

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11618 NG

<p>COMMUNITY ARTS ADVOCATES INC., ET AL., <u>Plaintiffs,</u></p> <p>v.</p> <p>CITY OF BOSTON, <u>Defendant.</u></p>
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AFFIDAVIT OF CAPTAIN BERNARD P. O'ROURKE

I, Bernard P. O'Rourke, on oath do depose and state as follows:

1. I have been employed as a City of Boston Police Officer for 27 years and a Captain for the past seven years.
2. I have been Commander of Boston Police District A-1 for the past five years. District A-1 covers Boston, Beacon Hill, Charlestown, Chinatown, and the North End. The district includes the Boston Common and the Public Garden.
3. On January 3, 2005, I received a Police Commissioner's Special Order rescinding Special Order 04-059 and Rule 403.
4. On January 12, 2005, I sent the order further down the chain of command by issuing a memorandum notifying all District A-1 officers of the Commissioner's order that Rule 403 has been rescinded and street musicians are no longer required to have permits.
5. The memorandum was read by the duty supervisors at all roll calls for approximately 6 days after it issued and was posted in four to five places throughout the District A-1 building.
6. The memorandum is still posted in the District A-1 building.

7. City of Boston Police Officers are required to follow all orders and memoranda issued by the Police Commissioner and by superior officers.
8. The Boston Police Departments role with regard to vender permits in the Downtown Crossing commercial area is to perform background checks on applicants. The Police Department does not issue such vending permits.
9. Contrary to the allegation made by the Plaintiffs in their amended complaint, I never ordered any of the Police Officers under my command to "shut down all musicians that did not have permits" in that area.

27<sup>th</sup> Signed under the pains and penalties of perjury this day of October, 2005.



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Captain Bernard P. O'Rourke  
Commander District A-1  
Boston Police Department  
40 New Sudbury Street  
Boston, MA