



## Massachusetts Environmental Police

### General Order

Effective Date: March 1, 2018	Number:  <b>UOF-01</b>
Subject:  <b>Use of Force</b>	

**1.0 Purpose:** At times during the course of performing their duties, law enforcement officers are frequently presented with situations in which they must use a certain amount of reasonable force to protect themselves or others, maintain order and peace, ensure compliance with lawful orders and overcome resistance. Each Environmental Police Officer will receive training in the Use of Force and Defensive Tactics and maintain Massachusetts Municipal Police Training Committee (MPTC) standards. This policy is issued to establish guidelines for the use of force by Environmental Police Officers in the performance of their duties. Because there are an unlimited number of possibilities, allowing for a wide variety of circumstances, no rule can offer definitive answers to every situation in which the use of force might be appropriate. Rather, this rule will set certain specific guidelines and provide officers with a concrete basis on which to utilize sound judgment in making reasonable and prudent decisions, attending to the spirit over the letter of the rule.

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### 2.0 Definitions (applicable to UOF Policies):

**2.1 Objectively Reasonable:** This term means that, in determining the necessity for an appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime or suspected criminal conduct under investigation, the level of threat or resistance presented by the subject, and the danger to the officer, subject, or community. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight. Determining reasonableness of force must allow for the fact that police officers are forced to make split second judgments in circumstances that are tense, uncertain and rapidly evolving. The force used must be reasonable under the circumstances known to the officer at the time force is used. Members need not wait for injury to occur to them or another before taking appropriate action to prevent it.

**2.2 *Less Lethal Force:*** Use of force that is not intended to cause serious bodily harm/serious physical injuries or death.

**2.1.1** Members are authorized to use less lethal force in accordance with the law and the contents of this policy.

**2.3 *Lethal Force:*** Use of force intended to inflict serious bodily harm/serious physical injuries or death.

**2.3.1** Members are authorized to use lethal force in accordance with the law and the contents of this policy.

**2.4 *Sensitive Population Groups:*** Sensitive population groups include those who reasonably appear to be, or are known to be, children, elderly, medically infirm, or pregnant.

**2.5 *Compliant Individual:*** An individual who is fully cooperative with a Department member.

**2.6 *Passively Resistant Individual:*** An individual who is uncooperative but does not use physical strength or body movement to resist a Department member.

**2.7 *Actively Resistant Individual:*** An individual who uses physical strength and/or body movement to resist a Department member. Examples of active resistance include pulling, turning, or walking away from an officer.

**2.8 *Assaultive Individual (Bodily Harm):*** An individual who attempts to injure a Department member or another person or engages in conduct that has the potential to injure a Department member or another person.

**2.9 *Aggravated Assaultive Individual (Serious Bodily Harm/Death):*** An individual who engages in conduct that is likely to produce death or serious bodily harm to a member of the Department or another person.

**2.10 *Cooperative Controls:*** Commands and gestures designed to effect compliance and express the officer's intent. Examples may include, but are not limited to: verbal communication, command presence, and restraint applications.

**2.11 *Contact Controls:*** Hands-on or touch techniques designed to guide or direct the non-compliant subject not designed to produce pain compliance. Examples may include but are not limited to; elbow/wrist grasps and escort positions.

**2.12 Compliance Techniques:** Hand-on techniques designed to counter the subject's enhanced degree of resistance. Examples may include, but are not limited to; Wristlocks, arm bars, distraction techniques, pressure points, and Oleoresin Capsicum (O.C.) Spray. In exigent circumstance, other compliance techniques may be used.

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**3.0 Policy:** It shall be the policy of the MEP that officers will respond to non-compliance and resistance with actions that are "objectively reasonable" based upon that officers reasonable perception of the facts and circumstances at the time of the incident. Officers should assess each situation to determine the amount of force that is reasonably necessary to bring an incident under control. That amount of force is dependent upon the reasonable officer's perceived circumstances and perceived subject actions surrounding each situation.

**3.1** Members shall use, or are authorized to use, only that force which is *objectively reasonable* to:

**3.1.1** Effect an arrest;

**3.1.2** Restrain or subdue an individual resisting a lawful seizure;

**3.1.3** Protect themselves, others, K9's and property from physical harm;

**3.1.4** Prevent an escape from custody; or

**3.1.5** To effect a search and seizure or arrest warrant.

**3.2** Members should assess each situation to determine which action shall best bring the incident under control, using only that amount of force that is reasonably necessary.

**3.3** Determining the level of force necessary may depend on resistance levels and circumstances. Factors in this decision include, but are not limited to:

**3.3.1** Subject vs. member- relative to age, size, physical condition, skill level;

**3.3.2** Subject's drug and alcohol use;

**3.3.3** Weapons- Type and proximity;

**3.3.4** Seriousness of offense;

**3.3.5** Exigent Circumstances;

**3.3.6** Number of potential assailants versus the number of police officers on scene;

**3.3.7** Environment (i.e. proximity to civilization, shoreline, roadway).

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#### 4.0 Procedure:

**4.1** The following table illustrates the level of response that is generally appropriate based on behavior of the subject:

<b>If the subject is...</b>	<b>Then the response may include...</b>
<b>Compliant</b>	<ul style="list-style-type: none"> <li>● Verbal commands; and</li> <li>● Cooperative Controls.</li> </ul>
<b>Passively Resistant</b>	<ul style="list-style-type: none"> <li>● Verbal commands; and</li> <li>● Cooperative Controls.</li> </ul>
<b>Actively Resistant</b>	<ul style="list-style-type: none"> <li>● Verbal commands;</li> <li>● Cooperative Controls;</li> <li>● Contact control techniques;</li> <li>● Compliance techniques; and</li> <li>● Oleoresin Capsicum (O.C.) Spray, according to training.</li> </ul>
<b>Assaultive-Bodily Harm</b>	<ul style="list-style-type: none"> <li>● All of the above responses;</li> <li>● Striking Techniques; and</li> <li>● Any other Department approved less lethal force equipment.</li> </ul>
<b>Aggravated Assaultive-Serious Bodily Harm/Death</b>	<ul style="list-style-type: none"> <li>● All of the above responses; and</li> <li>● Lethal Force</li> </ul>

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#### 5.0 Use of Force:

**5.1** Oleoresin Capsicum (O.C.) Spray- O.C. Spray may be used in situations involving:

**5.5.1** Assaultive subjects;

**5.5.2** Actively resistant subjects when:

**5.5.2.1** Verbal commands have failed to bring about compliance;

**5.5.2.2** Subject has signaled their intentions to actively resist;

**5.5.2.3** To protect an officer or another from assault;

**5.5.2.4** To subdue a person who resists arrest or other lawful custody;

**5.5.2.5** When a reasonable officer perceives a confrontation will occur with a person about to be placed into custody;

**5.5.2.6** To prevent persons from inflicting self-harm upon themselves;

**5.5.2.7** To deter persons engaged in riotous acts; or

**5.5.3** Animal attacks when O.C spray is reasonably necessary to protect officers or others from animals.

**5.6** OC Spray shall not be used on passively resistant individuals who offer NO physical resistance or under circumstances that would cause unreasonable risk to the subject being sprayed.

**5.7** Subjects who are sprayed with O.C. should be closely monitored, if it is safe and practical to do so, moved/brought to a water source and allowed to rinse as soon as practicable.

**5.8** If safe and practical to do so, a subject who has been sprayed with O.C. shall be taken to the nearest available medical facility if they request medical attention, show any signs of adverse reaction, and/or shows no relief to the eyes, respiratory system, or skin within 45 minutes from the time sprayed.

**5.9** The Expandable/Straight Baton may be utilized in any of the following ways:

**5.9.1** For Striking Techniques on an assaultive subject to achieve compliance and/or control.

**5.9.1.1** Striking Techniques may include the use of issued equipment (i.e. expandable baton, flashlight), as well as hands, feet, elbows and/or knees.

**5.9.2** As a restraining tool to control a subject when mere verbalization and physical strength have failed or would be futile.

**5.9.3** As a defensive weapon to ward off blows and defend him/herself from attack.

**5.9.4** As a defensive weapon to deliver disabling blows to targeted non-vital areas of the body as a means to halt or deter a subjects

attack when lesser means of applying non-lethal force have failed or would obviously be futile. An officer is justified in using this type of force under the following, but not limited to, these circumstances:

**5.9.4.1** To overcome the violent resistance of a person being taken into custody;

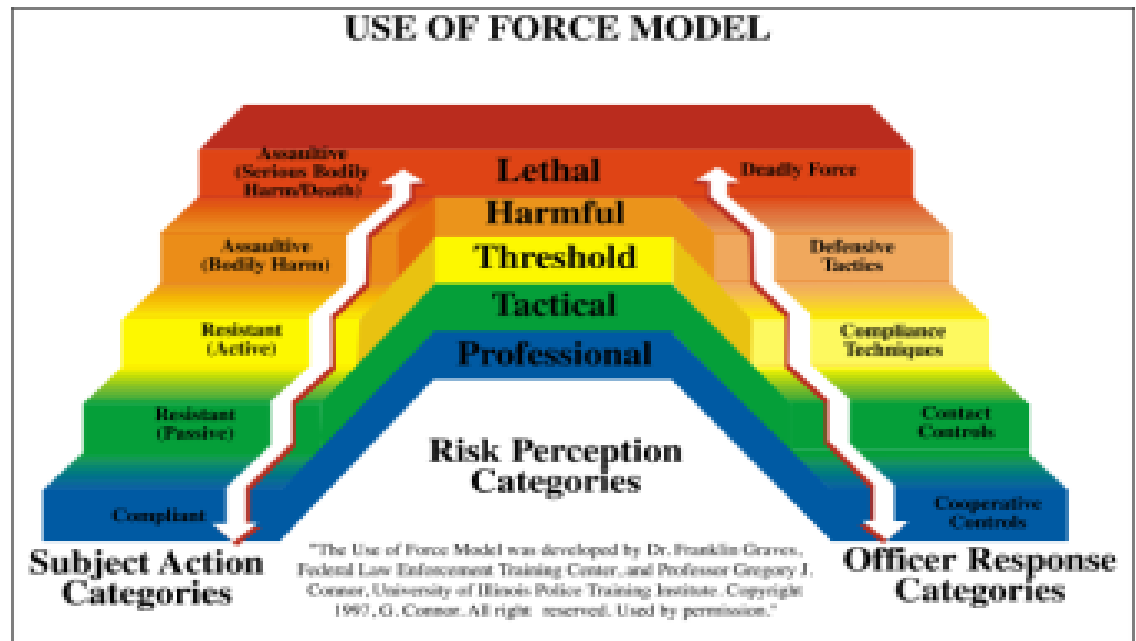
**5.9.4.2** In defense of another or oneself;

**5.9.4.3** To deter persons engaging in riotous or violent conduct; or

**5.9.4.4** When an reasonable officer has determined that there is justification to deliver disabling proper level of force in accordance with MEP/MPTC training standards.

**5.10** In exigent circumstances, other instrumentalities may be used.

**5.11** Use of Force Continuum Model: Officers must be aware that the Use of Force Continuum is not stagnate and one directional. It may move freely up and down, jumping some levels as the situation escalates and deescalates.



**6.0 Lethal Force Authorizations:**

**6.1** Members are authorized to use lethal force in order to protect themselves or others from an immediate of death or serious bodily harm.

**6.2** Warnings-If feasible, some warning shall be given before any use of lethal force.

**6.3**

<p><b>Use of Lethal Force: Preventing Escape</b></p>	<p>Members are authorized to use lethal force to prevent the escape of a suspect when the officer has probable cause to believe that:</p> <ul style="list-style-type: none"> <li>• The arrest is for a felony;</li> <li>• The member believes that the force employed creates no substantial risk of injury to innocent persons; and either;             <ol style="list-style-type: none"> <li>1. The crime for which the arrest is made involved conduct including the use or threatened use of lethal force; or</li> <li>2. There is a substantial risk that the person to be arrested will cause death or serious bodily harm/serious physical injuries if the suspect's apprehension is delayed.</li> </ol> </li> </ul>
<p><b>A member <u>MAY</u> discharge a firearm for:</b></p>	<ul style="list-style-type: none"> <li>• On or Off duty at a facility or field exercise, designed for training by Range Officers and using only department authorized weapons;</li> <li>• Using nonlethal munitions as negative reinforcement for wildlife;</li> <li>• As a munitions assisted signaling/summoning device in extreme emergencies; or</li> <li>• Rendering harmless an animal that represents a threat to an officer, public safety or is seriously injured and suffering.</li> </ul>
<p><b>A member <u>SHALL NOT</u> discharge a firearm:</b></p>	<ul style="list-style-type: none"> <li>• As a warning,</li> <li>• To merely disable a fleeing vehicle;</li> <li>• From a moving vehicle: or</li> <li>• At a moving vehicle- <b>UNLESS:</b></li> </ul> <p>An occupant uses or threatens to use immediate lethal force directed at the member or another person to cause them serious bodily harm/serious physical</p>

	injury or death.
<b>Discharge of a Firearm at a Moving Motor Vehicle/Vessel/ORV</b>	<p>Members shall:</p> <ul style="list-style-type: none"> <li>• As a first course of action, if possible, remove themselves from the path of a moving vehicle or position of vulnerability; and</li> <li>• Understand and consider that: <ol style="list-style-type: none"> <li>1. Bullets fired at moving vehicles are extremely unlikely to stop or disable a motor vehicle;</li> <li>2. Bullets fired may miss the intended target or ricochet and cause injury to themselves, other officers, or innocent persons; or</li> <li>3. If the bullets disable the operator, the vehicle may crash and cause injury to themselves, other officers, or innocent persons.</li> </ol> </li> </ul>
<b>Ready Position</b>	<p>When the member reasonably believes that there is a potential threat of serious bodily harm/serious physical injury or death, the firearm may be placed at the ready position:</p> <ol style="list-style-type: none"> <li>1. Trigger finger is alongside of the frame except when ready to engage; and</li> <li>2. In a safe direction, below the line of sight, so as not to impede the member's vision.</li> </ol>
<b>Use of Force Equipment and Training</b>	<p>The Colonel (Director) shall authorize the specific use of force equipment and training to be used by members.</p> <p>Members are responsible for keeping their equipment clean and operational at all times.</p> <p>All members shall have successfully completed training in the specific use of force equipment prior to use.</p>



**7.0 Medical Aid:**

Members shall administer and secure medical aid after any use of force, if necessary and/or the subject requests it, and officer safety would not be unreasonably compromised to do so.

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**8.0 Training/Equipment:**

**8.1** The Colonel (Director) shall authorize the specific use of force equipment and training to be used by members.

**8.2** Each officer employed by the department shall receive training in the Use of Force and Defensive Tactics as outlined in the Municipal Police Training Committee (MPTC) Defensive Tactics Training Program. Each officer shall have successfully completed training in the specific use of force equipment prior to use.

**8.3** Training shall be taught by an MPTC certified instructor.

**8.4** Each officer shall be required to maintain MPTC standards. Each officer shall receive a passing grade on all written exams and shall perform all techniques satisfactorily. Failure to meet requirements will result in remedial training for the officer and an opportunity to retest. Continual failure will result in counseling with the Command Staff and Defensive Tactics Instructor and failure may result in sanctions and/or limitations in duty up to and including termination.

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**Authority:** M.G.L. c. 21A, ss. 10A, 10C, 10F

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**References:** UOF-03 Use of Force Reports

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Promulgated by Colonel (Director): James McGinn

Date: March 1, 2018



# Massachusetts Environmental Police General Order

Effective Date: March 1, 2018	Number: <b>UOF-02</b>
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Subject:  
**Lethal Force- Response**

**1.0 Purpose:** As detailed in UOF-01, Environmental Police Officers are authorized to use lethal force in certain circumstances. The Massachusetts Environmental Police values every human life, and regards the use of lethal force as an exceptionally serious event. Accordingly, the Department will carefully review any use of lethal force and cooperate fully with any parallel investigation by another law enforcement agency. This rule is issued to provide guidelines and establish procedures for the orderly investigation of incidents involving the use of lethal force and firearm discharges.

**2.0 Policy:**

**2.1** The Department shall immediately respond to the scene and conduct an investigation when a use of force results in:

**2.1.1** A death;

**2.1.2** Serious bodily injury; or

**2.1.3** Any discharge of a weapon per UOF-03 Reports. (Unless found in section 2.2)

**2.2** Discharge not requiring an investigation:

**2.2.1** Authorized testing in a properly controlled environment (i.e. Armorer, Ballistician);

**2.2.2** Discharge of a weapon at a facility or field exercise, designed for training by Range Officers and using only department authorized weapons;

**2.2.3** Use of nonlethal munitions as negative reinforcement for wildlife;

**2.2.4** Use of weapon for extreme emergency signaling or summoning device;

**2.2.5** Rendering harmless an animal that represents a threat to an officer, another or the public's safety;

**2.2.6** Discharge of a weapon at an animal that is seriously injured and suffering.

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### **3.0 Jurisdiction:**

**3.1** Primary jurisdiction for use of lethal force investigations shall rest with the State Police Detective Unit (SPDU) assigned to the District Attorney's Office of jurisdiction. An MEP Investigative Liaison will be assigned by the Colonel (Director) to assist in the investigation.

**3.2** If the District Attorney of jurisdiction declines to conduct an investigation, then the investigation shall be conducted as directed by Colonel (Director).

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### **4.0 Activation/Notification:**

**4.1** Upon notification of an incident resulting in the use of lethal force, the Communications Section shall notify:

**4.1.1** Colonel, Lt. Colonel and the Duty Manager;

**4.1.2** Region/Bureau Manager;

**4.1.3** Region/Bureau Lieutenant; and

**4.1.4** Closest Massachusetts State Police (MSP) Barracks for SPDU.

**4.2** The Commanding Officer shall:

**4.2.1** Verify that the following has occurred:

**4.2.1.1** The scene is secure;

**4.2.1.2** Threats have been eliminated;

**4.2.1.3** Any suspect(s) have been secured;

**4.2.1.4** A perimeter has been established if applicable.

**4.2.2** Verify that all proper notifications are made, through channels to;

**4.2.2.1** The Colonel, Lt. Colonel, Region/Bureau Commanding Officer, Region/Bureau Lieutenant;

**4.2.2.2** Nearest MSP Barracks and MSP SPDU;

**4.2.2.3** MEP Firearms Armorer.

**4.2.3** Direct an officer to separate and obtain names and addresses of all witnesses.

**4.2.4** Identify a controlled area for on-scene interviews and conduct interviews where appropriate.

**4.2.5** Verify that individuals are advised of their rights; and

**4.2.5.1** Conduct preliminary investigation;

**4.2.5.2** Assist assigned investigators;

**4.2.5.3** Assist involved officer(s);

**4.2.5.5** Prepare and submit a report to Colonel, Investigators and Administrative Review Board (ARB).

**4.2.6** Coordinate with MSP SPDU Commander to notify next of kin for all civilians if necessary.

**4.2.7** Notification of serious injury or death of member of MEP shall be made by the Colonel (Director) or his/her designee.

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## **5.0 Weapons Seizure:**

**5.1** The first responding supervisor shall:

**5.1.1** Immediately seize or take custody of Officer involved weapons and magazines (if applicable);

**5.1.2** If authorized by Colonel or District Attorney's Office, transfer of the seized weapon to appropriate authority; and

**5.1.3** Arrange and ensure for a replacement weapon (if appropriate).

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## **6.0 Interviews:**

**6.1** Interviews with involved MEP members shall be:

**6.1.1** Conducted by a command officer or primary investigative authority.

**6.2** Interviews with civilian witnesses may be done in coordination with the SPDU and:

**6.2.1** Conducted by any sworn MEP officer.

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**7.0 Members using or Witnessing Force:**

**7.1** A member involved in a use of force incident resulting in death or serious bodily injury shall:

**7.1.1** Surrender use of force equipment only to a department supervisor or as directed by supervisor.

**7.1.2** Absent an injury, incapacitation, or other extraordinary circumstances:

**7.1.2.1** Submit a detailed written report not less than twenty-four (24) hours, nor more than forty-eight (48) hours after the incident; or

**7.1.2.2** Submit to an interview by a sworn officer involved in the investigation, in lieu of a detailed written report, subject to all rights under applicable laws and collective bargaining agreements; and

**7.1.2.3** Complete and submit a Use of Force written report (see UOF-03) within twenty-four (24) hours of the incident.

**7.1.3** Submit to a follow-up interview(s), if necessary.

**7.1.4** Be allowed to contact union representative, if desired.

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**8.0 Administrative Leave Or Duty:**

**8.1** At the discretion of the Colonel (Director) any officer involved in a use of force incident requiring an investigation under this policy shall be placed on administrative leave or duty directly upon the completion of their preliminary report(s) of the incident. This leave or duty shall be without loss of pay or

benefits, pending the results of the investigation. The assignment to administrative leave or duty shall not be interpreted to imply or indicate that the officer has acted improperly. The duration of the administrative leave or duty shall be determined by the Colonel (Director).

**8.2** While on administrative leave or duty, the officer shall remain available at all reasonable times for official interviews and statements regarding the incident, and shall be subject to recall to regular duty at any time.

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## **9.0 Administrative Rights:**

**9.1** Before interviewing or requesting written statements of the involved officer(s), the commanding officer shall advise the officer(s) of their rights in an administrative investigation. Those rights include but are not limited to:

**9.1.1** The right of an investigation which is narrowly confined to the specific incident(s).

**9.1.2** The right to know the name of the officer in charge of the investigation and the name of the officer conducting the interview(s).

**9.1.3** The right to know if the officer is suspected of misconduct which, if sustained, could be grounds for administrative action to include dismissal.

**9.1.4** The right to refuse to answer questions, but such refusal may be grounds for disciplinary action including dismissal.

**9.1.5** The right to have an interview held during the officer's on-duty hours unless off-duty interviews can be justified by the Colonel (Director) or Designee for the specific situation.

**9.1.6** The right to be provided a copy of any statement given by the officer.

**9.2** The Commanding Officer in conjunction with investigators will prepare a detailed report of the findings for the Colonel (Director) and Administrative Review Board.

**9.3** "Commanding Officer": For the purposes of this policy a commanding officer shall include any Environmental Police Lieutenant, Captain, Major, Lieutenant Colonel, or Colonel (Director).

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**10.0 Administrative  
Review Board (ARB):**

**10.1** The Administrative Review Board (ARB) shall examine every incident of the use of deadly force or the discharge of a firearm by an officer in the line of duty resulting in a near hit, injury or property damage.

**10.2** The board as appointed by the Colonel (Director) shall consist of:

**10.2.1** Lt. Colonel, Regional Supervisor from another region, MEP Training Officer and two (2) officers of the same rank as the officer(s) involved in the lethal force incident but from a different region.

**10.2.2** The ARB shall maintain, in the Lt. Colonel's office, a secure file of all Use of Force reports, investigations and reviews.

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**11.0 Administrative  
Review:**

**11.1** The ARB shall convene and review circumstances in every incident in 10.1 of this policy.

**11.2** This investigation is subordinate to any criminal investigation.

**11.3** The ARB shall determine that the use of force was:

**11.4** Within Department guidelines; or

**11.4.1** Outside Department guidelines.

**11.5** The ARB evaluations and recommendations shall include:

**11.5.1** Tactics and training considerations;

**11.5.2** Supervision considerations;

**11.5.3** The need to update or add Department Directives;

**11.5.4** The need for further Department action;

**11.5.5** Policy considerations;

**11.5.6** Performance of supervision;

**11.5.7** Post shooting investigative process;

**11.5.8** Equipment evaluation.

**11.6** Classifications of weapons discharge include:

**11.6.1** Intentional: deliberate discharge;

**11.6.2** Unintentional: when an officer does in fact depress the trigger and causes the firearm to discharge without consciously or deliberately willing to do so; or

**11.6.3** Accidental: restricted to the description of a mechanical flaw, shortcoming, or breakdown of a firearm that occurs from such causes as excessive wear, corrosion, mechanical design, or a part breakage, which would allow the weapon to discharge without the member depressing the trigger; and

**11.6.4** Other findings as necessary.

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**12.0 Criminal Investigations:**

**12.1** The Department will respect the rights of the state/federal government to conduct an independent investigation to identify any civil rights violations which may have occurred.

**12.2** The Department will not order or request any of its officers whose conduct is the subject of an investigation to confer with state/federal investigators without the advice of counsel.

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**13.0 Medical Evaluations:**

A member shall undergo a medical/physiological evaluation prior to returning to duty from any period of Administrative Leave following a shooting, or when a member's actions result in a death.

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**14.0 Employee Assistance:**

Follow-up counseling and assistance shall be provided by MEP as needed when Lethal Force incidents occur. MEP shall also assist members in obtaining support



resources outside the Department.

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### 15.0 Responsibilities and Protocol:

Position	Responsibilities
All Members at Scene	<ul style="list-style-type: none"> <li>• Administer and secure medical aid after any use of force, if necessary;</li> <li>• Protect and secure the scene;</li> <li>• Ensure that the Communications has been notified;</li> <li>• Speak only to incident investigators, unless otherwise ordered by a member of the Command Staff; and</li> <li>• Refer media inquiries to the Media Relations Section or the DA's Office.</li> </ul>
Communications	<ul style="list-style-type: none"> <li>• Dispatch necessary assistance and supervisor to the scene;</li> <li>• Notify Colonel (Director) and Lt. Colonel;</li> <li>• Notify Duty Manager, Region/Bureau Manager, Region/Bureau Lieutenant;</li> <li>• Notify closest MSP Barracks to incident for MSP SPDU notification;</li> <li>• Log all appropriate communications.</li> <li>• Refer media inquiries to the Media Relations Section or the DA's Office.</li> </ul>
Commanding Officer	<ul style="list-style-type: none"> <li>• Ensure scene is secure, threats have been eliminated, suspects are secure and a perimeter established if applicable;</li> <li>• Ensure notifications to Colonel, Lt. Colonel, Region/Bureau Manager and Lieutenant;</li> <li>• Ensure MSP Barracks and MSP SPDU have been notified;</li> <li>• Direct officer(s) to obtain witness identification;</li> <li>• Verify individuals have been advised their rights;</li> <li>• Conduct preliminary and detailed report for the Colonel and ARB;</li> <li>• Assist investigator(s) and involved</li> </ul>

	<ul style="list-style-type: none"> <li>officer(s);</li> <li>• Coordinate with MSP SPDU for next of kin notifications</li> <li>• Refer media inquiries to the Media Relations Section or the DA’s Office.</li> </ul>
Supervisors	<ul style="list-style-type: none"> <li>• Determine condition of all members and civilians at the scene and ensure that EMS has been notified;</li> <li>• Ensure the involved weapon(s) have been seized and secured;</li> <li>• If authorized by Colonel or DA’s office, transfer seized weapon to appropriate authority;</li> <li>• Arrange and ensure for a replacement weapon (if appropriate);</li> <li>• Ensure the area has been secured and limit entry to the scene;</li> <li>• Record and document all members present at the scene in the on-scene access control log;</li> <li>• Keep Communications informed;</li> <li>• Refer media inquiries to the Media Relations Section or the DA’s Office.</li> </ul>
Colonel/Lt. Colonel	<ul style="list-style-type: none"> <li>• Notify Secretariat (EOEEA)</li> <li>• Notify the Media Relations Section;</li> <li>• Notify the Employee Assistance resources;</li> <li>• Notify appropriate Department Counsel;</li> <li>• Notification of serious injury or death of MEP member to next of kin.</li> </ul>

**Authority:** M.G.L. c. 21A, ss. 10A, 10C, 10F

**References:** Use of Force ‘Reports’- UOF-03

Promulgated by Colonel (Director): James McGinn      Date: March 1, 2018



## Massachusetts Environmental Police

Effective Date: March 1, 2018	Number: <b>UOF-03</b>
Subject: <b>Reports</b>	

**1.0 Policy:** All in use of force incidents involving or witnessed by a member shall be documented in accordance with this policy.

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### 2.0 Definitions:

#### 2.1 *Reportable Incident:*

**2.1.1** On duty discharge of any weapon outside of a training range specifically designed for that purpose;

**2.1.2** Off duty discharge of a Department weapon outside of a training range specifically designed for that purpose;

**2.1.3** Compliance techniques (e.g., pressure point) or striking techniques (e.g., baton) are used;

**2.1.4** OC Spray is used;

**2.1.5** Use of force caused or is reported to have caused injury or death to another;

**2.1.6** Physical application of a K9;

**2.1.7** Off duty Sworn Officer takes enforcement action and a use of force occurs.

#### 2.2 *Non-Reportable Incident:*

**2.2.1** Cooperative controls as defined in UOF-01.

**2.2.2** Contact controls as defined in UOF-01.

**2.2.3** The lawful display of a firearm or other weapon by an officer.

**2.2.4** Application of handcuffs to a compliant person when no other force is used.

**2.2.5** Rendering harmless an animal that represents a threat to an officer, public safety or is seriously injured and suffering.

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### **3.0 Use of Force Reporting:**

**3.1** Any reportable incident, as defined above, shall be reported to the officer's supervisor and the Communications section as soon as practical. The officer(s) involved shall document all reportable incidents with a detailed report in IMC using the searchable phrase "Use of Force" in the body of the report.

**3.2** Any MEP officer involved or present at a use of force incident shall:

**3.2.1** Submit a Use of Force written report within twenty-four (24) hours of the incident, absent of injury, incapacitation, or other circumstances with approval from the Region/Bureau Supervisor or Duty Manager.

**3.2.2** A member involved in a use of force incident resulting in **death or serious bodily injury** shall:

**3.2.2.1** Submit a detailed written report not less than twenty-four (24) hours, nor more than forty-eight (48) hours after the incident.

**3.3** Supervisors shall:

**3.3.1** Ensure members complete a report, using the searchable phrase "Use of Force" and enter it in IMC;

**3.3.2** Review and forward all reports through the chain of command.

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### **4.0 Use of Force Administrative Review:**

**4.1** The Colonel (Director) and/or his/her designee(s) will review annually all Use of Force reports to determine if incidents reveal patterns or trends that could indicate training, equipment and/or policy needs.

**4.2** The Administrative Review Board (ARB) shall convene and review circumstances attendant to every incident involving deadly force (UOF-02 section 10.0).

**4.3** The Colonel (Director) may refer any use of force incident to the Administrative Review Board and/or an MEP Internal Affairs Investigator.

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## **5.0 Use of Force Review:**

**5.1** The Colonel's (Director's) evaluations and recommendations shall include;

**5.1.1** Tactics and training considerations;

**5.1.2** Supervision consideration;

**5.1.3** Department Directives;

**5.1.4** The need for further Department action;

**5.1.5** Policy considerations;

**5.1.6** Performance of supervision;

**5.1.7** Post shooting investigative process;

**5.1.8** Equipment evaluation.

**5.2** Classifications of weapons discharge include:

**5.2.1** Intentional: deliberate discharge;

**5.2.2** Unintentional: when an officer does in fact depress the trigger and causes the firearm to discharge without consciously or deliberately willing to do so; or

**5.2.3** Accidental: restricted to the description of a mechanical flaw, shortcoming, or breakdown of a firearm that occurs from such causes as excessive wear, corrosion, mechanical design, or a part breakage, which would allow the weapon to discharge without the shooter depressing the trigger; and

**5.2.4** Other findings as necessary.

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**6.0 Use of Force**

**Reports Records:**

The ARB shall maintain in the Lt. Colonel's office, a secure file of all Use of Force reports, investigations and reviews.

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**Authority:** M.G.L. c. 21A, ss. 10A, 10C, 10F

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**References:** "Use of Force Report Writing Guide" -Americans for Effective Law Enforcement (AELE)-2014 (Attached)

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Promulgated by Colonel (Director): James McGinn
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Date: March 1, 2018
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# Use of Force Report Writing Guide

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## The Constitutional Standard for Use of Force

The U.S. Supreme Court case of *Graham v. Connor, 490 U.S. 386 (1989)*, established “Objective Reasonableness” as the standard for all applications of force in United States. This guide is designed to assist officers in articulating the facts of a Use of Force incident in accordance with the guidance provided in *Graham*. Remember, all Use of Force applications are judged based upon:

- The totality of circumstances
- From the perspective of a reasonable officer
- On the scene
- At the *moment* force was used.
- Without 20/20 hindsight
- In circumstances that are tense, uncertain and rapidly evolving

The court specified four specific factors, sometimes referred to as the *Graham* factors, which assist in determining reasonableness. Although not required, nor all inclusive, articulating these factors provides a good framework for justifying a particular Use of Force. The factors are:

- The severity of the crime
- Whether the subject was an immediate threat to the officers or others
- How the subject was actively resisting arrest (seizure)
- How the subject was attempting to evade arrest by flight

## Other Articuable Facts

The following list represents facts, which if present, may assist in justifying a particular Use of Force. It is not intended to be all inclusive.

- The number of suspects vs. the officers involved (availability of back-up)
- Pre-assault indicators (be specific... describe the subject's actions and statements)
- Size, age, and physical condition of the officer and suspect
- Known or perceived physical abilities of the suspect (i.e. known Mixed Martial Artist)
- Previous violent or mental history, known to the officer at the time
- Perception of the use of alcohol or drugs by the subject
- Perception of the suspect's mental or psychiatric history based on specific actions
- The availability and proximity to weapons
- Environmental factors (night, day, snow, ice, heights, heat, terrain, etc.)
- Injury to the officer or prolonged duration of the incident
- Officer on the ground or other unfavorable position
- Characteristics of being armed (i.e. bulges, adjustment of clothing, “security touches”)

# Use of Force Report Writing Guide

## Facts vs. Conclusions

Many police reports contain “conclusions” disguised as “facts”. “Conclusions” are phrases or words that describe a subject’s actions, but lack clear articulation of the subject’s behaviors. When articulating force, particular attention should be paid to the specific actions and behaviors of the subject (facts). The following table provides a few examples of when “conclusions” should be replaced by “facts” in a written report.

<u>Conclusions</u>	<u>Facts</u>
<b>Assaultive</b>	“I’m going to kick your ass”, specific verbal threats or statements, turned body 90°, boxer’s / fighting stance, suddenly closed the distance, shoved the officer, weight shifting, clenched fists, raised hands, profuse sweating, clenched mouth, rapidly closed distance, lunged, grabbed, scanning the area, sudden attack, personal grooming...
<b>Non-compliant</b>	“I’m not going to jail”, ignored commands, acted contrary to commands, walked away, repetitive phrases, illogical responses...
<b>Resistant</b>	Pulled away, folded arms, 1000 yard stare, became rigid, attempted to hide, unresponsive to physical force...
<b>Matched description</b>	Height, weight, clothing, gender, race, hair color, vehicle description, direction of travel...
<b>Officer Safety</b>	Weapons, physical size, known criminal history, would not keep hands out of pockets, known violent history, type of crime, NCIC / BOLO info, time of day, characteristics of being armed, proximity to weapons...
<b>High crime area</b>	Number of arrests, types of arrests, personal observations, statistics, citizen’s complaints...
<b>Suspicious activity</b>	Unusual appearance for area (heavy coat in summer), unprovoked flight, looking in vehicles, stealthy movements...





## Massachusetts Environmental Police General Order

Effective Date: March 1, 2018	Number:  <b style="text-align: center;">UOF-04</b>
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Subject:  <h3 style="margin: 0;">Use of Force- Equipment</h3>
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**1.0 Policy:** Members on duty shall only carry and use Department issued or authorized use of force equipment.

**2.0 Definitions:**

**2.1 Use of Force Equipment:** All equipment approved by the Colonel (Director) and issued by the Department such as firearms, ammunition, Oleoresin Capsicum (OC) Spray, Batons, or any other equipment used to effect control and compliance of a subject.

**2.2 Soft body Armor:** Specification category of Level II or IIIA full coverage concealable body armor.

**2.3 Mandatory Wear:** Shall be defined under the current CBA language as-  
“Worn as often as possible, while on duty.”

**3.0 Issuance:**

Title	Duties
Armorer/Defensive Tactics Instructor(s)	<ul style="list-style-type: none"> <li>Test and recommend use of force equipment, including ammunition;</li> <li>Procure, issue, and maintain use of force equipment</li> <li>Document and maintain all records related to the use of force equipment; and</li> <li>Replace use of force equipment as needed.</li> </ul>
Colonel	<ul style="list-style-type: none"> <li>Approve all issued use of force equipment.</li> </ul>

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#### 4.0 Inspections:

**4.1** All use of force equipment shall be inspected for condition and operational readiness, only by an officer trained to inspect such equipment.

**4.2** Supervisors shall:

**4.2.1** Remove from service and report any equipment found to be defective; and

**4.2.2** Notify the Armorer when a Department firearm is removed from service.

<b>Title</b>	<b>Jurisdiction</b>	<b>Occurrence</b>
Supervisors (Lieutenant's)	Direct/conduct an inspection of all use of force equipment of those under their supervision.	Quarterly
Firearms Training Unit	Conduct an inspection of all use of force equipment brought to range.	Pre and Post training
Staff Inspections (Command/Instructors)	Conduct an inspection of all use of force equipment.	As appropriate

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**5.0 Maintenance:** All use of force equipment shall be kept clean and operational at all times.

**5.1** Issued firearms shall be cleaned promptly after training:

**5.1.1** In a safe location and manner; and

**5.1.2** Prior to leaving any range.

**5.2** Only the Armorer and personnel authorized by the Armorer shall repair or modify any use of force equipment or parts.

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#### 6.0 On Duty Carry/Security:

**6.1** Issued firearms shall be carried:

**6.1.1** By uniformed sworn members secured in an holster while on duty; and

**6.1.2** By non-uniformed sworn members secured in an issued holster, or in any other holster, as approved by the Colonel (Director).

**6.1.3** Non-uniformed sworn members, except on a firing range for the purpose of instruction or within the confines of one's office or home, will have issued firearm concealed from view by some article of clothing to the best of their ability.

**6.2** When carrying issued firearms, members shall do so in a safe and secure manner:

**6.2.1** Firearms shall be fully loaded with ammunition in the chamber and the weapon de-cocked, if equipped;

**6.2.2** Firearms shall not be left unattended in any non-secure location such as a desk drawer or file cabinet; and

**6.2.3** Firearms shall not be carried on a member's person during the booking process, including (but not limited to) booking and fingerprinting, unless field booking procedures are to occur in a vehicle or on a vessel.

**6.2.3.1** Officer(s) booking, fingerprinting and administering breath tests at another agency's facility shall follow that agency's protocol as it applies to firearm procedures.

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## **7.0 Off Duty Carry/Security:**

**7.1** When carrying a Department issued firearm off duty, the following items shall be in the member's possession:

**7.1.1** The Department's Badge of Office;

**7.1.2** The Departments Identification Card; and  
The member's active License to Carry a Firearm.

**7.2** When issued firearms are not being carried, they shall be secured with the issued firearm lock (or similar) and/or in a gun safe, inaccessible to children and others.

**7.3** Members are not required to carry any issued firearm while off duty.

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**8.0 Firearms in Vehicles:**

**8.1** Examples of properly secured weapons:

Patrol Rifle:

**8.1.1** The patrol rifle shall be secured in the Department installed gun rack in accordance with the patrol rifle standard operating procedures.

Shotgun:

**8.1.2** The shotgun shall be secured in the Department installed gun rack, in accordance with shotgun standard operating procedures; and

**8.1.3** If equipped, the key lock shall be engaged when the vehicle is unattended.

Other Weapons:

**8.1.4** All other weapons shall be stored within Department vehicles in accordance with applicable laws.

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**9.0 Non-Standard Issued Firearm Or Personally Owned Firearm Carried On Duty:**

**9.1** While on duty, officers shall carry only firearms and ammunition issued or authorized by the Colonel (Director).

**9.2** All on duty firearms shall be reviewed, inspected and approved by a qualified Department Firearms Instructor/Armorer.

**9.3** All officers will qualify/familiarize with issued non-standard Department firearms and any other firearm they are authorized to carry on duty.

**9.4** Qualification/familiarization shall be under the direction of a certified Department instructor/armorer. Personal firearms that are found to be unsafe will not be used.

**9.5** All ammunition carried in an approved personal firearm or issued non-standard issued Department firearm must be of a type approved by the Department.

**9.6** Any weapon approved for on duty carry by Department officers will be secured when appropriate in accordance with applicable Massachusetts General Laws.

**9.7** Officers requesting to carry a personally owned firearm on duty will:

**9.7.1** Forward a written request through their chain of command requesting authorization to carry such firearm. The written request shall include the following:

**9.7.1.1** Purpose and need for the firearm;

**9.7.1.2** Type of firearm (Make, Model, Caliber);

**9.7.1.3** Serial number of firearm; and

**9.7.1.4** Means by which the personally owned firearm will be secured in accordance with the applicable Massachusetts General Laws.

**9.8** Officers requesting to be issued a non-standard Department issued firearm will:

**9.8.1** Forward a written request through their chain of command requesting authorization to carry such firearm. The written request shall include the following:

**9.8.1.1** Purpose and need for the firearm;

**9.8.1.2** Type of firearm requested;

**9.8.1.3** Means by which the non-standard Department issued firearm will be secured in accordance with the applicable Massachusetts General Laws.

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## **10.0 Soft Body Armor:**

See OPS-017.

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Subject: USE OF FORCE- Equipment

Number: UOF-04

**Authority:** M.G.L. c. 21A, ss. 10A, 10C, 10F

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**References:** OPS-017

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Promulgated by Colonel (Director): James McGinn

Date: March 1, 2018

Date of Revision: March 1, 2018

Date(s) of previous policy: 3/4/98, 4/3/05



# Massachusetts Environmental Police General Order

Effective Date: March 1, 2018	Number: <b>UOF-05</b>
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Subject: <b>Firearms Qualifications</b>
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**1.0 Policy:** The Department shall provide training and instruction to every member in order to become proficient and confident in the use of issued weapons in accordance with Municipal Police Training Committee (MPTC) standards.

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**2.0 Definitions:**

*Specialized Firearms:* Any firearm other than the main duty pistol(s) and shotgun.

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**3.0 Training:**

**3.1** Safety is of paramount importance. Regardless of the member’s rank, Use of Force and Range Instructors shall be in command of all personnel and equipment during training.

**3.2** Training shall, as closely as possible, reflect the conditions with which members are likely to be confronted. This training shall include comprehensive instruction in:

**3.2.1** Department’s use of force directives (policies) and applicable standard operating procedures;

**3.2.2** Legal updates;

**3.2.3** Proficiency and safe weapons handling skills; and

**3.2.4** Safety, storage, and maintenance of use of force weapons and equipment.

**3.3** Firearms Training, instruction, and qualification(s) shall be determined by the Supervisor of Firearms Training with the approval of the Colonel (Director).

Standards and proficiency will not be any less than that which is mandated by MPTC.

**3.4** The Colonel (Director), in accordance with the Law Enforcement Officer Safety Act (LEOSA) of 2004 and as amended by the National Defense Authorization Act (2013), may have the discretion to provide training/qualification to any qualified retired law enforcement officer(s).

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#### **4.0 Failure to Qualify w/Firearms:**

**4.1** Those sworn members who fail to meet initial qualification and firearms handling standards shall receive immediate remedial assistance. Members may receive two (2) additional opportunities to qualify within the same day; unless the Supervisor of Firearms Training determines that it would be unsafe or impractical to do so.

**4.2** In the event a sworn member fails to achieve qualification standards after remedial assistance:

**4.2.1** The Supervisor of Firearms Training shall immediately notify the Lt. Colonel and/or Colonel (Director).

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#### **5.0 Remedial Training:**

**5.1** Sworn member(s) failing to initially qualify shall be assigned to the Range for the Remedial Training Program.

**5.2 The Remedial Training Program** shall consist of three phases designed to assist the shooter in attaining firearms qualification standards. The content of the remedial program shall be determined by the Supervisor of Firearms Training;

**5.2.1** Phase 1 Remedial Training shall consist of one (1) training day.

**5.2.2** Phase 2 Remedial Training shall consist of two (2) training days.

**5.2.3** Phase 3 Remedial Training shall consist of two (2) training days.

**5.3** If a sworn member fails to achieve firearms qualification standards after phase 2 Remedial Training, the member shall be:



**5.3.1** Evaluated by a State Physician, assigned by the department, to determine if any physical limitation(s) exist that would prevent them from achieving the firearms qualification standards; and

**5.3.2** Assigned to the Phase 3 Remedial Training for more in-depth assistance.

**5.4** When participating in any phase of the Remedial Training Program, it is mandatory that a sworn member successfully complete two (2) consecutive runs of the qualification course.

**5.5** If proficiency is not established at the end of the Remedial Training Program:

**5.5.1** The sworn member shall immediately surrender all firearms and cruiser keys to the Supervisor of Firearms Training;

**5.5.2** The Supervisor of Firearms Training shall immediately secure the firearm(s) and cruiser and advise the Lt. Colonel/Colonel (Director); and

**5.5.3** The Lt. Colonel/Colonel (Director), shall place the sworn member on administrative leave with pay, and shall proceed with an administrative hearing in accordance with the Rules and Regulations and Bargaining Unit Contract.

**5.6** The three phase Remedial Training Program shall constitute reasonable efforts by the Department in an attempt to achieve qualification by a member.

**5.7** Failure to qualify with issued firearms shall result in administrative action, up to and including termination of employment.

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**6.0 Specialized  
Firearms-Failure  
To Qualify:**

**6.1** In the event that a sworn member fails to achieve firearms qualification standards with Specialized Firearms after remedial training, the member shall:

**6.1.1** Be required to surrender such specialized firearms to the Supervisor of Firearms Training; and

**6.1.2** Be assigned to a one (1) day Specialized firearms remedial Training Program.

**6.2** If proficiency is not established at the end of the Specialized Firearms Remedial Training Program, the sworn member may:

**6.2.1** Receive additional remedial training at the discretion of the Supervisor of Firearms Training and/or the Colonel (Director).

**6.3** If proficiency is not established at the end of the Specialized Firearms Remedial Training Program, the sworn member may NOT:

**6.3.1** Carry the Specialized Firearm.

**7.0 Qualification/  
Other Use of Force  
Weapons:**

The Supervisor of Firearms Training and Defensive Tactics Instructor(s) shall establish standards for qualification with other use of force weapons prior to issuance.

**8.0 Responsibilities:**

<b>Position</b>	<b>Duties</b>
Supervisor of Firearms Training	<ul style="list-style-type: none"> <li>➤ Conduct necessary training and testing; and</li> <li>➤ Maintain documentation on firearms training</li> </ul>
Colonel (Director)/Lt. Colonel and/or designee	<ul style="list-style-type: none"> <li>➤ Approve instructors;</li> <li>➤ Recommend training standards;</li> <li>➤ Maintain program records</li> </ul>
Supervisors (Lt.'s)	<ul style="list-style-type: none"> <li>➤ Ensure all members are trained as required.</li> </ul>
Lt. Colonel and/or designee	<ul style="list-style-type: none"> <li>➤ Authorize all use of force training prior to implementation,</li> </ul>
Colonel and/or designee	<ul style="list-style-type: none"> <li>➤ Establish Qualification standards</li> </ul>

**9.0 Extended leaves  
Of Absence:**

Sworn members returning from a leave of absence in excess of ninety (90) days shall comply with any and all firearms training requirements.

**Authority:** M.G.L. c. 21A, ss. 10A, 10C, 10F

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**References:**

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Promulgated by Colonel (Director): James McGinn
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Date: March 1, 2018
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