal Affairs Division (“IAD”) and/or OPAT. The OPAT was created by the *City of Boston Ordinance 12-16 Office of Police Accountability and Transparency* which was to establish an Office of Police Accountability and Transparency in the City of Boston, that is independent of the Boston Police Department, to investigate complaints of police misconduct, ensure that the Boston Police Department's internal affairs review process is fair and thorough, and review Boston Police Department's existing and proposed policies and procedures. The purpose of the OPAT is to provide a single point of entry for individuals with concerns or complaints related to the Boston Police Department and its officers and sworn personnel to be heard and responded to, and to provide the staffing and legal authority necessary to support the work of the OPAT and its related

⁸ Boston Police Department Rule 109, Section 32, *Offenses covered by The Five-Day Rule*

⁹ Boston Police Department, Rule 109 Section 29, *Delegation*

advisory boards and panels to undertake independent investigation and review of policing in Boston¹⁰.

The Department investigates allegations of corruption and misconduct, as well as complaints related to public contact, against members of the service regarding a wide variety of employee behaviors. Complaints are received from the public, as well as from Department personnel who have an obligation to report corruption or other misconduct of which they become aware.

Investigations may also result from media or social media exposure and proactive measures by various investigative entities within the Department itself. Complaints can range from simple violations of Department policies and procedures to more serious allegations of misconduct. The most serious investigations involve allegations of unlawful behavior or criminal conduct. The Department investigates allegations of criminal conduct in conjunction with the appropriate prosecutor's office having jurisdiction over the incident. In these cases, internal disciplinary charges may be levied because the commission of a criminal offense also constitutes a violation of Department policy.

The Boston Police Department Rules and Procedures direct which unit or division shall have responsibility for certain areas of misconduct. Generally, the Anti-Corruption Division has responsibility for the investigation of ongoing criminal activity that involves abuse of position by an employee. Examples of that conduct are bribery, unlawful drug usage or distribution, extortion, conflict of interest, fraud and gaming. The Internal Affairs Division is responsible for the administrative investigation of all police misconduct, including violations of the law. It is also responsible for monitoring complaint histories of all officers to identify and address those officers that may have developed a pattern of troublesome behavior, or who may be unfit or unsuitable for particular assignments. Additionally, the Internal Affairs Division will ensure that the integrity and character of police applicants is considered when evaluating their fitness to become members of the Department. Other agencies may have exclusive or concurrent jurisdiction for handling other types of misconduct, criminal or administrative, depending on the offense and the circumstances. Current rules and directives should be consulted to determine the appropriate investigative entity or entities.

Historically, investigations of police misconduct have been reactive in nature and initiated only when the wrongdoing has been alleged or exposed for some reason. However, the Public Integrity Policy of the Boston Police Department incorporates the concept of proactive prevention to ensure that integrity is maintained in the organization at all times. Accordingly, specific responsibility is assigned to certain units, and the commanders and supervisors of those units. Additionally, those units or individuals will be held accountable for maintaining integrity in those areas of responsibility¹¹.

¹⁰ City of Boston Ordinance 12-16, *Office of Police Accountability and Transparency*

¹¹ Boston Police Department Rule 113, pg 4-5, Section 6 General Responsibilities

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The Boston Police Department affirms its commitment to appropriate and respectful workplace conduct in conformance with the City of Boston (the City) policy¹². 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 visitors¹³. We are also committed to fostering, cultivating and preserving a culture of diversity, equity, and inclusion throughout the department. Boston Police Department employees -- sworn and civilian -- are our most valuable asset. The men and women of the Boston Police Department are dedicated public servants who work hard every day to serve the community. We are confident in their abilities to identify and work to address barriers to diversity, equity and inclusion. The Boston Police Department is guided by community policing, community engagement, and procedural justice; with the communities we serve as well as our community of employees.

We understand that trust is built by working closely with the community and treating people with dignity and respect. The Boston Police Department prioritizes diversity, equity and inclusion in recruitment, hiring, promotion, opportunities for career advancement (i.e. assignments, professional development and training), and retention within the confines of the law, Civil Service and collective bargaining obligations¹⁴.

Intersection with the Criminal Justice System

To the extent any conduct by Department employees is criminal in nature, Suffolk County District Attorneys, the local prosecutor with jurisdiction over an event occurring outside the city, the United States Attorneys' Offices and/or the Massachusetts Attorney General may also conduct investigations. Once it is ascertained that a member of the service has engaged in possible criminal behavior, the Department works closely with the relevant prosecutorial agencies to coordinate investigative efforts. This may result in both a criminal prosecution and an internal disciplinary proceeding, regardless of the outcome of the criminal matter.

The Department's disciplinary process is not a substitute for the criminal or civil justice systems. When a member of the service is arrested and charged with a crime, he or she is subject to criminal responsibility and potential prosecution in accordance with applicable Federal, state, or local law. The member of the service may also be subject to liability in a civil proceeding. The disciplinary system is an internal administrative process designed to address misconduct with

¹² City of Boston, Executive Order, *Valuing Diversity and Equality Statement and Policy Prohibiting Discrimination, Harassment, Sexual Harassment, and Retaliation and Explaining the Reporting Process*

¹³ Boston Police Department Rule 114, pg 1, Section 1, *Harassment Policy Overview*

¹⁴ Boston Police Department, Police Commissioner's Special Order 21-25, *Section Commitment to Diversity, Equity and Inclusion, Diversity, Equity and Inclusion (DEI) Policy*

regard to the individual's status as a BPD employee and operates on a track independent of any criminal and civil proceedings.

When a member of the service is charged with a crime, the Department also files internal disciplinary charges against the member because criminal conduct always constitutes a violation of Department policy. Under appropriate circumstances, the Department's internal disciplinary case may proceed on a parallel track to the criminal case. However, in some cases, the disciplinary case may be deferred until after the criminal prosecution has been fully resolved.

The determination to move ahead with a disciplinary proceeding is fact-specific and will be undertaken if the disciplinary proceeding can be accomplished without compromising the criminal prosecution. In making the decision, the Department will always consult with, but not necessarily defer to, the appropriate prosecutorial authority and will consider any issues or concerns presented.

In conjunction with the Boston Police Department's internal disciplinary rules, the Commonwealth of Massachusetts has created the Peace Officer Standards and Training (POST) Commission. The POST was created in 2020 and is charged with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, or reprimand¹⁵. Within the POST Commission, there will be annual in-service training for law enforcement officers that will go over certain subjects like mental health awareness, physical force, people with intellectual and developmental disabilities, legal standards regarding police interaction and arrest procedures differ for juveniles compared to adults; engagement and de-escalation tactics that are specifically effective with youth; and strategies for resolving conflict and diverting youth in lieu of making an arrest. As well as training on hate crime identification and prevention training curriculum including acquisition of practical skills to prevent, respond to and investigate hate crimes and hate incidents and their impacts on victim communities; anti-bias, anti-racism and anti-harassment strategies; bullying and cyberbullying; and comprehensive training to help school resource officers interact effectively with school personnel, victim communities and build public confidence with cooperation with law enforcement agencies¹⁶.

Resolution of Disciplinary Charges

Police Commissioner's Authority

The Police Commissioner has the sole discretion to determine the final disciplinary disposition and penalty imposed. Recommendations from the Bureau of Professional Standards (BPS) or the

¹⁵ Commonwealth of Massachusetts website, Mass.gov, POST Commission

¹⁶ Commonwealth of Massachusetts ,malegislature.gov/Laws/SessionLaws/Acts/2020/Chapter253, *Act 253 AN ACT RELATIVE TO JUSTICE, EQUITY AND ACCOUNTABILITY IN LAW ENFORCEMENT IN THE COMMONWEALTH.*

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Office of Police Accountability and Transparency (OPAT) and, when applicable, the Chief Hearings Officer regarding discipline will not be binding on the Police Commissioner. If the final disciplinary decision departs from any one of these recommendations, the Police Commissioner shall document the factors considered to justify the final determination of disciplinary disposition that deviates from the presumptive penalty guidelines.

Settlement Agreements (Check with Legal on this)

Department employees who face disciplinary charges for violations of Department rules may agree to take responsibility for the charged misconduct and accept a penalty by entering into a settlement agreement negotiated with the Department.

The starting point for any settlement agreement negotiations is the presumptive penalty/ penalty range for each specified act of misconduct described within these Discipline Guidelines. Factors to consider when negotiating settlement agreements may include the availability of witnesses and evidence, strength of the prosecution, and the viability of available defenses. The Department will not bargain away readily provable misconduct merely to dispose of a matter expeditiously, to allow for a more lenient penalty than established by these Guidelines, or to achieve any other result that serves to undermine the goals and purposes of these Guidelines.

Department Trials/ Administrative Hearings

Pursuant to the Civil Service Laws, M.G.L. 31 § 41, the Police Commissioner may designate a hearing officer to conduct hearings to determine whether a tenured employee shall be discharged, suspended, required to perform punishment duty, laid off, or have his office or position abolished.

Written Reprimands

No material which contains an allegation of misconduct against an employee shall be included in his/her personnel file until the charges have been verified by affidavit and a hearing held. Therefore, a letter of reprimand may not be placed in the personnel file of a police officer covered by the collective bargaining contract, unless the allegations in the letter are supported by an affidavit and the police officer is given a hearing or unless the police officer waives the right to verification and a hearing.

Suspensions for Five (5) days or less

The Civil Service Laws, M.G.L. c. 31, s. 41 permits the Police Commissioner to delegate the authority to immediately impose suspensions of five days or less without first providing a hearing to a tenured civil service employee. The law requires that within twenty-four hours after

such a suspension the subordinate be given a copy of sections 41 to 45 of Chapter 31 of the General Laws and a written notice which states the specific reasons for the suspension.

That notice must inform the subordinates that they may be within authority. Such a hearing must be given within five (5) days of the receipt of such a request. It should at all times be kept in mind that the most effective discipline is that which is accepted by the individual. Therefore, where practicable the person delegated the authority to suspend should discuss the infraction and the contemplated discipline with the individual. An employee may waive the right to request a hearing before the appointing authority or designee.

Suspensions for more than Five (5) days or up to and including terminations.

Before any action affecting employment or compensation of a tenured employee as delineated in M.G.L. c. 31 s. 41, if taken, the officer or employee involved shall be given a written statement of the specific reason or reasons for the contemplated action, together with a copy of M.G.L. c. 31, ss. 41-45. The employee then may consent in writing to the imposition of discipline and waive the right to a hearing on the specific reason or reasons given. If no such waiver or consent is executed, the Police Commissioner shall determine whether the hearing is to be before the Commissioner, Hearing Officer, or Trial Board, and shall notify the Bureau of Professional Standards and Development in writing of the hearing, the forum, the employee and the proposed action.

The Bureau of Professional Standards and Development shall then set a time and date for the hearing, and shall cause notice to be served upon the employee as to time, date and forum. The notice of the hearing must be served at least three days before the hearing except in cases involving abolition of position, in which case the notice must be served at least seven days before the hearing.

The hearing shall be informal and administrative. The purpose of a hearing is to determine the facts and situations surrounding a case, and members of a hearing forum, especially when counsel is not present, shall protect the rights of all parties involved whenever through the lack of ability, inexperience, or oversight, either side's case may seem to be improperly prejudiced. Rules of Evidence observed by law need not be applied. Evidence which reasonable persons are accustomed to rely on in the conduct of their affairs may be considered. Unduly repetitious evidence may be excluded. Documentary evidence may be admitted in the form of copies or excerpts or by incorporation by reference. Reasonable rules may be established to expedite the hearing.

Both the Department and the employee may have attorneys present to represent them at a hearing. In addition, the employee may be accompanied by an employee organization representative

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The hearing officer shall hear and all consider all evidence, written, oral and real, offered by the parties which is relevant to the statement of the reasons for the proposed action. The employee shall also have the ability to examine and cross-examine all witnesses who testify before the hearing officer. Witnesses shall be sworn or make an affirmation before testifying.

Upon completion of the hearing, the hearing forum shall forthwith submit a written report to the Police Commissioner, with a copy to the Bureau of Professional Standards and Development. That report shall summarize the evidence introduced by the parties, make specific findings of fact, and make recommendations as to the disposition of the charges including recommendations as to the appropriate discipline if any. The Police Commissioner shall immediately review the report of the hearing forum. He may return it for elaboration, further explanation or further hearings and findings of fact if necessary and practicable within the time limits required by law. Recommendations made by the hearing forum will not be binding on the Police Commissioner. Within seven days after the filing of the report of the hearing officer, the Police Commissioner shall give to the employee a written notice of his decision stating fully and specifically the reasons therefore.

Penalty Guidelines

The Penalty Guidelines Explained

The Guidelines are published and may be periodically updated in order to better inform members of the service and the public as to the expectations placed upon members of the Department and to provide greater transparency regarding the disciplinary process. Awareness of the likely consequences associated with violations of Department policy promotes greater efficiency and facilitates the fair and rational application of penalties and the adherence to behavioral standards. The Guidelines are designed to provide notice of the standards upon which disciplinary outcomes are based and to establish expectations for all involved.

Presumptive Penalties

The Guidelines set forth presumptive penalties for acts of misconduct and violations of Department policy. A presumptive penalty is the assumed penalty generally deemed appropriate for the first instance of a specific proscribed act and does not constitute a mandatory minimum penalty. The presumptive penalty serves as the starting point for analysis during the penalty phase of a case, which must include consideration of the totality of the circumstances and any aggravating and/or mitigating factors that may be relevant. The Police Commissioner, who is statutorily empowered to adjudicate discipline, makes the final determination and may deviate from the presumptive penalties. That penalty determination, including the rationale for any deviation from the presumptive penalty and/or the recommendation of either a Chief Hearing Officer or OPAT, is memorialized in a memorandum, as part of the final adjudication of the case.

Given the complexity of some events and significant variances in the underlying facts of each case, it is not possible to predetermine the outcome or the relative weights of potential aggravating and mitigating factors for every disciplinary matter. In select areas of misconduct, presumptive penalties for common aggravating factors are delineated, but even in these cases, there may be additional aggravating factors or mitigating factors that bear upon the ultimate penalty recommendation. Presumptive penalties, as well as both aggravating and mitigating circumstances, also apply to negotiated settlements of disciplinary matters.

All disciplinary matters must be evaluated on a case-by-case basis, considering all relevant factors and using this rubric as a guide. As a general rule, Department policies, including these Guidelines, should not be interpreted or applied in a manner that leads to an unjust or unreasonable result, or is otherwise contrary to the goals of the disciplinary system outlined above.

Mitigating and Aggravating Factors

The Guidelines facilitate penalties designed to ensure consistency among similarly situated members of the service while allowing for reasonable degrees of mitigation and aggravation based upon the specific facts and circumstances of each incident. The presumptive penalty identified for each act of misconduct may be increased or decreased depending upon the presence of these individualized factors. Although it is impossible to pre-determine all the mitigating and aggravating factors that could arise in each case, the guidance below includes universal factors to be taken into account when assessing the fairness and proportionality of a penalty.

The presence of mitigating or aggravating factors does not automatically lead to the conclusion that a departure from the presumptive penalty is justified. The factors must be weighed against each other and the facts and circumstances of the misconduct itself. The presence of one or more mitigating circumstances, along with one or more aggravating circumstances, may or may not offset each other.

For some acts of misconduct, presumptive penalty enhancements have already been identified for specific aggravating factors enumerated in the Guidelines. In other categories of misconduct, presumptive penalty ranges for aggravation and mitigation are provided. Additionally, some behavior that is deemed an aggravating factor, if charged and sustained on the merits, may be adjudicated as a separate act of misconduct in and of itself.

If the determination is made that the misconduct is appropriately mitigated or aggravated, the relevant factors, including a description of how the factors were applied, will be documented as part of any recommendations submitted to the Police Commissioner. The ultimate penalty assigned is guided by the penalty ranges between the mitigated and aggravated penalties,

as defined in these Guidelines. The Police Commissioner ultimately determines whether the factors are sufficiently significant to justify a decrease or increase in the presumptive penalty/penalty range and documents such in the memorandum prepared when adjudicating the case.

Potential Mitigating Factors

- In considering the totality of the circumstances, potential mitigating factors may include, but are not limited to, the following:
- The reasonably limited or lack of knowledge, training and experience of the member of the service involved that is germane to the incident
- The nature of the event was such that it was unpredictable, volatile or unfolded rapidly not allowing time for deliberate reflection
- The area of law or policy implicated in the matter is novel or complex. The state of mind of the member of the service, including the absence of intent
- The primary motivation for the action is premised upon emergency response or service. The member of the service endeavored to de-escalate the encounter
- The voluntary candor and assistance of the member of the service, which goes beyond the mandates of cooperation and truthfulness, and aids the investigation
- The acceptance of responsibility and any mitigating or remedial actions taken by the member of the service
- Positive employment history including any notable accomplishments, Departmental recognition and positive public recognition
- The limited nature and extent of the consequences or harm caused by the violation
- The limited impact of the violation upon the Department and its mission. The role of the member of the service in the particular event (e.g. member of the service is a subordinate and a supervisor was on the scene)
- Any extraordinary circumstances or hardships that may be relevant
- The potential for rehabilitation

Potential Aggravating Factors

- In considering the totality of the circumstances, potential aggravating factors may include, but are not limited to, the following:
- The presence or reasonable availability of knowledge, training and experience of the member of the service involved that is germane to the incident
- The nature of the event is such that it allowed time for deliberate reflection or action
- The culpable mental state of the member of the service, particularly if the actions evince an intent to engage in proscribed conduct, circumvent a policy, exhibit a

reckless disregard of an individual's wellbeing, demonstrate bias or prejudice, or constitute harassment or retaliatory conduct

- The member of the service is motivated by personal interest or gain, or receives a personal benefit from the misconduct
- The member of the service failed or declined to attempt to de-escalate the encounter even though feasible to do so
- Disproportionality of misconduct and harm to the community
- The lack of candor of the member of the service and failure to cooperate with the investigation
- Actions by the member of the service to interfere with the investigation or to influence others to participate in misconduct including to aid in hindering an investigation
- The nature and extent of injury or endangerment to a member of the service or civilian
- The nature and extent of property damage The adverse impact upon the Department with regard to its mission, reputation, credibility and relationship with the community, and the impact on public trust
- Any actual or demonstrable legal or financial risk to the Department
- The adverse result of a criminal, administrative or civil proceeding related to the underlying conduct
- Any negative employment history including prior discipline or performance deficiencies
- Conduct demonstrating a pattern of behavior that indicates an inability to adhere to Department rules and standards
- Low probability or limited potential for rehabilitation The role of the member of the service in the particular event (e.g. member of the service is a supervisor on the scene of the incident)
- Victim's vulnerability that is related to the act of misconduct (e.g. excessive use of force against an elderly person)

The Effect of Rank on Discipline

An individual member of the service's rank and their particular role in an event are factors to be considered when assessing an appropriate disciplinary penalty. An individual member of the service's status as a supervisor will generally be viewed as an aggravating factor, particularly for on-duty misconduct, which may warrant a penalty higher than the presumptive penalty for the particular violation. Supervisors are expected to lead by example and they are responsible for holding their subordinates accountable. The Department has higher expectations for supervisors, including their ability to exercise sound judgment and to be more deliberate in

their actions than subordinate members. Potential mitigating factors described above should be considered as well.

Consistent with this philosophy, the presence or participation of a supervisor in an event may be a mitigating factor when evaluating the culpability of a subordinate. A downward departure from a presumptive penalty may be warranted when a subordinate is acting under the close supervision or direction of a superior and the supervisor is subject to discipline for any misconduct related to the event.

Prior Disciplinary History

Generally, an individual member of the service's prior disciplinary history will be considered when assessing an appropriate penalty, potentially serving as an aggravating factor to a presumptive penalty. Factors to be considered when determining whether prior disciplinary history should be considered an aggravating factor include:

- The number of prior disciplinary events
- The nature and seriousness of the prior event(s)
- Any similarities between prior and current acts of misconduct
- Any disciplinary history demonstrating an inability or unwillingness to conform to the Department's expectations for the position or successfully rehabilitate

However, a new act of misconduct that is the same as a prior act of misconduct, or carries a presumptive penalty that is equal to or greater than the presumptive penalty of a prior act of misconduct, may instead result in an increase in the disciplinary penalty for the current violation through the application of progressive discipline.

Progressive Discipline

Progressive discipline may be imposed for repeated acts of applicable misconduct within the timeframes specified below. In determining whether a current act of misconduct should be the subject of progressive discipline, the following framework applies:

- The current act of misconduct is the same as a prior act of misconduct, or
- The current act of misconduct is subject to a presumptive penalty that is equal to or greater than the presumptive penalty of the prior act of misconduct

If the prior act involved multiple violations arising from a single incident, it will be considered one prior act of misconduct

The most severe presumptive penalty associated with the prior violations will be used to determine the time limitation and the commensurate penalty increase relative to the current act

The current act of misconduct must be committed before the end of the timeframe below to be considered

- If the current act of misconduct involves multiple violations on separate dates, the date of the first violation chronologically shall be the date upon which the progressive penalty escalation is computed
- Acts of misconduct committed prior to the timeframe or adjudicated through Command Discipline may still be considered an aggravating factor in the calculation of penalties for the current act of misconduct

The presumptive time limitations and penalty progressions are as follows:

If the prior misconduct resulted in training or instructions:

- The time limitation is 3 years
- The second incident involving the same misconduct or misconduct carrying an equal or greater presumptive penalty than the prior act of misconduct, shall result in a penalty increase to 1-3 days
- The third incident involving the same misconduct or misconduct carrying an equal or greater presumptive penalty than the prior act of misconduct, shall result in a penalty increase to 5 days

If the prior misconduct resulted in 1 through 5 penalty days:

- The time limitation will be 3 years
- The second incident involving the same misconduct or misconduct carrying an equal or greater presumptive penalty than the prior act of misconduct, shall result in a penalty increase to 5-10 days
- The third incident involving the same misconduct or misconduct carrying an equal or greater presumptive penalty than the prior act of misconduct, shall result in a penalty increase to 10-15 days

If the prior misconduct resulted in 5 through 15 penalty days:

- The time limitation will be 5 years
- The second incident involving the same misconduct or misconduct carrying an equal or greater presumptive penalty than the prior act of misconduct, shall result in a penalty increase to 10-20 days

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- The third incident involving the same misconduct or misconduct carrying an equal or greater presumptive penalty than the prior act of misconduct, shall result in a penalty increase to 15-30 days

If the prior misconduct resulted in more than 15 penalty days:

- The time limitation will be 10 years
- The second incident involving the same misconduct or misconduct carrying an equal or greater presumptive penalty than the prior act of misconduct, shall result in a penalty increase to 20-30 days and Dismissal Probation
- The third incident involving the same misconduct or misconduct carrying an equal or greater presumptive penalty than the prior act of misconduct, shall result in termination or forced separation

If the prior misconduct had a presumptive penalty of termination or separation but mitigating factors led to the imposition of a penalty less than separation and/or the prior misconduct resulted in the imposition of Dismissal Probation:

- There will be no time limitation
- The second incident involving the same misconduct or misconduct carrying an equal or greater presumptive penalty than the prior act of misconduct, shall result in forced separation or termination

The above time limitations do not apply to prior disciplinary history establishing patterns of misconduct or serious misconduct, including but not limited, to False Statements, Driving While Intoxicated, Domestic Violence, Excessive Force or acts constituting criminal conduct. In addition, a third substantiated incident of excessive force will have a presumptive penalty of termination regardless of the penalties imposed in the first two instances.

Consequences of Disciplinary Action

Members of the service should be aware that the imposition of disciplinary sanctions may also have an impact on their future status, including but not limited to, assignments and promotions, which may result in a diminution in compensation. The imposition of discipline may have ancillary consequences that are not regarded as part of the disciplinary system or calculated within the context of these Guidelines as included in any disciplinary sanction. The potential future impact of a disciplinary penalty will generally not be considered in determining what the appropriate penalty should be at the time of imposition.

The Commonwealth of Massachusetts established a Police Officer Standards and Training (POST) System which sets a minimum training standards, regulate training programs

and curricula, and set standards for maintenance of police licensure or certification. The POST has the authority to decertify or suspend officers, as well as investigate claims of misconduct. The Boston Police Department along with all other Law Enforcement agencies within the Commonwealth, will be required to submit officers' disciplinary records to the POST¹⁷.

The Massachusetts Peace Officer Standards and Training (POST) Commission is charged with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, or reprimand in the event of certain misconduct. The Boston Police Department can not employ any individual who has been decertified by the POST Commission as a police officer.

Calculation of Penalties

Separate presumptive penalties, adjusted for relevant aggravating and mitigating factors, are applied to each substantiated act of misconduct for which there has been a finding or acceptance of guilt. These presumptive penalties are then aggregated to address each distinct act of misconduct. If the same underlying act(s) of misconduct support multiple definitions of proscribed conduct or support alternative theories of prosecution, then a single penalty will be applied. Concurrent penalties may be appropriate when misconduct includes minor technical infractions, or when the effort to maintain a balance between punishment, deterrence and remediation is undermined by consecutive penalties. The totality of the circumstances will be considered in order to maintain the efficiency of the disciplinary system and to ensure a just outcome.

For example, a member of the service who has been determined to have operated a motor vehicle while intoxicated was by definition necessarily unfit for duty. Because these potential separate charges result from the same underlying course of conduct, a single penalty will be applied.

Penalties imposed prior to final adjudication (e.g. days forfeited during pre-adjudication suspension) may be applied to any final penalty determination.

In the event that the total number of penalty days is calculated at greater than 90 days, the presumed penalty shall be termination or forced separation.

Probationary Status

There are different types of probationary status that may affect disciplinary penalties:

¹⁷ Commonwealth of Massachusetts website mass.gov, POST Commission

Entry-Level Probation – When hired, police officers are on entry-level probation for a 2-year period. The member of the service must complete 2 years of full-duty status in order to complete this probationary period. Members on entry-level probation who are the subject of a disciplinary matter can be terminated and the Department may summarily dismiss the member of the service without a formal hearing. If termination is the presumptive penalty for an enumerated act of misconduct, then members on entry-level probation will be dismissed. Members on entry level probation may also be terminated for offenses that would not generally result in termination for a tenured employee. A recommendation relative to termination or retention of title and service of Charges and Specifications under these circumstances is made to the Police Commissioner by the Risk Management Bureau.

Promotion Probation – Uniformed members of the service who achieve a civil service promotion in rank will be on promotion probation. Pursuant to collective bargaining, a member promoted to the rank of Detective is on promotion probation for a 3-year period regardless of duty status. Members promoted to the rank of Sergeant, Lieutenant, or Captain are on promotion probation for a 1-year period. A member must complete 1 year of full-duty status in order to complete this probationary period. Should a member, while on promotion probation, be the subject of a disciplinary matter, they are subject to demotion to their former Civil Service rank at the discretion of the Police Commissioner. A recommendation relative to demotion or retention of rank under these circumstances is made to the Police Commissioner by the Risk Management Bureau. Members of the service serving in the ranks of Deputy Inspector through Chief of Department are designated by the Police Commissioner. As such, these members may be demoted to their civil service rank of Captain at any time.

Dismissal Probation – When a member of the service is placed on Dismissal Probation as part of a disciplinary penalty, the member is dismissed from the Police Department, and he or she acknowledges the dismissal in writing. The Department delays the imposition of the dismissal for a 1-year period, during which the member must complete 1 year of full-duty status in order to complete the probationary period. If there is further misconduct during the probationary period, the Department may summarily dismiss the member of the service without a formal hearing, including for offenses that would not ordinarily result in termination for a member not on Dismissal Probation.

Extension of probation – Members of the service on entry-level or promotion probation may receive a 6-month extension of their probation if they are the subject of an investigation or disciplinary matter, or for poor performance during such probation period. A member must complete this extension at full-duty status in order to successfully complete this probationary period.

Effect of Precedent

Situations may arise that are not included in or adequately addressed by the Guidelines. If so, a penalty evaluation will be made based upon the facts and circumstances of the present case considering relevant recent or analogous cases. When considering precedent, similar circumstances may be determined based upon an assessment of the relative degree to which the present case and any prior cases contain the following factors:

- Similar factual situations
- Similar disciplinary histories
- Same or similar aggravating and/or mitigating factors
- Same or substantially similar proscribed conduct

Settlement negotiations may not be accorded the same precedential weight as penalties imposed following trials because factors such as the strength of the evidence may affect the calculation and warrant a lesser penalty.

These Guidelines, while having taken precedent into account, have not been blindly wedded to prior penalties imposed. Cases decided prior to the publication of these Guidelines will not be considered to have precedential value to the extent that these Guidelines have intentionally elevated the presumptive penalties or aggravating presumptive enhancements.

Definitions

Presumptive Penalty – A presumptive penalty is the assumed penalty or penalty range generally deemed appropriate for a specific proscribed act. The presumptive penalty serves as the starting point for analysis during the penalty phase of a case, which must include consideration of the totality of the circumstances and any aggravating and/or mitigating factors. The Police Commissioner, who is statutorily empowered to adjudicate discipline, makes the final determination and may deviate from the presumptive penalties. The penalty determination and the bases for deviations are memorialized as part of the final adjudication of the case.

Penalty Days – The term penalty days refers to the forfeiture of vacation days and/or the imposition of suspension without pay for a specified time period²⁵. The decision to suspend, deduct vacation days, or impose a combination of both, is based upon the severity of the misconduct along with any relevant aggravating and mitigating factors. For some of the most serious categories of misconduct in these Guidelines, suspension has been identified, in whole or in part, as the presumptive penalty. A member of the service who is found guilty after an administrative hearing may be suspended without pay for a period not exceeding 30 days for any offense. A member of the service may agree to a longer term of suspension as part of a negotiated settlement agreement. If a member of the service was immediately suspended from duty during the pendency of an investigation, the forfeiture of suspension days, imposed prior to the disposition of the case, may be applied as part of the final disciplinary penalty. When the

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deduction of vacation days is the imposed penalty, a member of the service may elect suspension in lieu of vacation days if consistent with the needs of the Department.

Dismissal Probation – As part of a disciplinary penalty that includes the imposition of penalty days, Dismissal Probation requires that the member of the service concerned be dismissed from the Police Department, and he or she acknowledges that dismissal in writing. The Department then delays the imposition of the dismissal for a 1-year period during which the member is placed on Dismissal Probation. During the 1-year probationary period, the member of the service is subject to Monitoring and their conduct is evaluated on an ongoing basis. In addition, the member's commanding officer is required to submit monthly reports assessing the member's conduct. If there is further misconduct within the probationary period, the Department may summarily dismiss the member of the service without a formal hearing, including for offenses that would not ordinarily result in termination for a member not on Dismissal Probation. Dismissal Probation is also used to enforce other conditions in disciplinary penalties. For example, when a member of the service has admitted to, or been found guilty of, a domestic violence offense, the member may be required to participate in counseling services. The failure to abide by any condition attached to the disposition of a case may be considered cause to invoke the provisions of Dismissal Probation. If a member of the service successfully completes the year on probation, the dismissal penalty will be waived, and the member returned to a non-probationary status.

Termination – The Police Commissioner, upon a finding or admission of wrongdoing in a disciplinary matter, has the authority to dismiss a member of the service from their employment with the Department. Additionally, upon criminal conviction of a felony, or a misdemeanor that constitutes a violation of a member's oath of office, the member vacates their civil service title and is terminated as a matter of law. A member of the service may be entitled to all or part of their accrued pension benefits in accordance with local law and Massachusetts State pension laws.

Forced Separation – The Police Commissioner, upon a finding or admission of wrongdoing in a disciplinary matter, may require that a member of the service separate (resignation, retirement or vested interest retirement) from the Department, in lieu of termination, as part of a negotiated settlement agreement. Forced separation may also include the forfeiture of penalty days, all time and leave balances and any terminal leave to which the member of the service may be entitled. A member of the service who retires may be entitled to all or part of their accrued pension benefits in accordance with local law and Massachusetts State pension laws.

Oath of Office Violation – An Oath of Office violation includes a conviction for any felony offense under State or Federal Law, or a conviction for a misdemeanor when the crime involves knowing and intentional conduct evidencing willful deceit, a calculated disregard for

honest dealings, or intentional dishonesty or corruption of purpose. This provision applies to crimes committed on or off-duty. Oath of Office offenses include, but are not necessarily limited to, Official Misconduct and Perjury among other crimes.

Additional Potential Mitigating Factors

- Nature and severity of the crime
- Physical actions taken by the subject
- Duration of the action – relatively brief or momentary
- Immediacy and duration of the credible threat or harm to the subject, members of the service, and/or civilians
- Whether the subject engaged in active resistance or exhibited active aggression
- Actual injury to member of the service, other officers or civilians
- Proportionality of force used
- Prohibited force was incidental to an otherwise appropriate use of force and did not result in harm

Additional Potential Aggravating Factors

- Inappropriate purpose or motivation such as the use of force to punish, retaliate, coerce or harass a subject for any reason including making a statement
- Conduct results in criminal charges
- Handcuffed or otherwise restrained prisoner
- Prolonged or exaggerated duration of the action
- Use of weapon or instrumentality outside of guidelines/inconsistent with its intended purpose
- Nature and severity of the physical illness or injury

RULE 303: Deadly Force

Statement on Use of Force: The Boston Police Department is committed to de-escalating incidents to negate the need for the use of force. When force is necessary the Boston Police Department is committed to using only the amount of force that is reasonably necessary to overcome the resistance offered. The Boston Police Department is equally committed to preventing unnecessary force, ensuring accountability and transparency, and building trust with our community. The Boston Police Department respects the inherent life, liberty, dignity, and worth of all individuals by preserving human life, and minimizing physical harm and the reliance on use of force.

Pursuant to An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth (Chapter 253 of the Acts of 2020) Section 30 (14) (a,b,c):

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a. "A law enforcement officer shall not use physical force upon another person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to:

- Effect the lawful arrest or detention of a person;
- Prevent the escape from custody of a person; or
- Prevent imminent harm and the amount of force used is proportionate to the threat of imminent harm:
 - Provided, however, that a law enforcement officer may use necessary, proportionate and non-deadly force in accordance with the regulations promulgated jointly by the POST Commission and the municipal police training committee *(and taught at the Boston Police Academy)*.

b. A law enforcement officer shall not use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm.

c. A law enforcement officer shall not use a chokehold. A law enforcement officer shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow."

The Boston Police Department is committed to de-escalation tactics pursuant to **MGL Chapter 6E**
Section 1:

"De-escalation tactics", proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options and resources are available to gain a person's voluntary compliance and to reduce or eliminate the need to use force including, but not limited to, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, creating distance between the officer and a threat and requesting additional resources to resolve the incident, including, but not limited to, calling in medical or licensed mental health professionals, as defined in subsection (a) of section 51½ of chapter 111, to address a potential medical or mental health crisis.

When tactically safe and feasible, officers should give verbal warnings or commands when deadly force is going to be used. In some cases there may not be an opportunity to give verbal warnings or commands.

Duty to Intervene:

1. Police officers are reminded of Rule 113 Public Integrity Policy, Sec. 5 Cannon of Ethics, Number Nine; and
2. **An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth (Chapter 253 of the Acts of 2020) Section 30 (15) (a,b):**

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- a. "An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of circumstances, shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.
- b. An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer's shift. The officer shall prepare a detailed written statement describing the incident consistent with uniform protocols. The officer's written statement shall be included in the supervisor's report."

INTRODUCTION

This rule is issued to provide guidelines and regulations governing the use of deadly force by members of the Department, to ensure the safety of our police officers and the public, and to establish procedures for the orderly investigation of firearm discharges. Its provisions are effective immediately, superseding all previously issued rules, regulations, orders, bulletins and directives regarding the use of deadly force by Boston police officers.

In the establishing of these regulations it is understood that they will not likely cover every conceivable situation which may arise. In such situations officers are expected to act with intelligence and sound judgment, attending to the spirit of the rule. Any deviations from the provisions of Sections 5, 6; 7, or 8 of this rule shall be examined on a case by case basis.

Note: Weapons and ammunition coming into the custody of Police Department personnel shall be handled in accordance with the provisions of Rule No. 311, Procedures for the Firearms Analysis Unit.

Sec. 1 Definitions: For the purpose of this rule, the following definitions will apply:

Deadly Force is that 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 cause great bodily injury or death.

Great bodily injury means bodily injury which creates a substantial risk of death or which is likely to cause serious injury, permanent disfigurement or loss, or extended impairment of the function of any bodily member or organ.

Immediate danger of death or great bodily injury includes circumstances under which (1) such a danger exists in reality, or (2) such a danger is apparent, and the officer is unable to affirm or disaffirm its actual existence.

Prudence means using cautious, discreet or shrewd action and having due regard for the rights of citizens while maintaining an awareness of the responsibilities of acting as a police officer.

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Reasonableness is moderate and/or fair action within reason, suitable to the confrontation.

The Investigating Officer in Charge (IOIC) is the Detective Superior Officer of the Firearm Discharge Investigation Team so designated by the FDIT Incident Coordinator and assigned to investigate the facts of the incident and to determine if the use of deadly force was justifiable.

Sec. 2 General Considerations: The primary purpose for which a sworn member of the Department is issued a firearm and trained in its use is the protection of life and limb, both theirs and that of every other person needing such protection. Although the firearm is a necessary weapon for present-day policing, its potential to inflict death or great bodily injury mandates that it be used within clearly-defined limits. This rule establishes those limits.

In the interests of personal safety, police officers must seek to gain and maintain a tactical advantage over persons known or suspected to be armed. Officers seeking to maintain the advantage over a subject suspected of being armed are in a difficult position; they must be prepared to use a firearm should it be necessary, yet show the restraint required to ensure the propriety of their actions.

The situation demands the utmost ability to think clearly, quickly and decisively and to use the firearm in a safe and effective manner.

The Boston Police Department recognizes its legal duty to protect the rights of all individuals to due process of law and a fair trial. Its members are thereby bound to refrain from any use of force that unnecessarily tends to administer punishment at the hands of a police officer. The responsibility for punishment of criminal offenders rests solely with duly constituted courts of law and penal institutions and is by no means extended to the police.

Sec. 3 Training and Qualification: Police officers in this Department will be held accountable for proficiency as well as compliance with Department policy in the use of firearms. All sworn members of the Department are responsible for maintaining a degree of expertise in the use and handling of all firearms approved for their carrying. Specifically, sworn members authorized to carry a firearm shall qualify with their issued firearm(s) on a course of instruction approved by the Massachusetts Criminal Justice Training Council at least twice each year – once during the period from January 1st – June 30th and once during the period from July 1st – December 31st. A qualifying score of 80% or higher is required. When members of the Department are issued a new weapon, they shall qualify at the Department range in the use of that weapon prior to resuming street duties. This shall not apply to the emergency use of a comparable spare weapon issued on a temporary basis.

In the event an officer fails to qualify, the officer will be temporarily reassigned to the Department Range. It will be the responsibility of the Commanding Officer of the Department Range to ensure that the officer's firearm is taken from them until such qualification is achieved. Any officer who, after such intensive training as determined by the Commanding Officer of the Department Range, has still failed to qualify will be subject to reevaluation as to their fitness to continue to perform the duties of a police officer. Under no conditions shall an officer who fails to qualify be allowed to perform any street police duties.

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Frequently, officers have activated themselves during off-duty situations where there is a need to draw a personal firearm and the possibility exists to use such a weapon. On self activation, the officer's actions are guided by all Departmental rules and regulations, hence there is a need to show familiarization with any personal weapon which is carried while off-duty.

Members of the Department who are licensed to carry firearms pursuant to M.G.L. c. 140, § 131 and who own and carry a personal firearm while off-duty shall fire a familiarization course as designed by the Commanding Officer of the Department Range. This course will be fired during regular qualification times and police officers shall provide their own ammunition.

Officers complying with this portion of the rule will notify their Commanding Officer of their intent to do so and shall be authorized to carry more than one weapon while on duty for the sole purpose of attending the familiarization course at the Department Range.

This authorization shall be temporary and will only allow the officer to carry the off-duty weapon to and from the range. The off-duty weapon shall be secured in the District gun locker prior and subsequent to completion of the familiarization course.

RULE 303-A: Use of Less-Lethal Force

Sec. 1 DEFINITIONS:

1.1 Less-Lethal Force Philosophy is a concept of planning and force application that meets operational objectives, with less potential for causing death or serious physical injury than the use of deadly force.

1.2 Reasonableness is moderate and/or fair action within reason, suitable to the confrontation.

1.3 Super Sock Round, also known as a flexible projectile, is fired through a 12 gauge shotgun.

Sec. 2 GENERAL CONSIDERATIONS:

The Department has adopted the less-lethal force philosophy to assist in the de-escalation of potentially violent situations. The less-lethal force philosophy shall not preclude the use of deadly force.

Sec. 3 TRAINING AND QUALIFICATION:

Training shall consist of Department approved training and qualification program in the use of a 12 gauge shotgun. Department Police Officers shall be trained and qualify two times per year in the proper use of a less lethal shotgun. Department Police Officers trained in the use of this weapon will be held accountable for proficiency as well as compliance with Department policy in the use of such weapon.

Rule 303B, Use of Less Lethal Force – Conducted Electrical Weapon (TASER)

Sec. 1 GENERAL CONSIDERATIONS

The Department has adopted the less-lethal force philosophy to assist in the de-escalation of potentially violent situations. The less-lethal force philosophy shall not preclude the use of deadly force. Less-Lethal Force Philosophy is a concept of planning and force application that meets operational objectives, with less potential for causing death or serious physical injury than the use of deadly force.

Sec. 2 DEFINITIONS

Sec. 2.1 Conducted Electrical Weapons (CEW): A category of devices that discharge electrical energy and are intended to be used as a means to control, capture, or gain compliance through temporary application of the electrical energy.

Sec. 2.2 Taser Control Manager: A Taser instructor appointed to administer the Taser program.

Sec. 3 TRAINING AND QUALIFICATION

Sec. 3.1. Training Program. Training on CEW shall:

1. Be approved by the Police Commissioner;
2. Be consistent with Manufacturer recommendations, 501 CMR 8.00, as well as any laws and regulations that may be adopted relative to Conducted Electrical Weapons;
3. Be consistent with the Massachusetts Police Training Committee (MPTC) curriculum;
4. Be consistent with the Department Use of Force Policy, Less Lethal Force Philosophy; and
5. Adopt the lesson plan established by Taser International Inc. for use of the Taser International Inc. brand CEW. If Taser International Inc. releases a new training module or other instruction, all officers shall receive the updated training by a certified instructor.

Sec. 3.2. Training Frequency. Officers selected to be authorized to carry and use a CEW shall receive initial and annual training that meets or exceeds the approved training standards of Taser International Inc.

Rule 303C – Patrol Rifles

Patrol Rifles

This rule is issued to establish regulations and policies for the use of Patrol Rifles, including required training and qualification, authorized equipment, weapon security and deployment protocols. These provisions do not apply to deployment of rifles by the Special Operations Division (S.O.D.). The

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Commander of the Special Operations Division shall determine the appropriate use of rifles by S.O.D. members. This rule is not intended to cover every conceivable situation, and officers and supervisors are expected to use their best judgment.

Section 1. General Considerations

The Patrol Rifle may be authorized for use by sworn members of the Boston Police Department who have been trained and qualified in its use, and is deployed to provide support in certain deadly force situations involving armed suspects. Officers authorized to utilize Patrol Rifles on duty will use these weapons along with their department issued service pistol.

Section 2. Training and Qualification

Officers who are authorized to use the Patrol Rifle must successfully complete the required training course as determined by the Commanding Officer of the Firearms Training Unit. Officers authorized to use the Patrol Rifle shall qualify on a course of fire approved by the Massachusetts Municipal Police Training Committee a minimum of two times each year; once during the period from January 1st – June 30th and once during the period from July 1st – December 31st.

In the event an officer fails to qualify, the officer will not be authorized to use the Patrol Rifle. The Commanding Officer of the Firearms Training Unit shall provide each District Commander with the current list of authorized officers. No officer shall utilize a Patrol Rifle unless he/she has been trained and qualified in its proper use. No Superior Officer shall permit utilization of a Patrol Rifle by an officer unless the officer is trained and qualified in its use. Officers trained in the use of the Patrol Rifle will be held accountable for proficiency as well as compliance with Department policy in the use of such weapons.

Rule 303D, Use of Less – Lethal Force (40 mm Direct Impact Launcher)

Sec. 1 DEFINITIONS:

1.1 Less-Lethal Force Philosophy is a concept of planning and force application that meets operational objectives, with less potential for causing death or serious physical injury than the use of deadly force.

1.2 Reasonableness is moderate and/or fair action within reason, suitable to the confrontation.

1.3 40mm Impact Sponge Type Round is an impact round fired from a 40mm impact round launcher, comprised primarily of a foam rubber type material with plastic components.

Sec. 2 GENERAL CONSIDERATIONS:

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The Department has adopted the less-lethal force philosophy to assist in the de-escalation of potentially violent situations. The less-lethal force philosophy shall not preclude the use of deadly force.

Sec. 3 TRAINING AND QUALIFICATION FOR THE 40mm IMPACT ROUND LAUNCHER:

Training shall consist of a Department approved training and qualification program in the use of a 40mm impact round launcher to deploy impact rounds. Designated officers shall be trained and qualify twice per year in the proper use of a 40mm impact round launcher. Designated officers trained in the use of this weapon will be held accountable for proficiency and compliance with Department Policy.

Rule 304, Use of Non-Lethal Force

Sec. 1 DEFINITIONS: For the purpose of this Rule the following definitions will apply:

1. Reasonable Force A balanced response suitable to the confrontation that is necessary to overcome unlawful resistance and regain control of the situation.
2. Non-Lethal Force is that amount of force that will generally not result in serious bodily injury or death.
3. Prudence is cautious, discreet, or shrewd action having due regard for the rights of citizens while maintaining an awareness of the responsibilities of a police officer.
4. Reasonableness means within reason, moderate and/or fair action suitable to the confrontation. The final decision as to the prudence and reasonableness of a police action will be determined on a case by case basis by those members of the Department called upon to judge the propriety of a fellow officer's action. Such judgments may not conflict with the expressed provisions of this or any other rule or order.
5. Totality of the Circumstances: the sum of all elements in a situation used to determine the presence or absence of excessive force (nature of subject offense, actions of third parties, officer's physical odds, feasibility or availability of force alternatives).
6. Serious Bodily Injury: Serious bodily injury is defined as any bodily injury which creates a substantial risk of death; causes serious, permanent disfigurement; or results in extended loss or impairment of the function of any bodily member or organ.
7. Controlled Substance is a drug or substance in any schedule or class referred to in M.G.L. c. 94C, including Class A, B, C, D and E.

Sec. 2 GENERAL CONSIDERATIONS: The policy of the Boston Police Department is to use only that amount of force that is reasonably necessary to overcome resistance in making an arrest or subduing an attacker.

The right to use non-lethal force is extended to police officers as an alternative in those situations where the potential for serious injury to an officer or civilian exists, but where the application of lethal force would be extreme.

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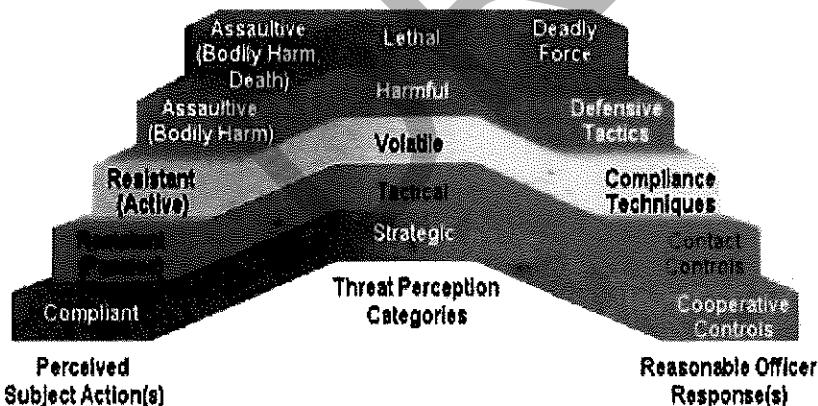
The availability of a variety of non-lethal weapons is necessary to provide the police officer with a sufficient number of alternatives when presented with a physical confrontation. However, since such force will not likely result in serious injury and the close public scrutiny that accompanies the use of deadly force, this availability may also increase the possibility for overzealous and inappropriate use of force. Therefore, 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 during an encounter.

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 a reasonable amount required to move the subject based on the totality of the circumstances. 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.

Section 3: Municipal Police Training Committee (MPTC) Use of Force Model

The Boston Police Department trains officers based on the approved Massachusetts Municipal Police Training Committee (MPTC) Use of Force Model. This model consists of five levels with each tier representing an escalation in force from the preceding level. Officers are able to move between each tier either up or down as circumstances dictate. The model stresses the importance of approaching each situation on the lowest level possible to achieve the desired results.

The Use of Force Model is as follows:



The Boston Police Department will continue to be guided by Massachusetts standards for use of force.

Sec. 4 TRAINING AND QUALIFICATION: Police officers in the Department will be held accountable for proficiency, as well as compliance with Department policy in the use of non-lethal force. Specifically, sworn members shall qualify by successfully completing the course of instruction on non-lethal force approved by the Training and Education Division. This course will be conducted as part of in-service training and will include a practical application segment and a written test component. Whenever the

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Department adopts new non-lethal force implements, officers will qualify in their use prior to carrying or using them on duty.

In the event that an officer fails to complete the required certification, the officer will be temporarily reassigned to the Academy. The Academy will then provide a remedial training program in order to ensure such certification. Officers who still fail to qualify will be subject to reevaluation as to their fitness to continue to perform the duties of a police officer.

Misconduct	Mitigated Penalty	Presumptive Penalty	Aggravated Penalty
Rule 303, Use of Deadly Force			
Death or Substantial Injury	Termination	Termination	Termination
Serious Injury	180 Days to 1 Year	Termination	Termination
No Injury	30 days to 180 Days	Termination	Termination
Rule 303A, Use of Less Lethal Force			
Death or Substantial injury	180 Days to 1 Year	Termination	Termination
Serious Injury	30 Days to 180 Days	180 Days to 1 Year	Termination
No Injury	15 days to 30 days	30 Days to 180 days	Termination
Rule 303B, Use of Less Lethal Force-Conducted Electrical Weapon (TASER)			
Death or Substantial injury	180 Days to 1 Year	Termination	Termination
Serious Injury	30 Days to 180 Days	180 days to 1 Year	Termination
No Injury	15 Days to 30 Days	30 days to 180 days	Termination

Misconduct	Mitigated Penalty	Presumptive Penalty	Aggravated Penalty
Rule 303C, Patrol Rifles			
Death or Substantial injury	Termination	Termination	Termination
Serious Injury	180 Days to 1 Year	Termination	Termination
No Injury	30 Days to 180 Days	Termination	Termination
Rule 303D, Use of Less-Lethal Force (40mm Direct Impact Launcher)			
Death or Substantial injury	180 Days to 1 Year	Termination	Termination
Serious Injury	30 Days to 180 Days	180 Days to 1 Year	Termination
No Injury	15 Days to 30 Days	30 Days to 180 Days	Termination
Rule 304, Use of Less Non-Lethal Force			
Death or Substantial injury	30 Days to 180 days	Termination	Termination
Serious Injury	15 Days to 30 days	30 Days to 180 days	Termination
No Injury	Oral reprimand up to 15 Days	15 Days to 30 days	Termination

Rule 102, The Conduct and General Responsibilities of Department Personnel

This rule is re-issued as to the guidelines for the conduct of, as well as the personal rights and responsibilities, of employees of the Boston Police Department. Its provisions are effective immediately, superseding all previously issued rules, orders, memoranda, and directives regarding the personal conduct of employees of the Department.

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Sec. 1 DEFINITIONS: For the purpose of this rule, the following definitions will apply. Employee shall mean all members of the Boston Police Department, both officers and civilian personnel. Force refers to the sworn membership of the Department who are vested with full police powers. Officer means a sworn Department member clothed with full police powers.

Sec. 2 GENERAL CONSIDERATIONS: Police officers are more visible to the community than most other persons in government or public service. Public scrutiny, and sometimes public criticism, is directed not only at police performance but also at the behavior of those who deliver police services. The establishment of proper standards for police behavior must take into account not only the expectations of the citizen but also the importance of respecting the individual rights of police employees. The Boston Police Department recognizes that its employees have certain basic personal rights and restricts those rights only where necessary to ensure the integrity of the Department and the highest quality of police service are maintained.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 102, The Conduct and General Responsibilities of Department Personnel			
Sec. 3 Conduct	Oral Reprimand to 1 day	1 Day to 30 days	30 days to Termination
Sec 4 Neglect of Duty	Oral Reprimand to 5 Days with Training	5 Days to 30 Days	30 Days to Termination
Sec. 8 Directives and Orders	Oral Reprimand to 5 Days	5 Days to 30 Days	30 Days to 180 Days
Sec. 9 Respectful Treatment	Oral Reprimand to 5 Days	5 Days to 30 Days	30 Days to 180 Days
Sec. 12 Sleeping on Duty	Oral Reprimand to 5 Days	5 Days to 30 Days	30 Days to 180 Days

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 13 Use of Alcohol and Tobacco on Duty	1 Day to 5 Days with Peer Support	5 Days to 30 Days with Peer Support and Counseling	30 Days to 180 Days with Peer Support and Counseling
Sec. 14 Use of Alcohol off Duty	1 Day to 5 Days with Peer Support and Counseling	5 Days to 30 Days with Peer Support and Counseling	30 Days to 180 Days with Peer Support and Counseling
Sec. 15 Alcoholic Beverages on Police Installations	1 Day to 5 Days with Peer Support and Counseling	5 Days to 30 Days with Peer Support and Counseling	30 Days to 180 Days with Peer Support and Counseling
Sec. 16 Use of Drugs	Oral Reprimand to 5 Days with Peer Support and Counseling	5 Days to 30 Days with Peer Support and Counseling	30 Days to 45 Days with Peer Support and Counseling
Sec 17 Police Service	Oral Reprimand to 5 Days	5 Days to 10 Days	10 Days to 30 Days
Sec. 18 Personal Business	Oral Reprimand to 5 Days	5 Days to 10 Days	10 Days to 30 Days
Sec 19 Statement of Opinion	Oral Reprimand to 5 Days	5 Days to 10 Days	10 Days to 30 Days
Sec. 20 Self Identification	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days to 5 Days
Sec. 21 Charitable Solicitations	Oral Reprimand to 1 Day	1 Day To 5 Days	5 Days to 10 Days

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 22 Gifts and Gratuities	Oral Reprimand to 1 Day	1 Day To 5 Days	5 Days to 10 Days
Sec. 23 Departmental Reports-Truthfulness	30 Days to 180 Days	Termination	Termination
Sec. 24 Conflict of Interest	5 Days to 30 Days	30 Days to 180 Days	180 Days up to Termination
Sec. 25 Reporting Law Violations	5 Days to 30 Days	30 Days to 180 Days	180 Days up to Termination
Sec. 27 Abuse of Process withholding Evidence	Termination	Termination	Termination
Sec. 33, Employment outside of the Department	Oral Reprimand to 5 Days	5 Days to 10 Days	10 Days to 30 Days
Sec. 35 Conformance to Laws	Termination	Termination	Termination
Sec. 36 Criminal Complaints, Protective Custody and Arrests	Oral Reprimand to 5 Days	5 Days to 30 Days	30 Days to 180 Days

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 37 Situations involving Family and Friends	Oral Reprimand to 5 Days	5 days to 10 Days	10 Days to 30 Days
Sec. 38 Situations involving Off Duty Boston Police Officers and Civilians occurring within the City of Boston	30 Days to 45 Days	45 Days to 180 Days	180 Days up to Termination
Sec. 38A Situations involving Off Duty Boston Police Officers and Civilians occurring outside of the City of Boston	30 Days to 45 Days	45 Days to 180 Days	180 Days up to Termination
Sec. 39 Association with Criminals	30 Days to 45 Days	45 Days to 180 Days	180 Days up to Termination
Sec. 40 Residency	Termination	Termination	Termination

Rule 109, Discipline Procedure

Sec. 1 This rule is written and promulgated to be used in conjunction with Rule 102, which defines the conduct, general rights and responsibilities of Police Department Personnel. It is designed to provide maximum flexibility in the discipline process and to increase the responsiveness of the Department to the needs of the individual member and of the community.

Sec. 2 “**Discipline**” has too long had the connotation of simple punishment; this rule envisions a disciplinary process which incorporates the idea of training both for effective self-discipline and for a group discipline, or esprit de corps. To accomplish this design, the rule recognizes the wide spectrum of discipline and through such provisions as the five-day suspension program and the district personnel records places discipline at a level where it can respond better to the individual member.

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Sec. 3 Scope: This rule is designed strictly to be procedural in nature, and is not meant to create new rights or duties not previously granted by law or contract. For example, CETA employees, probationary employees, and provisional employees shall continue to be governed by the respective rules and laws pertaining to them, and this rule shall not apply to them where inappropriate or inconsistent with those rules or laws. This rule is also not meant to change the working conditions of members of the Department, but instead is a managerial guideline controlling administration. It does not necessarily promulgate a new set of procedures, but in most cases simply compiles existing departmental policy and practice. In addition, the special procedures relating to written reprimands, ss. 21-27 apply only to police officers covered by the Agreement between the City of Boston and the Boston Police Patrolmen's Association. Finally, if any substantive changes in the rights and duties of employees or the Department made by future changes in the law or the contract affect sections of this rule, such changes shall notwithstanding override the affected sections.

Sec. 4 Part I of this rule, "Spectrum of Discipline," defines the outlines of the Department's disciplinary program. It contains a general discussion of the sanctions which may be used by the Department followed by a discussion of the concept of "Progressive Discipline." Section C of Part I establishes district personnel records which are to be utilized in connection with progressive discipline; finally, the procedures used in three types of sanctions-written reprimands, five-day suspensions, and punishment duty are specifically detailed, to provide for uniformity of treatment under the discipline rule.

Sec. 5 Parts III through V of the rule state the procedures to be used by the Department in handling complaints, administrative investigations of allegations of misconduct by Department members, and hearings.

The complaints section creates a unified procedure for the handling of all complaints made the Department either from inside or outside. The section on investigations seeks to promote quick, thorough investigations without abridging the rights of Department members or injuring the reputations of members unjustly accused. It should be noted that the provisions governing investigations are strictly limited to investigations of allegations against Department personnel and are not to apply to criminal investigations or administrative studies or surveys concerning policy or practices. The hearings section deals with the three different types of administrative hearings: disciplinary hearings, appeals from punishment duty or five-day suspensions, and detective hearings—and sets up uniform practices designed to arrive at just decisions efficiently.

PART I: SPECTRUM OF DISCIPLINE

A. TYPES OF SANCTIONS used by the Boston Police Department include the following:

Sec. 6 Oral Reprimands: Oral reprimands, given by supervisors for minor violations of the Rules and Procedures, such as improper uniform or reporting late for duty, are simply spoken censures or reproofs. While a notation that an oral reprimand was given is entered into the district permanent personnel record, no record of the reprimand goes into the permanent personnel file. The rule contemplates that such reprimands will be given on an informal basis without any form of prior notice.

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Sec. 7 Written Reprimands: Written reprimands are issued either for minor offenses committed by employees for whom oral reprimands have proven ineffective, or for other offenses under Rule 102 which are accompanied by ameliorating circumstances. The reprimand is entered into the permanent personnel file. In situations in which an employee has the right to a hearing with respect to a written reprimand, the procedures for such a hearing are described below in part D, ss. 21-27. Section 21 of this rule establishes the guideline for determining which employees have such a right.

Sec. 8 Disciplinary Probation: At the option of the Commissioner, disciplinary probation may be imposed upon an employee for violations of the Rules and Procedures. If just cause is found in any disciplinary action taken against an employee while on such probation, the probation shall be taken into account in determining the severity of the sanction imposed.

Where the employee is a police officer, covered by the Collective Bargaining Agreement, the procedures which are used for written reprimands (ss. 21-27) shall be followed prior to imposition of disciplinary probation unless the employee on probation shall fulfill such conditions as the Commissioner may order, and failure to fulfill such conditions shall render the employee liable for further disciplinary action.

Sec. 9 Punishment Duty: Massachusetts General Laws, C. 31, s. 62 authorize the imposition of punishment duty upon sworn personnel. Such duty is extra, unpaid duty assigned above and beyond an officer's normal hours by the officer's commander for violations of the Rules and Procedures. Such duty shall not be demeaning, unduly fatiguing, nor outside of the scope of the officer's job classification. The procedures used for punishment duty are described below in part F, ss. 36-39.

Sec. 10 Suspensions: Suspensions are periods of time during which an employee is relieved of duty and for which the employee is not paid. Suspensions for a period which does not exceed five days may be imposed without a prior hearing either by the Commissioner or by persons designated this authority by the Commissioner. In addition, if the employee to be suspended is tenured under the Civil Service Law, such a suspension may only be imposed for specific offenses, as outlined below in part E, ss. 28-35. Only the Commissioner may impose a suspension of more than five days, and then only after the procedures designated in part V, ss. 56-63 below, have been followed.

Employees of the Boston Police Department may also be relieved from duty with pay. Such action is not a disciplinary action, but is designed to maintain the efficiency of the force if for some reason an employee is rendered unfit for duty. In such a case, the Commissioner may relieve the employee from duty with pay.

Sec. 11 Discharge or Reduction in Rank: An employee may be discharged or reduced in rank only by the Police Commissioner, and then only after a hearing as described in ss. 56-63 or waiver of such a hearing by the employee.

B. PROGRESSIVE DISCIPLINE

Sec. 12 Persons who utilize this disciplinary rule shall apply the concept of progressive discipline. Progressive discipline means that progressively stricter disciplinary action shall be taken against persons who persist in violations of the Rules and Procedures. Such a program serves a training function, in that,

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for a first time violation, an employee may be warned or given a relatively light sanction as an indication that the Department does not condone such action. Upon repetition, then, it is assumed that the employee knows that the violation is wrong, and will receive more harsh sanction.

Sec. 13 It is not necessary for the proper implementation of progressive discipline that all stages of discipline be exhausted, nor that progressive discipline start at any one level or proceed with any particular incrementation. Much is left open to the discretion of the person imposing the discipline, it is simply to be recalled that progressive discipline be used as a guiding precept.

Rule 109, Discipline Procedure

Sec. 32 Offenses Covered by the Five-Day Rule: The following offenses are subject to the Five Day rule, may be disciplined by imposition of immediate suspension of not more than five days. If an employee commits an offense not on the list, that offense may not form the basis of an immediate suspension

1. Rule 102 s. 3:

- a. Fighting or quarreling with members of the force;
- b. Negligent use of a firearm, providing no injury or death resulted from the misuse;
- c. Negligent discharge of a firearm, providing no injury or death resulted from the discharge;
- d. Participation in unlawful games of chance or gambling.

2. Rule 102, s. 4:

- a. Failure to properly patrol beat or section;
- b. Failure to properly cover school crossing;
- c. Failure to properly care for assigned equipment, damaging or losing same due to carelessness;
- d. Willfully damaging police department property;
- e. Interference with police radio broadcasting;
- f. Improperly turning off police radio;
- g. Failure to remove keys from patrol car when left unattended;
- h. Failure to report as witness when duly notified or subpoenaed;
- i. Failure to notify Operations Division of availability for assignment

3. Rule 102 s. 5: Failure to properly maintain a copy of the rules book.

4; Rule 102 s. 6:

- A. Failure to properly supervise subordinates;
- B. Failure to prefer disciplinary charges or take appropriate disciplinary action.

5. Rule 102 s. 7: Failure to report their place of residence and telephone number or change in either of them

6. Rule 102 s. 8: Failure to obey and comply with all rules, orders, and other directives of the Department and of superior officers, whether written or oral.

7. Rule 102 s. 9:

- a. Failure to be civil and respectful, courteous and considerate toward all members of the

<p>Department and the general public;</p> <p>b. Use of epithets or terms that tend to denigrate a particular race or ethnic group except when necessary in police reports or testimony.</p>
<p>8. Rule 102s. 10:</p> <ul style="list-style-type: none">a. Failure to report for duty;b. Unauthorized absence from dutyc. Failure to be mentally and physically fit to perform duty;d. Failure to be in proper uniform and properly equipped.
<p>9. Rule 102s. 11; Failure to be properly groomed.</p>
<p>10. Rule 102s. 12: Failure to remain awake and alert while on duty</p>
<p>11. Rule 102s. 13.</p> <ul style="list-style-type: none">a. Drinking of alcoholic beverages while on duty unless it is necessary to gain evidence and is under the order of a superior officer;b. Reporting for duty while under the influence of alcoholic beverages to any degree whatever or with an odor of alcohol on one's breath.
<p>12. Rule 102s. 14:</p> <ul style="list-style-type: none">a. Consumption of alcoholic beverages while off duty to the extent that it results in obnoxious behavior that would tend to discredit the officer of the Department or would render the officer unfit to report for the next regular tour of dutyb. Consumption of alcoholic beverages while in uniform or while wearing any part of the uniform.
<p>13. Rule 102s. 17. Failure to respond to a radio call or the request of a civilian</p>
<p>14. Rule 102s 18: Engaging in personal business while on duty.</p>
<p>15. Rule 102s 20: Failure to give prescribed identification</p>
<p>16. Rule 102s 21: Soliciting from the general public money, gifts, or other things of value for charitable or testimonial purposes, or otherwise using identity as a police officer for such purposes.</p>
<p>17. Rule 102s 22: Seeking or accepting food and/or drink from any individual, merchant or business establishment, when it can be construed to involve the position as an employee of the Boston Police Department.</p>
<p>18. Rule 102s. 23: Submitting false information in an oral or written report or in response to a B.I.S. inquiry</p>
<p>19. Rule 102s 25: Failure to report any serious felonies or less serious crime that comes to the employee's attention</p>
<p>20: Rule 102s. 28: Recommending any employment or procurement of a particular service or product except in the transaction of personal business or when proceeding in accordance with established Departmental procedure.</p>
<p>21. Rule 102s 34: Failure to come to the aid of a fellow officer in an emergency if, in the course of carrying out his official duties, that officer is in need of assistance.</p>
<p>22. Rule 102s 35: Receipt of excessive moving vehicle violations or excessive unpaid parking violation tickets.</p>

23. Rule 102s 37: Intervening in a situation requiring police attention when the officer's family and/or friend(s) are involved except in the case of an emergency.

24. Rule 102s 38: Failure to report the questionable behavior of a fellow officer

25. Miscellaneous offenses;

- a. Reckless driving;
- b. Unreported paid details;
- c. Failure to maintain proper records, such as the district control log;
- d. Misuse of sick time;
- e. Overtime abuses.

Sec 33 Subsequent Offenses: If the employee persists continually in the violation of the rules, then the person delegated the authority to suspend shall recommend the matter for a disciplinary hearing. Furthermore, certain offenses are considered major if repeated within certain periods and are to be immediately recommended for disciplinary hearing.

1. Two offenses within one year

- a. Negligent handling of a firearm;
- b. Willfully damaging police equipment;
- c. Interfering with police broadcasting;
- d. Failure to remain awake while on duty;
- e. Seeking and/or accepting food or drink when it can be construed to involved position as Department employee
- f. Untruthfulness in written or oral reports or in response to B.I.S. investigations;
- g. Failure to report felonies

2. Two offenses within two years;

- a. Negligent discharge of a firearm;
- b. Failure to come to the aid of a fellow officer in an emergency.

3. Third offense in one year;

Failure to report as a witness when duly notified or subpoenaed.

Rule 110, Absence From Duty

This rule is issued to establish department policy concerning the absences of employees from duty. It is effective immediately, replacing Rules No. 36 & 38 of the 1950 Manual and superseding all previously issued orders and directives on this subject.

GENERAL RULE: No employee of this department shall be absent from duty except in accordance with this rule or contractual obligations without the consent of the Police Commissioner.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 110 Absence from Duty			

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Sec 2. Annual Vacation and Sick Leave Allowances	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days-5 Days *repeated offenses up to termination
Sec. 5 Sick Leave	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days-5 Days *repeated offenses up to termination
Sec. 6 Officers unable to Report For Duty	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days-5 Days *repeated offenses up to termination
Sec. 6A Officers returning to Work or Duty after Illness	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days-5 Days *repeated offenses up to termination
Sec. 7 Civilian employees unable to report for work	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days-5 Days *repeated offenses up to termination
Sec. 8 Prolonged Absences	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days-5 Days *repeated offenses up to termination
Sec. 9 Prolonged absences by Civilians	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days-5 Days *repeated offenses up to termination
Sec. 27 Return to Duty	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days-5 Days *repeated offenses up to termination
Sec. 28 Failure to Return to Duty	Oral Reprimand to 1 Day	1 Day to 3 Days	3 Days-5 Days *repeated offenses up to termination

Rule 111, Substance Abuse Policy

I. INTRODUCTION

To ensure a safe, healthful and productive work environment, to protect the health and welfare of the citizens of the City of Boston, and to assure compliance with the Federal Drug-Free Workplace Act of 1988, the Department has adopted this policy to address drug and alcohol abuse by sworn personnel. These procedures provide the Department with reasonable measures to ensure drug or alcohol use does not jeopardize the public or the Department's ability to serve its citizens.

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It is the general intent of the policy to create a humanitarian program. Treatment and discipline are both important aspects of the plan. Drug and alcohol testing, which will be part of the program, is intended in part as a means of identifying those who need help. In fact, the testing components of the program will not be instituted until this policy has been in effect for 60 days.

This two month delay is intended to allow all sworn personnel who currently have a substance abuse problem time to take appropriate actions to correct that problem prior to implementation of the procedures described below. Prior to the implementation of this policy, all Officers will receive up to three hours educational training in the effects of drugs and alcohol in general as well as in the workplace. The training shall also include a review of this policy. All such training will occur on Department time.

The Department will not tolerate any drug or alcohol use which could affect an Officer's job performance. The citizens of the City of Boston have a right to expect that sworn personnel will carry out their duties in a safe and reliable manner, free from the effects of drug or alcohol use.

This policy replaces, except where contrary to contractual obligations, any and all earlier policies or procedures based on or expanding upon the Drug-Free Workplace Act, but it does not replace or in any way supplant any other policies or procedures including, but not limited to, the Boston Police Department's rules and procedures.

These procedures are significantly more comprehensive than the Federal Drug-Free Workplace Act requirements. The Boston Police Department must, by law, comply with that Act and report our drug-free workplace activities to the Federal government. The Act requires the adoption of a policy, some training, informing sworn personnel of the availability of help, and requiring sworn personnel to report convictions for drug crimes committed on the job. The intent of the Act is admirable, but the Department believes much more must be done than these minimal requirements. There are four important ways in which these procedures are broader and more effective than the Drug-Free Workplace Act:

- we emphasize treatment and counseling rather than just discipline in many cases;
- we will employ drug and alcohol testing procedures in great part to overcome the user's denial that a problem exists, so that we may protect the public and provide help and treatment as appropriate;
- we are requiring that all sworn personnel attend comprehensive awareness and training programs;
- We are setting up a supervisor support phone system so that those who will be applying these procedures day-by-day can do so effectively, comfortably, and legally.

These procedures apply to all sworn personnel and, where contracts specifically allow, to Department contractors. The Department reserves the right to modify these procedures in whole or in part in accordance with law and contractual procedures.

II. DEFINITIONS

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A. Controlled Substance – any drug included in Schedules I through V, as defined by Section 802(6) of Title 21 of the United States Code (21 USC 802(6)), the possession of which is unlawful under Chapter 13 of that title, or any drug included within the definition of “Controlled substance” in Chapter 94C of the Massachusetts General Laws (for example, but not limited to: cocaine, marijuana, valium, morphine, anabolic steroids). The term does not include the use of prescribed drugs which have been legally obtained and are being used for the purpose for which they were prescribed.

B. Illegally-Used Drug – any prescribed drug which is legally obtainable but has not been legally obtained or is not being used for prescribed purposes, all designer drugs not listed in the Controlled Substances Act (for example, but not limited to: MDA, fentanyl), and any other over-the-counter or non-drug substances (for example, but not limited to: airplane glue) being used for other than their intended purpose.

C. Alcohol – colorless, volatile and flammable liquid that is the intoxicating agent in fermented and distilled liquors. It includes, but is not limited to, beer, wine and liquor. It does not include alcohol used in chemical processing, cleaning or testing.

D. Department Property – includes buildings, offices, facilities, equipment, vehicles, land, and parking lots owned, loaned, utilized or leased by the Department. It also includes any other site at which business of the Department is transacted whether on or away from Department owned, loaned, or leased property.

E. Accident – an unplanned, unexpected and unintended event which a) occurs on Department property, on Department business, or during working hours, and b) initially appears to have been caused wholly or partially by an Officer, and c) results in either i) a fatality, ii) bodily injury requiring medical treatment away from the scene of the event, or iii) damage to property in excess of \$2,500; an unplanned, unexpected and unintended discharge of a firearm is also an “accident”.

F. Drug Paraphernalia – any item which is clearly intended for use for the administering, transferring, manufacturing, testing or storing of a controlled substance and which is not authorized or intended for use in the course of legitimate law enforcement activities.

G. Reasonable Suspicion of Drug and/or Alcohol Use – the reasonable suspicion standard for drug testing of sworn personnel is based upon a specific objective fact(s) and reasonable inferences drawn from that fact(s) in light of experience that the individual may be involved in the use of any illegally-used drug, controlled substance, or alcohol.

Examples would include one or more of the following:

1. Observable phenomena, such as direct observation of on-duty alcohol use or possession and/or direct observation of on-duty or off-duty use or possession of illicit drugs, and/or the on-duty display of behaviors which appear to be indicative of the use of any illegally-used drug, controlled substance, or alcohol and are not attributable to other factors;

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2. a pattern of abnormal conduct, erratic behavior or deteriorating work performance, including but not limited to, frequent absenteeism, excessive tardiness, or frequent accidents, not attributable to other factors and which appears to be related to drug and/or alcohol abuse;
3. arrest, indictment, or conviction for a drug-related offense;
4. newly discovered evidence that the Officer has tampered with a prior drug/alcohol test;
5. repeated or flagrant violations of the Department's rules and procedures which are determined by a supervisor to pose a substantial risk of injury or property damage and which are not attributable to other factors and appear to be related to drug and/or alcohol abuse;
6. causing an accident (as defined in definition E. above).

The above examples are not all inclusive, but are intended to be illustrative. Though not a sign or symptom of substance abuse, accidental discharge of a firearm is such a serious event that it can contribute, when substantiated by more direct evidence, to a finding of reasonable suspicion. The symptoms of being affected by a drug or by alcohol are not confined to those consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance.

Although reasonable suspicion does not require certainty, mere "hunches" are not sufficient to meet this standard.

H. Under the Influence of an Unauthorized Controlled Substance, Illegally-used Drug and/or Alcohol – The presence of a .04 alcohol content in the blood, or a verified positive drug test, at levels specified by the National Institute of Drug Abuse (NIDA), for an unauthorized controlled substance or an illegally-used drug.

I Medical Review Officer (MRO) – A licensed physician responsible for receiving laboratory drug testing results who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a positive test relative to the Officer's medical history and other relevant biomedical information.

III. AUTHORIZED USE OF PRESCRIPTION MEDICINE

Sworn personnel undergoing prescribed medical treatment with any drug must report the drug used to their supervisor, pursuant to Rule 102 and a determination made as to the Officer's ability to perform his duty according to that rule.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 111 Substance Abuse Policy			
Related to Rule 102 Sec 13, 14, 15,16			
IV. Prohibited Conduct	45 Days and Counseling	Termination	Termination

Rule 113, Public Integrity Policy

Sec. 1 PURPOSE: The purpose of this policy is to set forth the standards of ethics which will guide both the Boston Police Department, as an organization, and its officers and employees in the conduct of their private and professional affairs.

Sec. 2 BACKGROUND: Policing in America today, especially in a major urban area, is a complex and, for many, a stressful occupation. Naturally, the police role has evolved greatly over the years. Officers now face enormous dangers to their physical and mental health. The increased level of violence and the increased level of sophistication of today's criminal present unprecedented challenges for the criminal justice system, especially for those in law

enforcement. Additionally, the temptations that they face have created an added stress for the men and women who are on the front lines in the battle against crime and disorder. These temptations not only include possibilities of personal gain, monetary and otherwise, they also encompass over-zealousness in the investigation and prosecution of criminal suspects.

In order to maintain the highest standards of honesty and integrity—as a Department and as individuals—we need to attract and retain persons of outstanding character who are qualified and willing to meet the challenges of policing a diverse urban center such as Boston.

Additionally, we need to correct and retrain those who have acted in a manner inconsistent with the values of the Boston Police Department and punish and/or terminate those who are unable or unwilling to act in accordance with established standards of ethical behavior.

The necessity of such a course of action—and the need to establish and articulate a public integrity policy—is undeniable given the history of problems encountered in most American police departments, especially those in large urban areas. Boston certainly has not been immune to those problems. Corruption, brutality, falsifying evidence, and bias cannot be tolerated among individuals sworn to uphold

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the law. Nor can hypocrisy, unfairness, deceit and discrimination be tolerated in an organization dedicated to the highest ideals of justice and the rule of law.

The Boston Police Department, mindful of its crucial role in a democratic society, has embraced those principles and values that reflect its commitment to preserving life and property while respecting the rights and dignity of all those with whom it may become involved. Accordingly, we rededicate ourselves to those principles and values by formally adopting ethical standards that will enable us to uphold the public trust. Through the adoption of this policy statement, we reaffirm our responsibility to be accountable for our actions and the conduct of our employees.

By doing so, we hope to continue to merit the trust and support of the people that we have sworn to serve.

Sec. 3 POLICY: It is the policy of the Boston Police Department that every action of the Department as an organization, and those of the individuals who act on its behalf, will reflect the highest standards of honesty and integrity. In all of our dealings, whether with the public, other elements of the criminal justice system, or with each other, we will act in accordance with the ethical standards that are set forth below. Additionally, it is the responsibility of each and every member of the Boston Police Department to adhere to those standards and to take all necessary and prudent actions to expose those who knowingly violate the public trust. It is the responsibility of the Department to prevent, detect and correct instances of misconduct, administrative or criminal, within the organization.

Sec. 4 DEFINITIONS:

Integrity: Soundness of moral principles; the character of uncorrupted virtue; uprightness, honesty, self-control, courage, compassion.

Public Trust: Exercising public authority within the legal limits and according to the ends for which it was created, i.e., to serve the public interest.

Authority: The legally-granted right to issue commands or give directions to others.

Discretion: The authorized capacity to make judgments and choose from among a variety of actions, within the limits of law and Departmental policy, to resolve a problem.

Ethics: Standards or principles of conduct governing a profession; the rules of conduct or duty.

Corruption: Acts involving the misuse of authority by an employee in a manner designed to produce personal gain for himself, herself, or others.

Falsifying Evidence: Fabricating evidence that does not exist; destroying or distorting material evidence; knowingly failing to seek, discover or bring forth evidence that a reasonable person/officer would conclude might have an impact on the outcome of a matter before a court or tribunal of competent jurisdiction, and which prudence and justice dictates should be brought to the attention of a magistrate, officer of the court or hearing officer; or lying or deliberately misrepresenting the truth while under oath.

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Bias: The use of authority, legal or otherwise, which results in the unequal application of the law toward some identifiable group or group member because of his/her affiliation with that group.

Employees: All sworn and civilian employees.

Supervisor: Supervisors, managers, directors and commanders.

Sec. 5 CANONS OF ETHICS: General Statement – In furtherance of this policy, the following Canons of Ethics are adopted. They are not meant to be exclusive, but are presented because history and sound judgment indicate that violations of these canons severely undermine the ability of the Department to gain the confidence of both its employees and the public, and also negatively affect its ability to fulfill its essential mission. They are not meant to replace or supersede existing laws, special orders, rules or regulations, but to supplement them; they also serve as a reminder of the public trust that has been conferred upon the Boston Police Department by the citizens of Boston, and the need for constant vigilance in support of that trust.

Rule 113-A, Bias-Free Policing Policy

Section 1. General Considerations

The Boston Police Department is committed to building and strengthening trust with all members of the community. Actual or perceived bias by police undermines this trust and damages relationships with the community – relationships that are at the heart of an effective community policing approach. Bias practices are unfair, ineffective, promote mistrust, and perpetuate negative and harmful stereotypes. The Department recognizes that bias can occur at both an individual and an institutional level. All members of the Boston Police Department (sworn and civilian) are committed to providing services and enforcing laws in a professional, nondiscriminatory, fair, and equitable manner. The Boston Police Department is committed to bias-free policing.

Section 2. Policy

All people having contact with Boston Police Department personnel shall be treated in a fair, impartial, bias-free, and objective manner, in accordance with law, and without consideration of specified characteristics as defined in this policy.

Section 3. Purpose

The purpose of this policy is to emphasize the Boston Police Department's commitment to fair and bias-free treatment of all people and to clarify the circumstances in which Department personnel may consider specified characteristics when carrying out duties. Fair and bias-free policing enhances legitimate law enforcement efforts and promotes trust within the community.

Section 4. Definitions

Sec. 4.1 Bias-free Policing, as defined by MGL Chapter 6E Section 1:

“Bias-free policing”, policing decisions made by and conduct of law enforcement officers that shall not consider a person’s race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level. This definition shall include policing decisions made by or conduct of law enforcement officers that: (1) are based on a law enforcement purpose or reason which is non-discriminatory, or which justifies different treatment; or (2) consider a person’s race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level because such factors are an element of a crime.

Sec. 4.2 Biased Policing: Discrimination in the performance of law enforcement duties or delivery of police services, based on personal prejudices or partiality of department personnel toward classes of people based on specified characteristics.

Sec. 4.3 Police Services: Includes the full spectrum of police interactions with the community in the service of public safety. This includes law enforcement, community policing, community engagement, and partnerships with governmental and non-governmental organizations.

Sec. 4.4 Specified Characteristics: For the purposes of this policy, real or perceived personal characteristics, to include but not limited race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level. (Per MGL Chapter 6E Section 1 definition of bias-free policing listed above.)

Rule 113B, Transgender Policy

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

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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.

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 113: Public Integrity Policy			
Canon One The Boston Police Department and every employee acting under its authority shall uphold the Constitution of the United States, the Constitution of the Commonwealth of Massachusetts and all laws enacted or established pursuant to legally constituted authority.	Termination Termination	Termination Termination	Termination Termination
Canon Two: As a law enforcement organization, the Boston Police Department and its agents shall treat all those with whom it comes into contact, or who may seek its assistance, or who may come under its care or custody, with the respect and dignity inherent in every person.	Oral Reprimand to 1 Day	1 Day to 5 Days	5 Days to 30 Days
Canon Three: As an employer, the Boston Police Department shall treat its personnel with fairness, respect, and consideration in all aspects of the job including hiring, assignment, promotion, training, collective bargaining, discipline and, when necessary, termination. It shall establish and promulgate rules, procedures and orders in such a manner as to promote professionalism, merit,	N/A	N/A	N/A

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and equal opportunity for advancement as well as equal access to resources. The Department shall value communication and solicit and respect the opinions of its employees on matters in which they have expertise, or which may affect their professional interests.			
Canon Four: Police officers shall at all times be prepared for the proper discharge of their duties; knowledgeable in the law and legal procedures; competent in the use of authorized weapons and tactics; respectful of other elements in the criminal justice system; and possessing the necessary temperament and attitude to effect the cause of public safety and justice.	Oral Reprimand to 5 Days with Training	5 Days to 30 Days	30 Days up to Termination
Canon Five: Employees shall be impartial in the use of their authority, providing fair access to their services and favoring no group or individual for any improper reason. They shall not allow their prejudices or biases to affect their official actions. They shall exercise their discretion so as to achieve the ends of justice and in a manner consistent with the rule of law and Departmental policy.	15 days to 30 days Training and Counseling (Bias-Free Policing) Termination (Abuse of Process)	30 days to 180 days (Bias-Free Policing) Termination (Abuse of Process)	Termination (Bias-Free Policing) Termination (Abuse of Process)
Canon Six: Employees	5 Days to 30 Days	30 Days to 180 Days	180 Days up to

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shall avoid all conflicts of interests and appearances of impropriety. They shall never seek or accept gratuities when it can be construed to involve their official position within the department.			Termination
Canon Seven: Employees shall not engage in any corrupt or unlawful activity. They shall immediately report all corruption and illegal activity involving members of the Department that may come to their attention to the Anti-Corruption Division.	Termination (Conformance to laws) 5 Days to 30 Days (Reporting law violations)	Termination (Conformance to laws) 30 Days to 180 Days (Reporting law violations)	Termination (Conformance to laws) 180 Days up to Termination (Reporting Law Violations)
Canon Eight: Employees shall conduct their private affairs so as not to reflect unfavorably on the Boston Police Department; or in such a manner as to affect their ability to perform their duties honestly, effectively, fairly, and without impairment.	Oral Reprimand to 1 day	1 Day to 30 Days	30 Days to Termination
Canon Nine: Police officers shall use only that amount of force reasonably necessary to achieve their lawful purpose. Excessive or unauthorized force is never justified and every officer not only has an affirmative duty to intervene to prevent such violence, but also to report any such instances that may come to their attention.	Death or Substantial Injury 30 to 180 days Serious injury 15 to 30 days No injury 1 to 15 days	Death or Substantial Injury Termination Serious Injury 30 to 180 days No Injury 15 days to 30 days	Death or Substantial injury Termination Serious Injury Termination No injury Termination

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<p>Canon Ten: Police officers shall exhibit the utmost respect for the legal rights of all. They shall not falsify evidence nor deny to anyone the equal protection of the law. They shall attend all proceedings where their presence is necessary to the administration of justice and shall conduct themselves professionally and respectfully before any court or tribunal. Police reports and records shall adequately reflect the truth as it is known to the officer at the time they are created.</p>	<p>Oral Reprimand to 5 Days with Training (Neglect of Duty)</p> <p>Termination (Abuse of Process)</p>	<p>5 Days to 30 Days (Neglect of Duty)</p> <p>Termination (Abuse of Process)</p>	<p>30 Days to Termination (Neglect of duty)</p> <p>Termination (Abuse of Process)</p>
<p>Canon Eleven: While the responsibility to uncover and report knowledge of illegal and unethical conduct belongs to all employees, regardless of rank or assignment, members of the command staff and supervisors may be personally accountable for the actions of the personnel under their command if they knew or should have known that their actions were illegal or unethical. This places upon them a specific duty to proactively prevent, detect, expose and punish improper conduct. Additionally, they shall conduct themselves in such a manner as to serve, by uncompromising adherence to these canons, as an example to those who serve under them.</p>	<p>Accountability Rule 102 Sec 6</p> <p>5 Days to 30 Days (Reporting law violations)</p>	<p>Accountability Rule 102 Sec 6</p> <p>30 Days to 180 Days (Reporting law violations)</p>	<p>Accountability Rule 102 Sec 6</p> <p>180 Days up to Termination (Reporting law violations)</p>

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 7 RESPONSE AND REPORTING PROCEDURES			
Sec. 9 Failure to follow the reporting requirements of this rule and any other applicable rules, or violation of any other section, may result in disciplinary action, up to and including termination.			
Rule 113A: Bias-Free Policing policy			
Section 5. Fair and Impartial Treatment: Use of Personal Characteristics in Law Enforcement Activities	15 days to 30 days Training and Counseling	30 days to 180 days	Termination
Section 7. Compliance: Supervision and Discipline	15 days to 30 days Training and Counseling	30 days to 180 days	Termination
Rule 113B Transgender Policy			
Section 5. Calls for Service	15 days to 30 days Training and Counseling	30 days to 180 days	Termination
Section 6. Stop and Frisk	15 days to 30 days Training and Counseling	30 days to 180 days	Termination
Section 7.1. Transportation	15 days to 30 days Training and Counseling	30 days to 180 days	Termination
Section 7.3. Searches	15 days to 30 days Training and Counseling	30 days to 180 days	Termination
Section 7.4. Conditions during Holding	15 days to 30 days Training and Counseling	30 days to 180 days	Termination

Rule 114, Sexual Harassment, Discrimination, Harassment, and Retaliation Policy and Complaint Procedure

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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 intimidating.

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:

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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.

C. 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;

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- 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.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 114 Sexual Harrasment, Discrimination, Harassment, and Retaliation Policy and Complaint Procedure	**Notification to Legal and Chief of Staff **		
SEC. 6 EMPLOYEE RESPONSIBILITIES	1 Day to 5 Days Training and Counseling	5 Day to 45 Days Training and Counseling	Termination
SEC. 7 SUPERVISOR RESPONSIBILITIES	1 Day to 5 Days Training and Counseling	5 Day to 45 Days Training and Counseling	Termination
SEC. 9 INVESTIGATION PROCEDURE	1 Day to 5 Days Training and Counseling	5 Day to 45 Days Training and Counseling	Termination

Rule 301, Pursuit Driving

Section 1. Introduction

The Boston Police Department places the highest value on the lives and safety of its officers and the public they serve. Ever mindful of the responsibility this entails, the Department acknowledges that every officer's duty to apprehend violators of the law will be tempered with the need to minimize the risk to officers and the public. It is the position of the Department that all law violators be apprehended whenever doing so can be accomplished without presenting an unwarranted risk of harm to the public or to the officer(s).

Section 2. Purpose

This rule is issued to establish guidelines and regulations for pursuit situations. It is effective immediately, superseding all previously issued rules, regulations, orders, and directives having to do with pursuits.

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Generally, pursuit driving is not justified and is prohibited unless the occupants of the vehicle are known to be wanted for the commission or the attempted commission of a violent or life threatening felony or the vehicle is being operated in an erratic or dangerous manner which poses a threat of harm to the public if it is not stopped. The commission of any motor vehicle violation and/or operating a stolen motor vehicle, in themselves, are not sufficient to meet the above criteria.

The City of Boston is a highly congested urban area which generally precludes pursuit driving in a safe manner. Therefore, every effort shall be made to prevent a suspect vehicle from escalating a situation into one which requires a pursuit. Pursuit driving is only permitted in situations that represent a threat of harm to the public or the officers, if the suspect vehicle and/or occupants are not apprehended. The Department recognizes that it is better to allow a suspect to escape than to engage in a pursuit under conditions that unnecessarily jeopardize the safety of the public and the officer(s).

Section 3. Definitions:

For the purposes of this rule the following definitions will apply:

Sec. 3.1. BAPERN: Boston Area Police Emergency Radio Network. A system that allows the Boston Police Operations Division to communicate and coordinate all departments sharing BAPERN capability; these departments include various law enforcement agencies located in and around the City of Boston. Most importantly, BAPERN provides the Boston Police Department with the capability necessary to continue to control a pursuit which extends into other jurisdictions.

Sec. 3.2. Discontinuing a Pursuit: An officer informing the Operations Division that the officer is no longer engaged in pursuing a suspect vehicle and turning off the police vehicle's emergency equipment (lights and siren) while simultaneously reducing the speed of the police vehicle to the posted speed, observing all motor vehicle and traffic laws, and disengaging from following the suspect vehicle.

Sec. 3.3. Authorized Police Emergency Vehicle: Includes Department cruisers, motorcycles, prisoner wagons, trucks, SUVs, Harbor Patrol water vessels, and any other mode of transportation recognized as a vehicle by the Massachusetts Registry of Motor Vehicles that are equipped with lights and sirens.

Sec. 3.4. Motor Vehicle Pursuit: A motor vehicle pursuit exists when an officer, in an Authorized Police Emergency Vehicle, with lights and sirens activated, actively attempts to apprehend occupants of a suspect vehicle in which the driver increases speed and/or takes evasive actions in an attempt to avoid apprehension.

Sec. 3.5. Primary Pursuit Unit: The first police unit that initiates a pursuit and continues as the first police vehicle in the pursuit.

Sec. 3.6. Secondary Pursuit Unit: The police unit that becomes involved as a backup to the Primary Pursuit Unit.

Rule 302, Emergency Driving

Sec. 1. Introduction:

The Department and its members are bound to respond to requests for assistance for service with as much dispatch as is reasonably possible. Emergency driving enables the police officer to respond more quickly than would normally be feasible to situations where a speedy response is a critical necessity. However, such driving and the hazards it entails should occur only when clearly justified by the nature of the need for service and made necessary by conditions at hand

that, without the use of emergency driving, would tend to render the police response ineffective. Every effort must be taken to ensure the safety of the public, as well as Department members, at all times. The benefits of a quick response – while important to the public – can be lost instantly if the risks associated with that response results in an aborted effort.

Sec. 2. Purpose:

This rule is issued to establish guidelines and regulations for emergency driving of authorized police emergency vehicles other than in pursuit situations. It is effective immediately, superseding all previously issued rules, regulations, orders, and other directives related to emergency driving.

The following rule is established so that all sworn personnel operating authorized Boston Police Department vehicles exercise due caution and due regard when engaging in an emergency driving situation. Only sworn personnel will operate Departmental vehicles in an emergency mode. It is recognized that “emergency driving” can become “pursuit driving” in a short amount of time and that officers need to react and operate vehicles accordingly, but never at the expense of safety. [See Rule 301 – Pursuit Driving.]

Sec. 3. Definitions:

For the purpose of this rule, the following definitions will apply:

Sec. 3.1. Authorized Police Emergency Vehicle: includes Department cruisers, motorcycles, prisoner wagons, trucks, SUVs, Harbor Patrol water vessels, and any other mode of transportation recognized as a vehicle by the Massachusetts Registry of Motor Vehicles that are equipped with lights and sirens.

Sec. 3.2. Code 3: Designation for emergency driving, using emergency lights and siren.

Sec. 3.3. Emergency Driving: refers to operation of an authorized police emergency vehicle, other than in pursuit, in excess of the legal speed limit and/or contrary to traffic signs and signals, with lights and sirens activated.

Sec. 3.4. Priority One Call: Calls for service in this category indicate that a police presence is needed at the scene of an incident. Immediate response to these calls is critical. Conditions that will define a call for service as a Priority One are:

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- Any apparent threat of life, any danger of serious physical injury, any major property damage, or any incident that may result in the same;
- Any active felony or violent misdemeanor, or active incident that may result in either serious physical injury or major property damage or loss and any felony or violent misdemeanor that recently occurred (within 15 minutes), and there is a probability that a suspect(s) may be apprehended;
- Any serious injury or illness that may result in substantial physical harm if police assistance is delayed;
- Any domestic violence incident; or
- Any incident involving exigent or unique circumstances that demands an immediate police response (i.e., sniper, explosive device, gas leak).

Sec. 3.5. Priority Two Call: Calls for service in this category indicate that a police presence is needed at the scene, but unlike a Priority One call, an immediate response is not critical.

Conditions that would classify a call for service as a Priority Two call are:

- Any recent or active crime or incident that does not represent a significant threat to life and property, including but not limited to, a felony which has just occurred but without injury to the victim and the suspect(s) has fled the scene (longer than fifteen minutes);
- Any in-progress incident that could be classified as a possible crime (e.g., suspicious person or vehicle, prowler);
- Any property damage incident that represents a significant hazard to the free flow of traffic; or
- Any incident that would require a prompt, but non-emergency response.

Sec. 3.6. Priority Three or Lower Call: Calls for service in these categories indicate that some type of police response is needed but could be delayed for a period of time without adverse effect. Conditions that would classify a call for service as a Priority Three or lower priority call (priority 4-9) are:

- Any non-active crime or incident that does not require an immediate investigation (i.e., a B&E that was not recently committed, but which is being reported at this time);
- Any incident that involved non-emergency and/or non-criminal services; or
- Any other incident that is no longer active, yet due to its nature, cannot be responded to by phone.

Sec. 4. Operation of Emergency Vehicles Law:

Sec. 4.1. Legal Considerations: Chapter 89, Section 7B of the Massachusetts General Laws, Operation of Emergency Vehicles, states that:

“The driver of a vehicle of a fire, police or recognized protective department, and the driver of an ambulance shall be subject to the provisions of any statute, rule, regulation, ordinance, or by-law relating to the operation or parking of vehicles, except that a driver of fire apparatus while going to a fire or responding to an alarm, or

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the driver of a vehicle of a police or recognized protective department or the driver of an ambulance, in an emergency and while in performance of a public duty or while transporting a sick or injured person to a hospital or other destination where professional medical services are available, may drive such vehicle at a speed in excess of the applicable speed limit if he exercises caution and due regard under the circumstances for the safety of persons and property, and may drive such vehicle through an intersection of ways contrary to any traffic signs or signals regulating traffic at such intersection if he first brings such vehicle to a full stop and then proceeds with caution and due regard for the safety of persons and property, unless otherwise directed by a police officer regulating traffic at such intersection."

NOTE: Officers should take all necessary precautions to avoid operating a vehicle the wrong way on a divided roadway. This action is extremely dangerous and may result in tragedy. Nor should an officer pursue a vehicle the wrong way on a one-way street due to the risk of danger to the public and to the officer(s). If, however, facts and circumstances present themselves to require either action, the officer must be able to justify their actions and show that all possible safety for the public was taken into account. Officers should also be aware that the majority of Department motor vehicle accidents occur in intersections and with this in mind officers should use extreme caution while navigating through intersections.

Sec. 4.2. Examples of allowable emergency driving tactics. While officers shall exercise the utmost caution when entering any intersection, regardless of controls and signals, while engaged in emergency driving, the following are examples of allowable emergency driving tactics:

- Passing a red stop signal or stop sign only after coming to a FULL STOP as required by statute.
- When entering a multi-lane intersection against a red stop signal or stop sign, proceeding through the intersection one lane at a time.
- Slowing down at all other intersections and yield signs, proceeding only when the intersection is safe to enter.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 301 Pursuit Driving			
Sec. 5.1. Pursuit Situations	1 Day to 10 Days	10 Day to 45 Days	45 days to Termination
Sec. 5.2. Pursuit Decision Factors	1 Day to 10 Days	10 Day to 45 Days	45 days to Termination
Sec. 6.1. Operations Division Notification	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 6.2. Updates to Operations Division	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 7.1. Operations Dispatcher Responsibilities	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 7.2. Operations Division Duty Supervisor's Responsibilities	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 7.5. Patrol Supervisor's Responsibilities	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 7.6.1 Applicable Statute	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.2. One-way Streets and Divided Highways	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.3. Use of Electronic Devices	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.4. Vehicle Defect	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.5. Unreasonable Speed	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.6. Reckless and Hazardous Driving Maneuvers	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.7. Vehicle Contact:	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.8. Vehicle Positioning:	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.9. Roadblocks and Barricades	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.10. Tire Deflation Devices	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 7.6.11. Firearm Discharge Prohibition: Please see Rule 303, Section 8.			
Section 8. Discontinuance of Pursuit	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 8.2. Radio Notification	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 8.3. Ceasing Suspect Pursuit:	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 8.4. Reappearance of Suspect	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 8.5. Return to Regular Speed:	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 9.1. Pursuit with Passengers Prohibited	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 9.2. Unmarked Units	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 9.3. Personal Vehicles	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 9.4. Motorcycle Units and other Vehicles	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 10.3. Radio Broadcast	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 10.4. Request for Information	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 10.5. Patrol Supervisor Notification	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 10.6. Secondary Pursuit Unit	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 10.7. Pursuit Discontinuance	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Section 11. Pursuit into Other Jurisdictions	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 11.1. Operations Division Notification	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 11.2. Number of Units Determination	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 11.3. Pursuit of Felons Outside Jurisdiction	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 302 Emergency Driving			
Sec. 5.1.1. Priority One. An officer receiving a Priority One call for service may utilize emergency driving after acknowledging receipt of the call to the Dispatcher	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 5.1.2. Priority Two and lower. An officer receiving a Priority Two or lower call for service may utilize emergency driving, but must communicate this intention to use emergency driving to the Dispatcher by indicating that they are responding to "Code 3"	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 5.1.3. Self Initiated Call for Service. It is understood that an officer may temporarily use emergency driving (particularly lights and sirens) for traffic stops as well as during "on-site" incidents. In these cases, it is not necessary for the officer to communicate the use of lights and sirens to the Dispatcher. If, however, the temporary emergency driving turns into "pursuit driving," the officer will immediately notify dispatch and follow the procedures outlined in Rule 301.	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
<p>Sec. 5.2. Responsibilities of the Dispatcher:</p> <p>It is the responsibility of the Dispatcher in such situations to:</p> <ol style="list-style-type: none"> 1. State the Priority Level of the call; 2. Make the officer aware of any unusual or hazardous traffic conditions reported in the area; and 3. Make the officer aware of any risks or additional details that might impact officer safety, as well as any changes in circumstances. 	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
<p>Sec. 5.3. Responsibilities of Supervisor.</p> <p>Supervisors in the field shall monitor all dispatched Priority One calls to which their officers are dispatched to ensure the response strikes a balance between the priority of the call and the risks to the public and responding officer(s)</p>	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
<p>Sec. 5.4. Upgrading/Downgrading Emergency Response</p>	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
<p>Sec. 5.4.1. Upgrading / Downgrading by Officer</p>	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 5.4.2. Upgrading / Downgrading by Supervisor	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 5.4.3. Upgrading / Downgrading by Dispatcher	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 5.5. Suspension of Emergency Driving	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 5.6. Occupied Vehicle	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 6. Weather and Environmental Condition	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 7. Deference to Other Emergency Vehicles	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days

Rule 307, Security of Criminal Offender Record Information (CORI) and The Public Record Law (PRL)

This rule is issued to ensure compliance with Massachusetts General Laws Chapter 6, Sections 167-178 and the Code of Massachusetts Regulations, Title 803, Chapter 2.04. These statutes and policies outline the regulations and liabilities associated with Criminal Offender Record Information (CORI). This rule is effective immediately, superseding all rules, orders, bulletins and other directives previously issued in connection with the release of CORI. In conjunction with this rule, members of the Department shall also adhere to the guidelines issued in Rule 300, News Media Relations – Release of Official Information.

Sec. 1 GENERAL CONSIDERATIONS: The policy of the Boston Police Department with regard to the release of official information to the news media and other persons interested in Departmental activities has been set forth in Rule 300, News Media Relations – Release of Official Information. However, since the Acts of 1973, Chapter 1050, gives the public the right of access to certain public records, and M.G.L. Chapter 6 exempts Criminal Offender Record Information from public access, the Department is obliged to protect its personnel from civil and criminal liabilities that may result from the improper disclosure of protected records. All Boston police officers are eligible to receive Criminal Offender Record Information in the course of their official duties. However, having obtained such information, no police officer shall give, furnish, or disseminate, directly or indirectly, any probation records or other criminal offender record information except as authorized by this rule. The Department will thoroughly investigate any and all instances of the unauthorized release of CORI information, as conveying the contents of an individual's probation or police record to any unauthorized person or agency may result in civil and criminal liability.

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Sec. 2 DEFINITIONS: For the purposes of this rule, pursuant to M.G.L. c. 6 §§ 168-178 and 803 C.M.R. 2.00 – 9.00, the following definitions shall apply:

A. Criminal Justice Agencies – those agencies at all levels of government which perform as their principal function, activities relating to crime prevention, including research or the sponsorship of research; the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders; or the collection, storage, dissemination or usage of CORI.

B. Criminal Offender Record Information – records and data in any communicable form compiled by a criminal justice agency which concern an identifiable individual and relate to the nature or disposition of a criminal charge, an arrest, a pre-trial proceeding, other judicial proceedings, sentencing, incarceration, rehabilitation, or release. This includes photographs and fingerprints, which are recorded as a result of the initiation of a criminal proceeding. CORI does not include:

- Statistical Records and Reports – CORI shall not include statistical data in which individuals are not identified and from which identities are not ascertainable.
- Juvenile Data – CORI shall not include information concerning a person who is under the age of 17 years unless that person is prosecuted criminally as an adult.
- Intelligence Information – CORI shall not include records and data compiled by a criminal justice agency for the purpose of criminal investigation, including reports of informants, investigators or other persons, or from any type of surveillance associated with an identifiable individual. Intelligence information shall also include records and data compiled by a criminal justice agency for the purpose of investigating a substantial threat of harm to an individual, or to the order or security of a correctional facility. This information may still be protected from public disclosure, per the investigatory exemption to the Public Records Law. Contact the Office of the Legal Advisor prior to releasing this information to a member of the public.

- Information Regarding Minor Offenses – CORI shall not include information concerning offenses that are not punishable by incarceration.
- Photographs or Fingerprints of an Unidentified Individual – CORI shall not include photographs, fingerprints, or other identifying data of an individual used for investigative purposes if the individual is not identified. This information may still be protected from public disclosure, per the investigatory exemption to the Public Records Law. Please contact the Office of the Legal Advisor prior to releasing this information to a member of the public.
- Information of a Deceased Individual – CORI shall not include information regarding a deceased individual. Restrictions on the access to and dissemination of an individual's CORI terminate upon his / her death.

C. Criminal History Systems Board (CHSB) – the entity which is given the duty of promulgating regulations regarding the collection, storage, dissemination and usage of CORI.

Sec. 3 AGENCIES ALLOWED TO RECEIVE CORI: M.G.L. Chapter 6, Section 172 provides that CORI may be disseminated, whether directly or through an intermediary, only to:

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- A. Criminal justice agencies;**
- B. Other agencies and individuals required to have access to such information by statute including US Armed Forces recruiting offices for the purpose of determining whether a person enlisting has been convicted of a felony;**
- C. The active or organized militia of the commonwealth for the purpose of determining whether a person enlisting has been convicted of a felony; and**
- D. Any other agencies and individuals where the CHSB has determined that the public interest in disseminating such information to these parties clearly outweighs the interest in security and privacy.**

Sec. 4 PUBLIC DISSEMINATION OF CORI: The public dissemination of CORI is allowed under the following circumstances:

- A. Victim receipt of CORI – M.G.L. Chapter 6, Section 178A provides that a victim of a crime, a witness, or a family member of a homicide victim, all as defined by M.G.L. Chapter 258B, Section 1, shall be certified by the CHSB, upon request, to receive CORI, provided that the request for said information relates to the offense in which the person was involved;**
- B. Contemporaneous with investigation – A criminal justice agency with official responsibility for a pending criminal investigation or prosecution may disseminate CORI that is specifically related to and contemporaneous with an investigation or prosecution;**
- C. Contemporaneous with search for person – A criminal justice agency may disseminate CORI that is specifically related to and contemporaneous with the search for or apprehension of any person; and**
- D. Information regarding incarceration / custody status – A criminal justice agency with jurisdictional responsibilities for an offender shall release information regarding an individual's custody status and placement within the criminal justice system where:**
 - The individual named in the request or summary has been convicted of a crime punishable by a term of imprisonment of 5 years or more or has been convicted of any crime,
 - Sentenced to any term of incarceration, and
 - At the time of the request:
 - Is serving a sentence of probation or incarceration; or
 - Is under the supervision of the Parole Board; or
 - Having been convicted of a misdemeanor has been released from all custody or supervision for not more than one year; or
 - Having been convicted of a felony has been released from all custody or supervision for not more than two years; or
 - Having been sentenced to the custody of the Dept. of Correction has finally been discharged there from, either having been denied release on parole or having been returned to penal custody for violation of parole, for not more than three years.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 307, Security of Criminal Offender Record Information-CORI- and the Public Record			
<p>Sec. 5 Liability for Unauthorized Disclosure of CORI</p> <p>A. Civil Liability – M.G.L. Chapter 6, Section 177 sets forth the civil liabilities that may be incurred by those who willfully communicate CORI to anyone not authorized to receive it.</p>	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
<p>B. Criminal Liability – M.G.L. Chapter 6, Section 178 states “[a]ny person who willfully requests, obtains or seeks to obtain CORI under false pretenses, or who willfully communicates or seeks to communicate CORI to any agency or person except in accordance with the provisions of sections 168-175, inclusive, or any member, officer, employee or agency of the board or any participating agency, or any person connected with any authorized research program, who willfully falsifies CORI, or any records relating thereto, shall for each offense be fined not more than \$5000.00, or imprisoned in a jail or</p>	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination

house of correction for not more than one year, or both."			
Sec. 6 Procedures	1 day to 10 Days	10 Day to 45 Days	45 Days to Termination
Sec. 7 Requests for CORI by Outside Agencies	1 day to 10 Days	10 Day to 45 Days	45 Days to Termination
Sec. 8 Record of CORI Requests	1 day to 10 Days	10 Day to 45 Days	45 Days to Termination
Sec. 9 Requests to the Identification Unit by Boston Police Personnel	1 day to 10 Days	10 Day to 45 Days	45 Days to Termination
Sec. 11 CJIS Access	1 day to 10 Days	10 Day to 45 Days	45 Days to Termination

Rule 318, Prisoners

This rule is issued to establish guidelines for the care and treatment of prisoners, including persons held in protective custody (Rule 318-A) and juveniles held in custody (Rule 318-B). It replaces Rule 318, dated February 28, 1990, and supersedes all previously issued Rules, Orders, Memorandums, Bulletins and directives concerning the processing, safekeeping and treatment of prisoners in the custody of members of this Department, at the House of Detention and the Juvenile Pre-Arraignment Facility.

GENERAL CONSIDERATIONS: Officers shall be held strictly responsible for the safe custody of the prisoners under their care and this responsibility is theirs at all times. Prisoners and suspects shall be treated in a fair and humane manner and the rights to which they are entitled shall be respected.

Rule 318A, Care and Treatment of Persons In Protective Custody

This rule is issued to provide Boston Police Officers with an outline of the responsibilities and obligations of Police Officers who take persons into protective custody under the Massachusetts Alcoholism Treatment and Rehabilitation Law, MGL Chapter 111-B. Pursuant to Ch. 111-B, incapacitation shall mean, "the condition of an intoxicated person who, by reason of consumption of intoxicating liquor is (1) unconscious, (2) in need of medical attention, (3) likely

to suffer or cause physical harm or damage property, or (4) disorderly."

GENERAL CONSIDERATIONS: The Boston Police Department has adopted several measures to ensure that persons taken into custody are afforded all the rights which the law allows them. This section shall deal solely with incapacitation due to alcohol intoxication.

In instances where the incapacitation is due to drugs, the person in custody shall be transported to a hospital or medical facility.

Rule 318B, Procedures For Handling Arrested Juveniles and Use of The Juvenile Detention Facility

This rule establishes the policy for the care and treatment of juveniles who come into custody of the Boston Police Department and supersedes all previously issued rules, orders, directives and memorandums. As used in this Rule, the term "juvenile" shall mean any child that has not yet reached their seventeenth birthday.

Sec. 1 GENERAL CONSIDERATIONS: Police officers are authorized and encouraged to use the least restrictive appropriate placement available, given the facts of the offense, in dealing with juveniles. This rule contains references to the applicable statutes or regulations governing the treatment of juveniles taken into custody by the Boston Police Department and the options available to Police Officers under those rules and regulations. Generally, beyond what is minimally required by a particular statute, officers should choose among the available options and use the least restrictive appropriate placement available.

Except as noted in this rule, the provisions of Rule 318, Prisoners, apply in their entirety to the custody of juveniles.

Sec. 2 ARREST OF JUVENILES: Juveniles placed under arrest fall into one of the two categories defined below:

A. Delinquent Child: A child between seven and seventeen who violates any city ordinance, or town by-law or who commits any offense against a law of the Commonwealth (M.G.L. c. 119, § 52). A delinquent child may be arrested in any situation where an adult could be arrested in order to enforce federal, state and local laws defining criminal and traffic offenses.

B. Status Offender: A child under seventeen who has committed an act that is against the law, but which would not be against the law if it were committed by an adult. Examples of status offenders include, but are not limited to:

1. Child in Need of Services (CHINS): A child below the age of seventeen who persistently runs away from the home of his parents or legal guardian, or persistently refuses to obey the lawful and reasonable commands of his parents or legal guardian, thereby resulting in said parent's or legal guardian's inability to adequately care for and protect said child, or a child between the ages of six and seventeen who persistently and willfully fails to attend school or persistently violates the lawful and reasonable regulations of his school (M.G.L. c. 119, § 21).

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An officer may only arrest a juvenile under the authority of the CHINS statute when the juvenile has failed to obey a summons issued by the court or when the arresting officer has probable cause to believe that the child has run away from home and will not respond to a summons.

2. Transportation of Alcoholic Beverages by Minors, M.G.L. c. 138, § 34C. This is a status offense only when committed by a minor who has not yet reached their seventeenth birthday.

Rule 318C, Care and Custody of Female Prisoners

This Rule establishes guidelines and procedures for the Care and Custody of Female Prisoners and supersedes the previous Rule 318C that was issued on March 13, 1991.

Sec. 1 GENERAL CONSIDERATION: Female prisoners arrested or detained by members of the Boston Police Department will be processed in the usual manner at the District of arrest or detainment and then transported to District D-4 subject to the additional procedures described below.

Sec. 2 AVAILABILITY: District D-4 shall be open at all times for the housing of female prisoners.

Sec. 3 PROCESSING: The guidelines for the booking procedure, as provided for in Rule 318, will be strictly adhered to. All forms including the Booking Sheets, BPD Form 2.1 and/or the Protective Custody Form, BPD Form 24 (with special attention being paid to Box #29 – Right to a Breathalyzer Test), will be completed in its entirety and reviewed and signed off on, where applicable, by the Duty Supervisor.

Rule 318D, Strip Search, Visual Body Cavity Search and Body Cavity Search Procedures

This rule is issued to establish guidelines, regulations and procedures outlining when and how strip searches, visual body cavity searches, and body cavity searches may be performed. It is effective immediately, superseding all previously issued rules, regulations, orders and other directives concerning the procedures to be used when searching prisoners. Officers shall conduct these searches with due recognition and deference for the human dignity of those being searched.

Sec. 1 GENERAL CONSIDERATIONS/PURPOSE:

The purpose of this Rule is to clarify Department policy relative to custodial strip searches, visual body cavity searches, and/or body cavity searches authorized by a warrant.

A search conducted incident to arrest may be made only for the purposes of seizing fruits, instrumentalities, contraband, and other evidence of the crime for which the arrest has been made, in order to prevent its destruction or concealment; and removing any weapons that the arrestee might use to resist arrest or effect his escape (M.G.L. C. 276, s. 1).

A search incident to a lawful arrest can progressively extend into a strip search, or visual body cavity search, only if the officer has probable cause to believe that the prisoner has concealed such items on his/her person or

his/her clothing that cannot otherwise be discovered by the usual search incident to arrest. Before an officer may command removal of an arrested person's last layer of clothing, he/she must have probable cause to believe that he/she will find a weapon, contraband, or the fruits or instrumentalities of the crime that he/she could not reasonably expect to discover without forcing the arrested person to discard all of his/her clothing. This Rule will provide guidelines for conducting a strip search and/or visual body cavity search.

This Rule also clarifies the Department's policy governing body cavity searches. When an officer has a high degree of probable cause to believe that an arrestee has secreted contraband and/or weapon(s) in any body cavity, that officer must seek a warrant pursuant to G.L. c. 276 to authorize a qualified medical professional to perform a "body cavity search[.]". This requirement must be strictly adhered to even if an object is observed partially protruding from the body cavity. (Note: The exigent circumstances exception to the warrant requirement will apply if a suspect attempts to swallow contraband in the presence of the officer).

Sec. 2 DEFINITIONS:

- Strip Search: A search that refers to an inspection of a naked individual without any scrutiny of his/her body cavities. It is a search in which a detainee is commanded to remove the last layer of his/her clothing.
- Visual Body Cavity Search: A search that extends to a visual inspection of the anal and genital areas. The mouth is not considered a body cavity.
- Body Cavity Search: A search conducted pursuant to a warrant that authorizes a physician to conduct an internal manual inspection of any human body cavity.

Rule 318E, Fugitive From Justice – Procedures

PURPOSE: This rule is issued to establish Department policy and procedures and ensure compliance with existing statutes and regulations when encountering individuals wanted by an out of state jurisdiction.

SEC. 1 GENERAL CONSIDERATIONS: Members of the department must follow specific procedures when encountering persons wanted by an out of state jurisdiction for criminal violations. Officers must rely on information provided by the out of state jurisdiction to establish probable cause for an arrest. Officers must pay special attention to extradition language before making an arrest for "Fugitive from Justice." Members of the department must carefully document actions taken and follow up with procedures cited in this rule.

SEC. 2 DEFINITIONS: For purposes of this rule, the following definitions shall apply. Officers will note that the terms extradition and rendition can be used interchangeably, depending on the jurisdiction involved. However, when an individual is surrendered from one country to another country, the term extradition is used exclusively.

A. Extradition: The surrender by one state or country to another of an individual accused or convicted of an offense outside its own territory and within the territorial jurisdiction of the other, which, being competent to try and punish him/her, demands the surrender (Black's Law Dictionary, 5th edition).

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B. Rendition: The return of a fugitive to the state in which he/she is accused of having committed a crime, by the order of the governor of the state to which the fugitive has gone (Black's Law Dictionary, 5th edition).

A trial court justice is also authorized to demand the return of a fugitive.

C. Uniform Criminal Extradition Act (UCEA): Most states, including Massachusetts, have adopted this federal act. The UCEA allows the arrest of fugitives in a state accused of a crime in another state for which the penalty is at least one year in jail.

Officers should also note M.G.L. Chapter 276, Sections 11-20, Fugitives from Justice and Chapter 209D, Uniform Interstate Family Support Act, Article 8, Interstate Rendition.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 318 Prisoners			
Sec. 1 Arrest Procedure	15 Days to 30 Days	30 Days to 180 Days	Termination
Sec. 2 Examination for Visible Injuries	15 Days to 30 Days	30 Days to 180 Days	Termination
Sec. 3 Sickness or Injury	15 Days to 30 Days	30 Days to 180 Days	Termination
Sec. 4 Booking Procedures	Oral Reprimand	1 day to 3 Days	3 Days to 5 Days
Sec. 5 Use of Telephone	Oral Reprimand	1 day to 3 Days	3 Days to 5 Days
Sec. 7 Booking Verification	Oral Reprimand	1 day to 3 Days	3 Days to 5 Days
Sec. 8 Personal Property Held as Evidence	Oral Reprimand	1 day to 3 Days	3 Days to 5 Days
Sec. 9 Females	15 days to 30 days	30 days to 180 days	Termination
Sec. 10 Transgender Individuals Pursuant to Rule 113B Transgender Policy	15 days to 30 days	30 days to 180 days	Termination
Sec. 11 Juveniles	15 days to 30 days	30 days to 180 days	Termination
Sec. 12 Disabled Persons	15 days to 30 days	30 days to 180 days	Termination

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 13 Cell Inspection	15 Days to 30 Days	30 Days to 180 Days	Termination
Sec. 14 Prisoner Inspection	15 Days to 30 Days	30 Days to 180 Days	Termination
Sec. 15 Suicides and Attempted Suicides	15 Days to 30 Days	30 Days to 180 Days	Termination
Sec. 16 Food/Services	Oral Reprimand	1 day to 3 Days	3 Days to 5 Days
Sec. 17 Authorized Visitors	5 days	5 days to 10 days	10 days to 30 days
Sec. 18 Transportation	Oral Reprimand	1 day to 3 Days	3 Days to 5 Days
Sec. 18.1 Notification During Transportation	Oral Reprimand	1 day to 3 Days	3 Days to 5 Days
Sec. 19 Escapes	1 Day to 10 Days	10 Day to 45 Days	45 Days to Termination
Rule 318A: Care and treatment of Persons in Protective Custody			
Sec. 1 Incapacitated Person's Rights	Oral Reprimand to 3 days	3 days to 5 days	5 days to 10 days
Sec. 2 Duty Supervisors	15 days to 30 days	30 days to 180 days	Termination
Sec. 3 Protective Custody Form	Oral Reprimand to 3 days	3 days to 5 days	5 days to 10 days
Sec. 4 Notification of Parent or Guardian	Oral Reprimand	1 day to 3 days	3 days to 5 days
Sec. 5 Notification	Oral Reprimand	1 day to 3 days	3 days to 5 days
Rule 318B: Handling Arrested Juveniles Use of Juvenile Pre-Arrangement Facility	Leaving until Rewritten		
Rule 318C; Care and Custody of Female Prisoners			
Sec. 4 Searches	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 5 Evidence	Oral Reprimand	1 day to 3 Days	3 days to 5 days
Sec. 6 Property/Transportation/Bail	Oral Reprimand	1 day to 3 days	3 days to 5 days
Sec. 7 Illness/Injury	15 days to 30 days	30 days to 180 Days	Termination
Sec. 8 Hospitalization	15 days to 30 days	30 days to 180 Days	Termination
Rule 318D: Strip and Body Cavity Searches-Procedures			
Sec. 3 Role of Duty Supervisor	15 days to 30 days	30 days to 180 Days	Termination
Sec. 4 Strip Search and/or Visual Body Cavity Search	15 days to 30 days	30 days to 180 Days	Termination
Sec. 5 Body Cavity Search	15 days to 30 days	30 days to 180 Days	Termination

Rule 320, Courts

This rule is issued to establish the duties and responsibilities of police officers appearing in any of the various courts in the Commonwealth.

GENERAL CONSIDERATIONS: Police officers are expected to have greater knowledge of court proceedings than the general public. As law enforcement officers they are expected to be knowledgeable of the laws, ordinances and court procedures. When they appear in court they are expected to have their cases properly prepared; in addition, they are expected to make their best possible appearance.

Sec. 1 All Boston Police Officers appearing in court shall wear the uniform of the day, with the following exceptions:

- A. The outermost garment may be removed while officers are inside the court house.
- B. Personnel assigned to plainclothes duty may appear in civilian clothes provided they make a neat and business-like appearance. Male personnel shall wear a suit coat and a necktie; female personnel shall be suitably attired.

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On-duty officers are required to submit a Court Attendance Form to the Supervisor of Cases for his signature and shall return it to their area or unit. The Supervisors of Cases at the various courts shall insure that police personnel are attired in accordance with this rule and shall notify area and unit commanders in writing of personnel who appear in court dressed other than as required by this rule.

Rule 320A, Court Overtime Pay

Rule 325, Paid Details

This rule establishes guidelines and procedures for police officers performing paid details and supersedes any previously issued directives.

Sec. 1 GENERAL CONSIDERATIONS:

Police Officers are first and foremost employees of the Boston Police Department. The fact that a private business is providing compensation to the City of Boston for the services of the officer shall have no relevance in the performance of his official duties. Officers have the primary responsibilities of enforcing the laws of the Commonwealth, City Ordinances and protecting the safety of the public.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 320A, Court Overtime Pay			
Sec. 1 Issuance of Court Appearance Authorization Slips	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 2 District/Unit Control Logs	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 3 Control Log Maintenance	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 4 Processing of Court Overtime Slips	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 5 Distribution of Completed Court Overtime Slips	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 6 Procedures for Supervisors	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 7 Supervisor of Cases Weekly Report	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 325 Paid Details			
Sec. 2 Authorized Details	1 day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 5 Assignments	1 day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 6 Traffic Details	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 7 Detail Cards	15 day to 10 Days	30 Days to 180 Days	Termination
Sec. 8 Fitness for Duty	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 9 Acceptance of Detail	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec 10 Supervision	Oral to 3 Days	3 Days to 5 Days	5 Days to 10 Days

Rule 323, Field Interaction/Observation/Encounter Report (FIOE Report)

Section 1: GENERAL CONSIDERATIONS

This rule has been developed to assist officers in ensuring that intelligence and information is gathered only on persons suspected of engaging in criminal activity or persons associating with those suspected of criminal activity. Additionally, while this rule offers guidance on those stops that implicate an individual's Fourth Amendment right, it also clarifies how officers should document interactions with individuals suspected of criminal activity, or associates of those individuals, that amount to mere encounters or observations.

A Field Interaction/Observation/Encounter ("FIOE") Report provides officers with the mechanism to document such interactions and describe the conditions and relative circumstances involved in those interactions. The FIOE Report is a law enforcement sensitive report and must be treated with care and caution to avoid unnecessary dissemination unless in support of a legitimate law enforcement purpose. It is the responsibility of all officers throughout the Department to be familiar with the considerations and elements of this important law enforcement activity and the requirements of this rule.

Police officers are encouraged, as part of the Department's community policing philosophy, to communicate and develop relationships with those individuals as part of their fundamental duties. These communications that take place as part of officers' fundamental duties do not warrant documentation in the form of a FIOE Report; however, if an officer finds him/herself in a situation outlined herein, such documentation is required.

Section 2: PURPOSE

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The FIOE Report is a mechanism to allow the Department to document and accumulate up-to-date information concerning known criminals and their associates, the clothing they may be wearing, the vehicles they use, the places they frequent, and persons suspected of unlawful design. For all field interactions/stops and/or frisks, the FIOE Report must state the basis for the stop, including supporting information used to establish reasonable suspicion. The FIOE Report for observations and/or encounters must state the intelligence purpose for the action. An individual's race, ethnicity, national origin, gender, sexual orientation/identity, socio-economic status, religion, and/or age shall never serve as the basis for a field interaction/stop, frisk, observation or encounter.

The information gathered in an FIOE Report may prove useful in support of investigations or intelligence development. Because it is documentary evidence, it may corroborate oral testimony about an individual, vehicle, associations, or other information of value to a prosecution. The ability to effectively document a field interaction will often become a vital piece of information when viewed in the context of other known information or evidence.

Section 3: DEFINITIONS

For the purposes of this rule the following definitions will apply to the described terms;

Sec. 3.1 Encounter is defined as a consensual interaction with an individual that does not escalate into a formal stop and/or frisk. If you encounter an individual with the purpose of gathering intelligence, you must document the interaction.

Sec. 3.2 Field Interaction/Stop is defined as the brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

Sec. 3.3 Frisk is defined as the pat down of the outer clothing, and the area within the immediate control of the person for weapons. An officer may only conduct a frisk when s/he has objective articulable facts which lead him/her to believe that the person with whom s/he is dealing may be armed, and thus poses a threat to the officer or others.

Sec. 3.4 Intelligence consists of stored information on activities, associations of individuals, organizations, businesses, and/or groups who are either (1) suspected of actual or attempted planning, organizing, financing, or commission of criminal acts or are (2) suspected of being associated with criminal activity with known or suspected criminals.

Sec. 3.5 Observation is defined as a direct viewing of an individual by an officer that does not include actual contact with the individual. Reasonable suspicion is not required to conduct an observation of an individual; however, the purpose of documenting the observation must be to gather intelligence in order to justify documenting the observation.

Sec. 3.6 Probable Cause exists when an officer reasonably believes a person has committed a crime. The belief is reasonable when it rests on an objective, substantial basis as contrasted with a mere subjective suspicion. Probable cause may be based on direct observations or a combination of factors, including, but not limited to,

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the individual's prior criminal record, flight from the police, and the giving of evasive or conflicting responses to police questioning.

Sec. 3.7 Reasonable Suspicion exists when an officer, based on specific and articulable facts, and the rational inference from those facts, believes that an individual has committed, is committing, or is about to commit a criminal offense.

Sec. 3.8 Search is conducted for the specific purpose of seizing evidence. An officer must have probable cause in order to conduct a search of an individual or his/her property.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 323; Field Interaction/Observation/Encounter Report (FIOE Report)	See Rule 113A Bias-Free Policing		
Section 4: Situations warranting the completion of an FIOE Report	15 Days to 30 Days with Training	30 Days to 180 Days	Termination
Sec. 4.1 Field Interaction/Stop	15 Days to 30 Days With Training	30 Days to 180 Days	Termination
Sec. 4.2 Frisk	15 Days to 30 Days with Training	30 Days to 180 Days	Termination
Sec. 4.3 Observation	15 Days to 30 Days with Training	30 Days to 180 Days	Termination
Sec. 4.4 Encounter	15 Days to 30 Days with Training	30 Days to 180 Days	Termination
Section 7: Submission of FIOE Reports	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Section 9: Dissemination	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days

Rule 327, Protection of Abused Persons

Protection of Abused Persons

Section 1: General Considerations

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The Boston Police Department is committed to providing a professional, victim-centered approach to domestic violence and to proactively investigate these crimes and prosecute perpetrators in a manner that helps restore the victim's dignity and sense of control, while decreasing the victim's anxiety and increasing the understanding of the criminal justice system and process.

The Boston Police Department is committed to collaboration. The Department maintains ongoing partnerships with local community stakeholders and victim advocacy organizations to develop a holistic approach to responding to victims and ensuring they are notified of all available services

The Department's Family Justice Division (FJD), established in 2006 in conjunction with the Family Justice Center, includes the Sexual Assault Unit (SAU), the Crimes Against Children Unit (CACU), the Domestic Violence Unit (DVU), and the Human Trafficking Unit (HTU) – all of which have important roles in investigating sensitive and classified investigations. In many instances these units collaborate on investigations where victims have been subjected to multiple crimes.

Section 2. Purpose

This Rule establishes Department policy and procedure in responding to incidents of abuse; domestic violence; to ensure compliance with the provision of M.G.L. Chapter 209A, and Chapter 403 of the Acts of 1990 (An Act Relative to the Protection of Abused Persons); to enhance officer safety by making officers aware of the potential danger of violence to themselves and the victim that is inherent in domestic violence incidents; and to provide privacy protections and connections to services to victims.

Section 3. Policy:

It is the policy of this Department that such incidents will be recognized and responded to as a criminal activity. They will receive a priority one response (two officers) and, consistent with state law, the arrest of the suspect is presumed to be the preferred response to domestic violence incidents. In the institution of this procedure, it is understood that it will not cover every conceivable situation that may arise. When provisions of this rule are found to be incomplete or inapplicable to a particular set of circumstances, officers are expected to act intelligently and exercise sound judgment.

Section 4. Professionalism:

Officers should act in a professional manner at all times when responding to a domestic dispute. Officers should not let their own opinions and emotions govern their words or actions. Officers shall not threaten, suggest, or otherwise indicate the arrest for all parties for the purpose of discouraging requests for law enforcement intervention. It should be noted that the statute provides that no officer shall be held liable in any civil action regarding personal injury or property damage brought by any party to a domestic violence incident for an arrest based on probable cause when the officer acted reasonably and in good faith and in compliance with the statute.

Section 5. Safety:

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When responding to calls for domestic violence officers should take whatever steps are necessary to ensure the safety of all present, including themselves. While officers must be concerned with the needs of the victim, they must anticipate the unexpected, and never lose sight of the abuser. Domestic violence incidents are often characterized by anger, frustration, and intense emotions. These feelings can easily be directed against the responding officers, causing serious injury or death. For this reason, at least two officers shall be dispatched to domestic violence calls, and officers should not hesitate to call for a back-up unit, if they deem it necessary.

Section 6. Definitions:

For the purposes of this Rule the following definitions will apply:

Abuse: The occurrence of one or more of the following acts between family and/or household members:

- (a) Attempting to cause or causing physical harm;
- (b) Placing another in fear of imminent physical harm;
- (c) Causing another to engage involuntarily in sexual relations by force, threat or duress.

Family or Household Members: Persons who either:

- (a) Are or were married to one another;
- (b) Are or were residing together in the same household;
- (c) Are or were related by blood or marriage;
- (d) Have a child in common regardless of whether they have ever married or lived together;
- (e) Are or have been in substantive dating or engagement

relationship, considering the length and type of relationship, the frequency of interaction, and the length of time since the termination of the relationship.

Domestic Violence Intimate Partner (DVIP): Domestic abuse involving persons that are or were in an intimate partner relationship. (Intimate partnerships should be defined as present or former marital, or significant dating relationships between persons; either living together or not; additionally, persons who have children together either in a custodial or non-custodial arrangement.)

Non-Intimate Partner Domestic Violence (NIDV): Domestic abuse involving all other persons not involved in an intimate partner relationship covered under MGL 209A. (For example, incidents between family and household members such as brothers, sisters, aunts, uncles, grandparents, etc., sharing living quarters.)

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The Family Justice Division: The Family Justice Division (FJD) of the Bureau of Investigative Services (BIS) includes the following units: The Domestic Violence Unit, The Sexual Assault Unit, The Crimes Against Children Unit, The Human Trafficking Unit.

The Family Justice Center of Boston: The (FJC) located at 989 Commonwealth Avenue, Boston. The FJC hours of operation are Monday-Friday 8AM-5PM. Located at the FJC are the BPD Domestic Violence Unit (7 days, 7:30 AM-11:45 PM @ 343-4350), The Crimes Against Children Unit, the Human Trafficking Unit, the Sexual Assault Unit, and the Suffolk County District Attorney's Family Protection and Sexual Assault Bureau, as well as several other community-based non-profit, state, and city agencies that provide services to victims of domestic abuse, human trafficking, sexual assault, and child sexual assault. The FJC does not allow offenders on the premises. Under no circumstances is a suspect/offender to be referred to the FJC for services.

Domestic Violence Unit: Located at the Family Justice Center, the citywide Domestic Violence Unit is comprised of detectives specially trained in the investigation and prosecution of intimate partner and family violence. Detectives assigned to the DVU work in concert with other family violence specialists at the FJC to ensure a continuum of services for victims and their children. DVU detectives are assigned follow-up investigations of all BPD reported incidents of domestic violence via the Mark43 case assignment system utilized by the DVU Sergeant Detectives. DVU detectives are on-duty from 7:30 am until 11:45 pm daily. (For response protocols, see Section 8, Duties of the DVU.)

Operations shall keep a list of on-duty DVU Superior Detectives for each shift, and the on-call Superior Detective for the last half shift, (11:45pm-7:30AM).

Crimes Against Children Unit: The Crimes Against Children Unit, located at the Family Justice Center, is assigned the follow-up investigations of all reported incidents of child pornography, Internet crimes against children, and Department of Children and Families (DCF) referred cases of Child Sexual Assault.

All incidents of child sexual assault still require the response of the Sexual Assault Unit, who will retain investigation of these cases.)

For serious cases of non-sexual child physical maltreatment, assault, or neglect, officers responding to and district detectives investigating these incidents should consult with the Superior Detective in Charge of the CACU to advise in the investigation and evidentiary needs of these cases. When possible, a CACU detective specializing in cases of serious child physical abuse will be notified and will be assisted by district detectives in the investigation of these cases. All reports of child abuse must be faxed to the CACU at the Family Justice Center at 617-343-6160.

Human Trafficking Unit (HTU): HTU detectives work with the MA State Police and FBI to investigate alleged crimes in which a person or group of persons uses force, fraud, or coercion to obtain or maintain a person in service, labor or commercial sexual exploitation.

Sexual Assault Unit (SAU): Detectives assigned to SAU investigate reported incidents of rape, attempted rape, or indecent assault. SAU works closely with another on-site partner at the FJC – the Boston Area Rape Crisis Center – to provide a victim-centered response to sexual-based violence.

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Sex trafficking: The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.

Labor Trafficking: The recruitment, harboring, transportation, provision, or obtaining of a person for labor services through the use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

Domestic Violence Advocate: A civilian member of the department assigned to the district stations who specializes in safety planning, court procedures, and referral to services for victims of domestic violence.

Court: The Superior, Probate and Family, District or Boston Municipal Court Departments.

Court Order: An oral or written command by a justice of any court described above which grants the relief listed in M.G.L. c. 209A, section 6, paragraph (7). In addition, an oral or written command from any other jurisdiction.

Rule 327B, Protection of Abused Elders, Persons With Disabilities, and Patients

This Rule is issued to establish Department policy and procedures and ensure compliance with existing statutes and regulations when responding to incidents of elderly abuse, abuse of persons with disabilities, and abuse of patients.

Sec. 1 Definitions: For the purposes of this Rule the following definitions as specified in M.G.L Chapters 19A s. 14, 19C s. 1, 111, s. 1 and 123, s. 1 and Code of Massachusetts Regulations (651 CMR 5.02), will apply:

Elderly Person: Any person aged 60 years or older.

Elderly Abuse: An act or omission which results in serious physical or emotional injury to an elderly person, financial exploitation of an elderly person, or the failure of an elder to meet one or more of his/her essential needs. The statute provides an exception for treatment provided or refused in accordance with religious beliefs. "Abuse" includes physical, emotional and sexual abuse, caretaker neglect, self-neglect, and financial exploitation.

Physical Abuse: The infliction of, or threat of, serious physical injury to an elder.

Sexual Abuse: Sexual assault, rape, sexual misuse, sexual exploitation, or threats of sexual abuse.

Emotional Abuse: The non-accidental infliction of serious emotional injury. There must be an established relationship between emotional abuse and its effect on the elder.

Neglect: The failure or refusal by a caretaker to provide one or more of the necessities essential for physical well-being which has resulted in or may immediately result in serious physical harm.

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Self-Neglect: The failure or refusal of an elder, disabled person, or patient to provide for himself or herself one or more of the necessities essential for physical and emotional well-being, including food, clothing, shelter, or personal care, which has resulted in, or where there is a substantial reason to believe that such failure or refusal will immediately result in serious harm and prevents the elder, disabled person, or elder from remaining safely in the community.

Financial Exploitation: An act or omission by another person which causes a substantial monetary or property loss of an abused person or causes a substantial monetary or property gain to the other person which would otherwise benefit the abused person. Exploitation may result even if the abused person consented to the act, or omission if the consent was obtained through misrepresentation, undue influence, coercion or the threat of force.

Disabled Person: A person between the ages of 18 to 59, inclusive, who is mentally retarded, or who is otherwise mentally or physically disabled and as a result of such mental or physical disability is wholly or partially dependent on others to meet his daily living needs.

Abuse of a Disabled Person: An act or omission that results in serious physical or emotional injury. The statute provides an exception for treatment provided or refused in accordance with religious beliefs.

Reportable Condition: A serious physical or emotional injury resulting from abuse, including sexual activity without consent, and/or financial exploitation.

Caretaker: A disabled person's parent, guardian or other person or agency responsible for a disabled person's health or welfare, whether in the same home as the disabled person, a relative's home, a foster home or any other day or residential setting.

Patient Abuse: The willful infliction of injury, unreasonable confinement, intimidation, including verbal or mental abuse, or punishment with resulting physical harm, pain or mental anguish or assault and battery; provided, however, that verbal or mental abuse shall require a knowing and willful act directed at a specific person.

Facility: An entity licensed under M.G.L. c. 111, § 71.

Home Health Aide: An employee of a home health agency or a hospice program who provides health services to individuals in a home setting.

Home Health Agency: An entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established or maintained for the purpose of providing health and homemaker services to individuals in a home setting.

Homemaker: An employee hired by a home health agency or a hospice program to perform homemaking tasks in an individual's home, including the essential nutritional and environmental needs of the individual, such as, meal preparation, cleaning and laundry.

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Hospice Program: An entity licensed under M.G.L. c. 111, § 57D or a hospice service of a hospital licensed under M.G.L. c. 111, § 51.

Misappropriation of patient or resident property: The deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a patient's or resident's belongings or money without such patient's or resident's consent.

Mistreatment: The use of medications or treatments, isolation, or physical or chemical restraints that harm or are likely to harm the patient or resident.

Neglect of Patient: Failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness.

Nurse Aide: An individual who is not a licensed health professional but is employed by a facility that provides nursing or nursing-related services to residents.

Patient: An individual who receives health, homemaker or hospice services at home from an individual employed by a home health agency or a hospice program.

Religious Accommodation: No person shall be considered to be abused or neglected for the reason that such person, in accordance with his express or implied consent, is being furnished or relies upon treatment by spiritual means through prayer alone in accordance with a religious method of healing in lieu of medical treatment.

Resident: An individual who resides in a long-term care facility licensed under M.G.L. c. 111, § 71.

Sec. 2 General Considerations: Various statutes afford elders, persons with disabilities, and patients with specific protective measures. Officers must familiarize themselves with these statutes to protect these persons from physical, sexual, and emotional abuse, financial exploitation, neglect, and mistreatment and identify offenders who violate these statutes. When provisions of this rule are found to be incomplete or inapplicable to a particular set of circumstances, officers are expected to act intelligently and exercise sound judgment, attending to the spirit above the letter of the law.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 327: Protection of Abused Persons			
Sec 4 Professionalism	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 7 Duties of Responding Officers	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 8 Duties of Domestic Violence Unit	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination

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Response Protocols-Serious Incidents	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 9 Service, Documentation, and Maintenance of Abuse Prevention Orders	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
7A. District Responsibilities:	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
B. Police Officer's Responsibilities	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 10 Criminal Complaints	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 11 Reports	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 12 Stalking	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 14 Child Abuse and Neglect	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
14 B. Duties of Responding Officers	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
14 C. Assigned Detective's Responsibilities (District or CACU)	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
14 D. Patrol Supervisor/Unit Supervisor Responsibilities	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
14 E. Duty Supervisor Responsibilities:	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 15 Protecting Victims Rights and Providing Services and Supports	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 327B, Protection of Abused Elders, persons with Disabilities and patients			
Sec. 3 Elder Abuse	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 4 Abuse of Persons With Disabilities	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 5 Abuse of Patients	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 6 Police Incident Reports	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 7 Duties of Responding Officers	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 8 Patrol Supervisor's Responsibilities	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 9 Duty Supervisor's Responsibilities	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 10 Detective's Responsibilities	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 11 Duties of Community Service Officers	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination

Rule 327A, Domestic Violence Situations Involving Department Employees

Domestic Violence Situations Involving Department Employees

Section 1: General Considerations:

The Boston Police Department is committed to providing a professional, victim-centered approach to domestic violence and to proactively investigate these crimes and prosecute perpetrators in a manner that helps restore the victim's dignity and sense of control, while decreasing the victim's anxiety and increasing the understanding of the criminal justice system and process.

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The Boston Police Department is committed to collaboration. The Department maintains ongoing partnerships with local community stakeholders and victim advocacy organizations to develop a holistic approach to responding to victims and ensuring they are notified of all available services

The Department's Family Justice Division (FJD), established in 2006 in conjunction with the Family Justice Center, includes the Sexual Assault Unit (SAU), the Crimes Against Children Unit (CACU), the Domestic Violence Unit (DVU), and the Human Trafficking Unit (HTU) – all of which have important roles in investigating sensitive and classified investigations. In many instances these units collaborate on investigations where victims have been subjected to multiple crimes.

Section 2. Purpose:

The Boston Police Department recognizes domestic violence as a universal problem that affects people from all walks of life. Domestic Violence is criminal activity and it is Department policy that arrest is the preferred response. No person is exempt, whatever his or her occupation, from the consequences of their actions that result in a violation of M.G.L. c. 208, 209, and/or 209A. This rule guides officers responding to incidents of domestic violence involving both sworn and civilian personnel. The purpose of this rule is to:

- Ensure the safety of the victims;
- Provide procedures for the uniformity of the investigation of said incidents;
- Provide notification and reporting procedures;
- Provide for the securing and safeguarding of Department weapons, equipment, and personally owned weapons taken into custody;
- Ensure compliance with all provisions of a court order; and
- Ensure Departmental compliance with Federal law. Federal law prohibits police officers that have been convicted of misdemeanor domestic violence crimes from possessing a firearm.

Section 3. Policy:

It is the policy of this Department that such incidents will be recognized and responded to as a criminal activity. They will receive a priority one response (two officers) and, consistent with state law, the arrest of the suspect is presumed to be the preferred response to domestic violence incidents. In the institution of this procedure, it is understood that it will not cover every conceivable situation that may arise. When provisions of this rule are found to be incomplete or inapplicable to a particular set of circumstances, officers are expected to act intelligently and exercise sound judgment.

Section 4. Professionalism:

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Officers should act in a professional manner at all times when responding to a domestic dispute. Officers should not let their own opinions and emotions govern their words or actions. Officers shall not threaten, suggest, or otherwise indicate the arrest for all parties for the purpose of discouraging requests for law enforcement intervention. It should be noted that the statute provides that no officer shall be held liable in any civil action regarding personal injury or property damage brought by any party to a domestic violence incident for an arrest based on probable cause when the officer acted reasonably and in good faith and in compliance with the statute.

Section 5. Safety:

When responding to calls for domestic violence, officers should take whatever steps are necessary to ensure the safety of all present, including themselves. While officers must be concerned with the needs of the victim, they must anticipate the unexpected, and never lose sight of the abuser. Domestic violence incidents are often characterized by anger, frustration, and intense emotions. These feelings can easily be directed against the responding officers, causing serious injury or death. For this reason, at least two officers shall be dispatched to domestic violence calls, and officers should not hesitate to call for a back-up unit, if they deem it necessary.

Section 6. Definitions:

The definitions in Rule 327 Protection of Abused Persons Section 6 apply to Rule 327A Domestic Violence Situations Involving Department Employees.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 327A, Domestic violence Situations involving Department Employees			
Sec. 7 Responsibilities of Operations Personnel	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 8 Responsibilities of the Responding Officers	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec.9 Responsibilities of the Patrol Supervisor	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec.10 Responsibilities of the Domestic Violence Unit Supervisor	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 11 Responsibilities of the Duty Supervisor	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 12 Responsibilities of the Involved Employee	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 13 Responsibilities of an Employee's Commanding Officer	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec.14 Responsibilities of the Licensing Unit Commander	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 15 Post-Incident Administrative Decisions	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 16 Criminal Investigations and Decisions	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Section 17. Protecting Victims Rights and Providing Services and Supports	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination
Sec. 18 Surrendering Department Issued Firearms Pursuant to Abuse Prevention Orders Issued Against an Officer	1 Day to 10 Days	10 days to 45 Days	45 Days to Termination

Rule 334, Search Warrant Application and Execution

PURPOSE:

To ensure that the application for and execution of search warrants meet constitutional requirements and properly safeguard the rights and safety of all parties.

Sec. 1 GENERAL CONSIDERATIONS:

The Fourth Amendment of the Constitution of the United States and Article XIV of the Declaration of Rights of the Commonwealth of Massachusetts protect persons from unreasonable search and seizure. Except in a certain, well-defined circumstance, a warrant is required to conduct any search and/or seizure. In addition,

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individuals who are subject to a legal search and seizure have a right to expect that their other rights, their health and their safety will be properly safeguarded.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 334, Search Warrant Application and Execution			
Sec. 2 Search Warrant Application Procedures	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec 2H High-Risk Warrant Approval Procedure	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 3 Search Warrant Execution Procedures	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 3.7 Wrong Premises Entry	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 4 Evidentiary Search Warrants	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 5 Outside Agencies	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination
Sec. 6 Searches Conducted Outside the City of Boston	1 Day to 10 Days	10 Days to 45 Days	45 Days to Termination

Rule 335, Gang Assessment Database

General Considerations:

In 1993, the Boston Police Department created a coordinated, multi-agency enforcement unit to address the youth violence problem affecting the City of Boston. The Youth Violence Strike Force, as it was named, has since evolved to incorporate prevention, intervention, and enforcement strategies. Furthermore, in 2005 the Boston Police Department created the Boston Regional Intelligence Center (BRIC), which formalized the Department's responsibilities for information sharing, analysis, threat assessment and risk management. Amongst several strategic responsibilities, the BRIC works closely with the Youth Violence Strike Force to analyze data and information pertaining to criminal activities that often result in cycles of retaliatory violence perpetrated against rival gangs and individuals, and their perceived neighborhoods and/or territories, presenting a substantial risk to communities within the City and Region. The following Rule delineates the responsibilities of the Youth Violence Strike Force as well as the process for gang associate verification, analysis and entry into the Gang Assessment Database by designated personnel from the Boston Regional Intelligence Center.

Section 1. Youth Violence Strike Force:

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Established in 1993 in response to the increased use of violence amongst youth in the City of Boston.

The mission of the Boston Police Department's Youth Violence Strike Force (YVSF) is to proactively reduce gun violence, particularly concentrating on individuals affiliated with gangs or violent criminal behavior. YVSF utilizes traditional policing strategies, incorporating prevention, intervention and enforcement efforts, as well as intelligence-led policing strategies to inform decision-making at every level. Patrol officers and detectives collect information and focus on sources of firearm and gang violence through the identification of individuals, groups, and locations. YVSF works collaboratively with community partners and other stakeholders to garner information on illegal firearms and related violence. Officers aim to prevent ongoing conflicts among street gangs through direct interaction with individuals and groups. Officers not only respond to but anticipate retaliatory violence between groups, and make every effort to deter further violence. Through community-based partnerships, suitable individuals with whom the YVSF makes contact are referred to social services and offered a variety of opportunities.

Section 2. Boston Regional Intelligence Center

Boston Police Department's Bureau of Intelligence and Analysis (BIA) provides management and oversight of the Boston Regional Intelligence Center (BRIC). The mission of the BRIC is to serve as the central point for the collection, synthesis, analysis, and dissemination of strategic and tactical intelligence to law enforcement, intelligence, first responder, and private sector partners; and to assist the federal government as a partner for national security.

Furthermore, in 2005, the Boston Police Department created the Boston Regional Intelligence Center (BRIC), which formalized the Department's strategic responsibilities for information sharing, analysis, and risk management. Amongst a number of strategic responsibilities, the BRIC works closely with the Youth Violence Strike Force to gather and analyze data and information pertaining to criminal activity that often result in cycles of retaliatory violence perpetrated against rival gangs and groups, and presents a substantial risk to the City and Region.

Section 3. Purpose of the Gang Assessment Database

The purpose for the existence of the Gang Assessment Database is to:

1. Provide law enforcement a consistent citywide framework for identifying individuals and groups that associate as a "gang" and thus are likely to engage in or perpetrate criminal activity for the furtherance of the criminal organization, which may include targeted and/or retaliatory violence; and
2. Assist in the investigation of gang related criminal activity in the City of Boston.

The database is only used for valid law enforcement purposes, including enhanced officer awareness, suspect identification, witness and victim identification, resource deployment, investigative support, and to aid in the prosecution of gang related crimes. Through community-based partnerships, suitable individuals in the database with whom the YVSF makes contact are referred to social services and offered a variety of opportunities.

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Section 4. Definitions:

Sec. 4.1 Gang: A gang is an ongoing organization, association, or group of three (3) or more persons, whether formal or informal, which meets both of the following criteria:

1. Has a common name or common identifying signs or colors or symbols or frequent a specific area or location and may claim it as their territory and
2. Has associates who, individually or collectively, engage in or have engaged in criminal activity which may include incidents of targeted violence perpetrated against rival gang associates.

Sec. 4.2 Gang Associate: Any person, whether juvenile or adult, that has been verified using the Point-Based Verification System defined by this Rule and has obtained at least ten (10) points.

Sec. 4.3 Gang Assessment Database: Electronic database maintained by the BRIC that includes Gang Associates and Gangs in accordance with this rule.

Sec. 4.4 Active Status: An individual who has met the point criteria to be considered a Gang Associate and is reasonably suspected of participating in gang related criminal activity within the past five years. When an individual no longer meets the criteria for active status, they will be purged from the system.

Sec. 4.5 Deceased Status: An individual who is no longer living, but met the criteria to be a Gang Associate. Individuals with this status will be reviewed in accordance with this rule and the record may be retained if the circumstances of the death may result in the potential for retaliatory violence or criminal activity.

Sec. 4.6. Long Term Incarceration Status: An individual who has been verified as a Gang Associate in accordance with this Rule, who is currently incarcerated, serving a sentence of 2 or more years.

Sec. 4.8 Primary Affiliation: The group with which an individual is associated. In cases where an individual associates with more than 1 group, the primary affiliation should be considered the group in which Law Enforcement can most clearly articulate the individual having the strongest ties. This affiliation will have at least 10 points under the verification criteria. All individuals in the database shall have a primary affiliation.

Sec. 4.9 Secondary Affiliation: A secondary group that an individual could be verified as being associated with by at least 6 points. This is in addition to their Primary Affiliation.

Sec. 4.10 Profile Page / Face Sheet: A summary detailing a Gang Associate's key identifiers and any items used to verify an individual as a Gang Associate.

Sec. 4.11 Authorized User: All sworn Boston Police Officers and other individuals designated by the Commander of the BIA or his/her designee, in collaboration with the Commander of the Youth Violence Strike Force or his/her designee, shall be granted access to the Gang Assessment Database in accordance with this rule.

Sec 4.12 Juvenile- An individual who has not attained the age of 18.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 335, Gang Assessment Database			
Section 6. Access	Oral Reprimand to 3 days	3 Days to 5 Days	5 Days to 10 Days
Section 8. Dissemination of Gang Assessment Database Information	Oral Reprimand to 3 days	3 Days to 5 Days	5 Days to 10 Days
Section 9. Review of Gang Assessment Database Entries	Oral Reprimand to 3 days	3 Days to 5 Days	5 Days to 10 Days

Rule 405, Body Worn Camera Policy

Sec. 1 GENERAL CONSIDERATIONS:

The purpose of this policy is to establish guidelines for the proper use, management, storage, and retrieval of video and audio data recorded by Body Worn Cameras (BWCs). BWCs are effective law enforcement tools that reinforce the public's perception of police professionalism and preserve factual representations of officer-civilian interactions. BWCs may be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of incidental evidence or contraband. The equipment will enhance the Department's ability to document and review statements and events during the course of an incident, preserve video and audio information and evidence for investigative and prosecutorial purposes. BWC recordings, however, provide limited perspective of encounters and incidents and must be considered with all other available evidence, such as witnesses' statements, officer interviews, forensic analysis and documentary evidence. Additionally, studies have shown that BWCs are a contributing factor in reducing complaints against police officers, increasing police accountability, and enhancing public trust.

It is the policy of the Department to respect the legitimate privacy interests of all persons in Boston, while ensuring professionalism in its workforce. Officers shall only use BWCs within the context of existing and applicable federal, state, and local laws, regulations, and Department rules and policies. The Department prohibits recording civilians based solely upon the civilian's political or religious beliefs or upon the exercise of the civilian's constitutional rights, including but not limited to freedom of speech, religious expression, and lawful petition and assembly. BWC footage shall not be reviewed to identify the presence of individual participants at such events who are not engaged in unlawful conduct. BWCs will not include technological enhancements including, but not limited to, facial recognition or night-vision capabilities.

When performing any patrol function as determined by the Police Commissioner or his/her designee, officers assigned BWCs must wear and activate BWCs according to Department policy.

Sec. 2 PROCEDURES:

Sec. 2.1 Training: Prior to being issued a BWC, officers shall successfully complete BPD Academy training related to this policy as well as the activation, use, categorization, and uploading of data. All department personnel who may supervise officers wearing BWCs or will require access to review videos shall also attend Department approved training.

Rule 406, Mobile Device Policy

1. Purpose and Scope: The purpose of this policy is to define standards, procedures and restrictions for the use of Department-issued smartphones and mobile devices. This policy applies to all employees, including contractors, who are issued a mobile device for Boston Police Department (BPD) business. Employees are not required to utilize their mobile devices while off-duty, unless functioning in an on-call capacity.

Prior to receiving a Department-issued mobile device, employees must review the regulations set forth herein and complete any training required by the Department.

2. Roles and Responsibilities: The Department will determine who shall receive a Department issued mobile device for use in the performance of his/her duties based on department need and availability of devices.

All employees are expected to exercise the same discretion using the mobile device as they are expected for the use of desk phones and computers.

Employees issued a mobile device do not have an expectation of privacy in anything viewed, created, stored, sent, or received on a Department-issued mobile device. All information on these devices may be subject to public records law and its regulations. Employees are reminded that all mobile devices and content on the device remain the property of the Department.

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 405, Body Worn Camera Policy			
Sec. 2.2 Camera Activation and Incidents of Use	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 2.4 Recording in Areas Where There May be a Reasonable Expectation of Privacy	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 2.5 Notice of Recording	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 2.6 Consent to Record	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 2.7 Recording of Victims / Witnesses	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 2.8 BWC Deactivation	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 2.9 Special Operations Division Activation Factors	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 3 CAMERA DEPLOYMENT	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 3.1 Officer Responsibility	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 3.2 Labeling and Categorization of BWC Recordings	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Section 3.2.1 Categorization	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Section 3.2.3 Title Description	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 3.2.4 ID Descript	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 3.3 Request to Redact	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 4.1 Improper Recording	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 4.2 Improper Use of BWC Footage	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 5.1 Duty Supervisors	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 5.2 District or Unit Commanding Officers or Designees	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec.6.1 Officer Access to Their Own Footage (Not Related to Officer Involved Death, Officer Involved Shooting, or Other Use of Deadly Force): Officers may review their own BWC recording when they are	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 6.2 Officer Access to Footage Following an Officer Involved Death, Officer Involved Shooting, or Other Use of Deadly Force (Rule 205 and/or Rule 303 Investigations)	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec 6.3 Collecting and Securing BWC Footage Following an Officer Involved Death, Officer Involved Shooting, or Other Use of Deadly Force (Rule 205 and/or Rule 303 Investigations)	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 6.4 Officer Access to Footage	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 6.5 Supervisor Access to Footage	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 6.6 Audit and Review Access to Footage	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 7 Superior Detective and Detective Responsibilities	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 8.1 Prosecutorial / Law Enforcement Access	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 8.2 Public Information Requests	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days

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Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Sec. 8.3 Other External Information Requests	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 8.4 Officer Notification	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 8.5 Detective Notification	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 9.1 Camera Storage	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 9.2 Video Footage Retention	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Rule 406, Mobile Device Policy			
Sec. 2.1 Lost or Stolen Property	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Sec. 2.2 Returning of Equipment	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
3. Smartphone/Mobile Device Conduct	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
4. Personal Use of Department-Issued Mobile Devices	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
5. Mobile Device Applications	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
Section 5.1 Department-Sanctioned Social Media Uses	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
6. Text Messages/Emails	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days
7. Camera/Video Capabilities	Oral Reprimand and Training	1 Day to 3 Days	3 Days to 5 Days

Minor Rule 102 Violations

Misconduct	Mitigating penalty	Presumptive penalty	Aggravated penalty
Rule 102, The Conduct and General Responsibilities of Department Personnel			
Sec. 5 Maintaining Department Rules and Procedures	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 6 Accountability	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 7 Residence and Telephone	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 10 Reporting for Duty	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 11 Grooming	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 26 Rewards	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 28 Recommendations of Service	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 29 Endorsement of Commercial Products	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 30 Political Activity	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 31 Employees not on leave of Absence	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 32 Employee Seeking Political Office	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days
Sec. 34 Mutual Protection	Oral Reprimand	1 Day to 3 Days	3 Days to 5 Days

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