



Police Commissioner's Special Order

Number: SO 21- 22

Date: May 19, 2021

Post/Mention: Indefinite

SUBJECT: RULE 303D, USE OF LESS-LETHAL FORCE (40 MM DIRECT IMPACT LAUNCHER)

Rule 303D, Use of Less-Lethal Force (40 mm Direct Impact Launcher), is hereby amended superseding all previous rules, special orders, memos and directives on this subject and is effective immediately.

The changes to this rule are in the first section: **Statement on Use of Force.**

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

Gregory P. Long
Superintendent In Chief

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

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):*

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.

If the situation is not an arrestable offense, and the manner cannot be resolved safely, the officer may disengage.

Duty to Intervene:

1. Police officers are reminded of Rule 113 Public Integrity Policy, Sec. 5 Canon 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)**
 - 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.”

USE OF LESS – LETHAL FORCE (40mm Direct Impact Launcher)

This rule is issued to establish guidelines for the use of less-lethal force using a 40mm Direct Impact Launcher to deploy impact rounds by members of this Department in the performance of their duties, and to establish appropriate training, reporting, and documentation for such use of 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 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:

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.

Sec. 4 SECURING OF 40mm IMPACT ROUND LAUNCHER AND AMMUNITION:

The 40mm impact round launcher shall be stored safe and unloaded at the Special Operations Division armory. 40mm sponge-type impact rounds of the brand and model approved for use by the Special Operations Division Commander will be stored with the 40mm impact round launcher in the firearm locker located in the Special Operations Division armory or in an appropriate secure gun vault in Special Operations vehicles. The Special Operations Division Supervisors will ensure that sponge-type impact rounds are separated from all other types of 40mm impact rounds and that markings are easily identified.

Every Thursday the Special Operations day tour tactical car Supervisor shall perform a visual inspection to verify that the 40mm impact round launchers are stored as directed and that sponge-type impact rounds are accounted for. This information shall be recorded in a Special Operations Division armory log.

Sec. 5 AUTHORIZATION AND USE OF IMPACT ROUND LAUNCHER:

Only designated officers who have completed the Department training and qualification program shall be authorized to use a 40mm impact round launcher to deploy impact rounds.

If the use of a 40mm impact round launcher to deploy impact rounds is planned, then an on-scene supervisor or incident commander shall notify Boston Emergency Medical Services to respond prior to deployment of the weapons system, when possible.

Should the use of a 40mm impact round launcher to deploy impact rounds prove necessary when a SWAT Supervisor is not already on scene, the SWAT and Patrol Supervisor shall be notified and respond to the scene as soon as feasible.

The SWAT Supervisor, Patrol Supervisor or the Incident Commander shall designate an officer to provide lethal force coverage when warranted and consistent with applicable rules and procedures. Two or more officers should be tasked with controlling and placing the suspect in custody.

Upon discharge of an impact round the District Commander, Special Operations Supervisor, and the Operations Division shall be notified. Suspects who are struck by a 40mm impact round shall be treated by EMS and the SWAT Supervisor, Patrol Supervisor or the Incident Commander shall request that the subject be transported to a medical facility for evaluation.

Sec. 6 REPORTING AND INVESTIGATION:

Any discharge of a 40mm impact round other than during training shall be reported and investigated pursuant to Rule 303.

Gregory P. Long
Superintendent In Chief