SUBJECT: RULE 303A – Use of Less Lethal Force

Rule 303A, Use of Less Lethal Force, is hereby amended superseding all previous rules, special orders, memos and directives on this subject and is effective immediately.

Changes have been made to:
Section 4. Securing of Less Lethal Shotgun and Ammunition
Section 5. Authorization and Use of Less Lethal Weapons

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

Gregory P. Long
Superintendent In Chief
USE OF LESS - LETHAL 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):

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:
     o 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 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 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)

   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.”

This rule is issued to establish guidelines for the use of less-lethal force 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 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 sworn personnel shall be trained and qualify two times per year in the proper use of a less lethal shotgun. Department personnel 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.

Sec. 4 SECURING OF LESS LETHAL SHOTGUN AND AMMUNITION:

Each less lethal shotgun shall be stored in a District gun locker in a safe condition when not in use (i.e. safety on, action open, chamber and magazine empty). Flexible projectile rounds shall be stored and secured along with the weapon in the District gun locker. The less lethal shotgun will have an orange colored stock. The words "less lethal" will be noted on the stock to identify that the less lethal shotgun is used strictly for flexible projectile rounds. Every Thursday the day tour Duty Supervisor shall perform a visual inspection to verify that the shotgun is stored in a safe condition, as well as ensure that the requisite number of flexible projectile rounds are accounted for. This information shall be recorded in a District Control Log.

The BPD currently uses two types of shotguns. The Remington 870 Tactical version and the Mossberg 590. During the Patrol Supervisor’s or certified Police Officer’s tour of duty, the Remington 870 Tactical and the Mossberg 590 less lethal shotguns shall be loaded with six flexible projectile rounds in the magazine, with an empty chamber, with the safety lock on, and secured in the locking device located in the trunk of the Patrol Supervisor’s or a trained and certified Police Officer’s vehicle.

SWAT Team personnel shall secure, inspect, issue and transport the less lethal shotgun according to protocol established by the commander of the Special Operations Division. The SWAT armory and tactical car vaults will be utilized for secure storage as appropriate.

Sec. 5 AUTHORIZATION AND USE OF LESS LETHAL WEAPONS:

Only department Police Officers who have completed the Department training and qualification program shall be authorized to use a 12 gauge less lethal shotgun.
If the possibility of the use of less lethal force is determined to be an option the Patrol Supervisor shall be notified and respond to the scene. If the possibility of the use of less lethal force is determined to be a reasonable option by the Patrol Supervisor and where tactically safe and feasible, then the Patrol Supervisor shall notify the Boston Emergency Medical Services to respond. Before each and every round is discharged, the Patrol Supervisor shall announce in a loud and clear voice the word “BEANBAG.” If there is a trained and certified district Police Officer available that officer will be the officer manning the less lethal shotgun. This allows the Patrol Supervisor the ability to de-escalate, to control the scene and to control the actions of the officers. As well, if the Patrol Supervisor is not available to respond to the scene, a trained and certified Police Officer provides the responding unit the option to use less lethal force and the ability to de-escalate the use of force.

Trained department Police Officers shall deploy the less lethal weapons in accordance with their training and/or at the direction of supervisor(s). Where tactically safe and feasible, department police officers shall notify the Boston Emergency Medical Services to respond and before each and every round is discharged, department officers shall announce in a loud and clear voice the word “BEANBAG.”

The Patrol Supervisor shall designate an on-scene officer to provide lethal force coverage and, if deemed appropriate shall designate two or more officers for suspect apprehension. In the event that a Patrol Supervisor is not able to respond, the Police Officer who is trained and certified with the less lethal weapon will ensure another officer provides lethal cover and two or more officers are assigned to apprehend the suspect.

Upon discharge of the shotgun, the Operations Division, District Commander, Duty Supervisor, and Firearm Discharge Investigation Team shall be notified by the Patrol Supervisor. Suspects who are struck by a flexible projectile round shall be rendered aid, examined by EMS and transported to a medical facility for examination.

Sec. 6 REPORTING AND INVESTIGATION:

Any discharge of a less lethal shotgun other than training shall be investigated pursuant to Rule 303.