

PROCEDURE MANUAL

05-03



MICHIGAN STATE POLICE

Documenting, Reporting, and Investigating Use of Force

Purpose: This manual provides direction on the documentation and investigation procedures that are required following the use of force.

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Definitions:

None

Section 1: Firearms Discharges

1.1 Reporting Firearms Discharges

- a. Except for firearm discharges resulting from participation in firearms training, enforcement members and authorized non-enforcement members shall immediately report all incidents involving the discharge of a firearm in the performance of their duty (whether they are on duty or off duty), including all discharges, to their supervisor.
 - i. The report shall be made from the scene of the incident in order to permit supervisors to determine if an on-scene investigation is necessary.
 - ii. At a minimum, the report shall include the approximate time and location of the discharge, the reason for the discharge, and the number of rounds fired.
- b. Supervisors shall immediately report all firearm discharges, except incidents involving animal shootings, to the Operations Section through the appropriate district/division commander via telephone or LEIN administrative message.
- c. The Operations Section shall notify the Leadership Team.

1.2 Investigating Firearms Discharges

- a. When discharge of a firearm by an enforcement member or authorized nonenforcement member, inflicts injury or death to another party, the incident shall be thoroughly investigated by the Investigative Response Team.

- b. Supervisors investigating incidents involving the use of fatal force by Michigan State Police Troopers Association (MSPTA) or Michigan State Employees Association (MSEA) members shall obtain the following specific information deemed critical to ensuring public safety:
 - i. The extent of any known injuries and whether appropriate medical assistance has been rendered/summoned.
 - ii. If there is a criminal suspect at large.
 - iii. If anyone is under arrest and the charge.
 - iv. The direction of the shots that were fired.
- c. If physical evidence and/or witnesses can provide this information, the enforcement member who used the fatal force does not need to be interviewed until MSPTA/MSEA representation is present.
- d. If this information is not available and it is deemed impractical to wait, the MSPTA/MSEA member may be required to answer the above four questions without MSPTA/MSEA representation.
- e. If the MSPTA/MSEA member refuses to provide this information, the supervisor should consider giving a direct order to answer the questions and advise the member that refusal constitutes insubordination. Answers given under such an order shall be viewed as having been given under a Garrity warning.
- f. Any time a member is shot, or another party is shot by an enforcement member or authorized non-enforcement member, the Operations Section shall advise the Office of Behavioral Science and the Forensic Science Division.
 - i. The on-scene commander of the incident shall coordinate their response with the on-call doctor from the Office of Behavioral Science.
 - ii. The Forensic Science Division commander, or their designee, shall ensure a prompt response of Forensic Science members to all shooting incidents.
- g. When an enforcement member or authorized non-enforcement member, discharges a firearm inflicting injury or death to another party, the commander or designee of the work unit investigating the incident shall ensure that the firearm involved is seized and held as evidence.
 - i. The firearm used shall be immediately seized at the scene, and a temporary replacement firearm shall be issued to the enforcement member or authorized non-enforcement member as soon as operationally possible.
- h. When discharge of a firearm by an enforcement member or authorized nonenforcement member, inflicts injury or death to another party, the enforcement member or authorized non-enforcement member, shall be placed on administrative leave by their commander. The enforcement member or authorized non-enforcement member may be restored to limited or full duty upon recommendation of the member's work unit commander after the member's consultation with the Office of Behavioral Science.
- i. Worksite commanders shall review all incidents involving firearm discharges by their subordinates and determine whether the discharge of a firearm was objectively reasonable in

light of the facts and circumstances surrounding the incident. If it is determined that a violation of policy occurred, disciplinary action shall be taken unless extenuating circumstances dictate otherwise.

1.3 BlueTeam Firearm Discharge Report

A BlueTeam Firearm Discharge report is required for all incidents in which a member discharges a department-issued firearm at a suspect or animal while on-duty or off-duty (other than the shooting of an animal as a result of injuries due to a traffic crash). All unintentional discharges of a department-issued firearm, regardless of on-duty or off-duty, are required to be reported in a BlueTeam Firearm Discharge report.

a. Enforcement Member's and Authorized Non-Enforcement Member's Responsibilities

- i. An enforcement member or authorized non-enforcement member, shall complete, and forward a BlueTeam Firearm Discharge Report to the shift supervisor and worksite commander prior to the end of their shift, unless otherwise directed by the worksite commander, for any shooting incident. Exceptions include firearms training or the shooting of an animal as a result of injuries due to a traffic crash, unless such report is requested by the worksite commander.
 1. In incidents in which multiple enforcement members or authorized nonenforcement members have discharged their firearms, each enforcement member and authorized non-enforcement member who has discharged a firearm shall complete and submit a BlueTeam Firearm Discharge Report.
 2. If criminal prosecution against the enforcement member(s) or authorized non-enforcement member(s), is probable, no BlueTeam Firearms Discharge Incident Report shall be submitted by the enforcement member(s) or authorized non-enforcement member(s), involved without approval from the Director. Instead, the worksite commander shall complete and submit a BlueTeam Firearm Discharge Incident Report.
- ii. If complete information about an incident is not readily available, the individual enforcement member(s) or authorized non-enforcement member(s), involved shall complete and submit a BlueTeam Firearm Discharge Report with whatever information they have. Once more information becomes available, the BlueTeam Firearm Discharge Report shall be returned to the enforcement member or authorized non-enforcement member that originated the report for completion.

b. Worksite Commander's Responsibilities

- i. The worksite commander shall review the submitted BlueTeam Firearm Discharge Report as well as the original report, all supplemental incident reports, all existing video and audio recordings, and any supporting documents or records for accuracy and content.
- ii. The worksite commander shall recommend a determination as to whether or not the enforcement member's or authorized non-enforcement member's use of a firearm was justified and in accordance with department policy.

- iii. The worksite commander shall complete the “Approval Comments” section on the BlueTeam Firearm Discharge Report stating whether the use of a firearm was determined to be justified, forward the report, along with the original incident report, all supplemental incident reports, all existing video, and audio recordings, and any supporting documents or records to the district/division commander within five calendar days of the firearms discharge.
 - iv. If the enforcement member or authorized non-enforcement member, involved is incapacitated, the worksite commander shall complete and forward a BlueTeam Firearm Discharge Report.
- c. District/Division Commander’s Responsibilities
- i. The district/division commander shall review the submitted BlueTeam Firearm Discharge Report as well as the original report, all supplemental incident reports, all existing video and audio recordings, and any supporting documents or records for accuracy and content within five calendar days of receipt from the worksite commander.
 - ii. The district/division commander shall recommend a determination as to whether or not the enforcement member’s or authorized non-enforcement member’s use of a firearm was justified and in accordance with department policy.
 - iii. The district/division commander shall complete the “Approval Comments” section on the BlueTeam Firearm Discharge Report stating whether the use of a firearm was determined to be justified.
 - iv. If the district/division commander determines the incident is justified, they shall forward the completed BlueTeam Firearm Discharge Report to the Director’s Office and Professional Standards Section within five calendar days of receipt from the worksite commander.
 - v. If the district/division commander determines the incident is not justified, they shall forward the completed BlueTeam Firearm Discharge Report to the Professional Standards Section (first name - “MSP”; last name – “Internal Affairs”) with a copy to the Director’s Office within five calendar days of receipt from the worksite commander.
- d. Professional Standards Section Responsibilities
- i. All incidents involving the discharge of a firearm shall be reviewed by the Professional Standards Section in coordination with the Organizational Development Division, Enforcement In-Service Section.
 - ii. Incidents involving the discharge of firearm determined to be violations of department policy will be identified as either “Policy Violation - Misconduct” or “Policy Violation – Training.”
 - iii. Upon review of the incident, the Professional Standards Section shall prepare and route a correspondence advising whether the member’s actions were determined to be within or not within department policy down the chain of command to the involved members.

- iv. The incident shall also be reviewed per the Official Order covering the Critical Incident After-Action Review Team.

1.4 Additional Firearms Use Reporting Requirements

- a. The pointing of a firearm at an individual is considered a use of force. Any enforcement member or authorized non-enforcement member, who points their firearm at an individual during the performance of their duties shall ensure the circumstances and justification for the use of force, are documented in a BlueTeam Use of Force Incident Report.
 - i. In cases in which members of a multijurisdictional task force and/or the Special Operations Division carry out operations requiring multiple members to point firearms (e.g., barricaded gunmen, raid entry, search warrant execution), a single BlueTeam report may be submitted by the scene supervisor or their designee. Such BlueTeam reports shall identify all members having pointed a firearm.

Section 2: Documenting and Reporting Use of Force

All uses of force by an enforcement member shall be immediately reported to their shift supervisor.

2.1 Original Incident Report

- a. All uses of force shall be documented in the original incident report.
- b. Enforcement members shall refer to the resources such as the MCOLES Subject Control Continuum for proper terminology and consistency when documenting their use of force in their original incident report.
- c. The nature of the incident and all events leading up to the use of force shall be documented in the original incident report.
- d. Any post-incident medical treatment received by the subject or the enforcement member or authorized non-enforcement member shall be documented in the original incident report. At a minimum, the following information shall be included in the original incident report:
 - i. The location where the medical treatment was provided (e.g., at scene, hospital).
 - ii. The severity and type of injury.
 - iii. The name and title of the attending medical personnel (e.g., paramedic, nurse, doctor).

2.2 BlueTeam Use of Force Incident Report

- a. All incidents in which an enforcement member uses force greater than officer presence, verbal direction, or compliant handcuffing shall be documented by completing a BlueTeam Use of Force Incident Report.
- b. All incidents in which use of force by an enforcement member causes injury to another individual shall be documented by completing a BlueTeam Use of Force Incident Report.
- c. The BlueTeam Use of Force Incident Report shall be completed by the enforcement member who used the force by the end of the enforcement member's shift. The BlueTeam Use of Force Incident Report shall be forwarded by the enforcement member to the shift supervisor and worksite commander by the end of the enforcement member's shift, unless otherwise directed by the worksite commander.

- d. If more than one enforcement member uses force during the same incident, the lead enforcement member shall complete the BlueTeam Use of Force Incident Report and they shall include the force used for all officers.

2.3 Worksite Commander's Responsibilities

- a. The worksite commander shall conduct a review of all use of force incidents in order to ensure that they are thoroughly investigated, and to determine if the enforcement member involved, acted in accordance with department policies.
- b. The review shall include the worksite commander personally viewing the BlueTeam Incident Report, the original incident report, all supplemental incident reports, all existing video and audio recordings, and any supporting documents or records
- c. The worksite commander shall then prepare a written summary as part of the BlueTeam Incident Report for each use of force incident that includes the facts of the case along with their findings and submit it within five calendar days of the use of force incident to the district/division commander for their review.

2.4 District/Division Commander's Responsibilities

- a. The review shall include the BlueTeam Incident Report, the original incident report, all supplemental incident reports, all existing video and audio recordings, and any supporting documents or records.
- b. The district/division commander shall complete the "Approval Comments" section on the BlueTeam Use of Force Report stating whether the use of force was determined to be justified.
- c. If the district/division commander determines the incident is justified, they shall forward the completed BlueTeam Use of Force Incident Report to the Director's Office and Professional Standards Section within five calendar days of receipt from the worksite commander.
- d. If the district/division commander determines the incident is not justified, they shall forward the completed BlueTeam Use of Force Report to the Professional Standards Section (first name - "MSP"; last name - "Internal Affairs") with a copy to the Director's Office within five calendar days of receipt from the worksite commander.
- e. The incident shall be reviewed in accordance with the Official Order covering the Critical Incident After Action Review Team.

2.4 Additional Electro-Muscular Disruption Technology Device (EMD Device) Reporting

- a. Six-Month Taser Log
 - i. Every six months, the worksite commander or their designee shall upload data from each EMD device assigned to personnel at their worksite using the online version of Evidence Sync. This data contains a log of all the device's operations including discharge. The Taser log shall be retained on the Evidence.com program indefinitely.
- b. Use of Force Discharge Report
 - i. An enforcement member who discharges an EMD device in a use-of-force incident shall present the EMD device to their shift supervisor as soon as possible so that the EMD

device's data can be uploaded to Evidence.com using the online version of Evidence Sync.

- ii. The shift supervisor shall provide the enforcement member with a printed copy of the discharge report.
- iii. The enforcement member shall attach the printed copy of the Taser log to their original report, which includes the "Pulse Graph" pertaining to the specific use of the device.

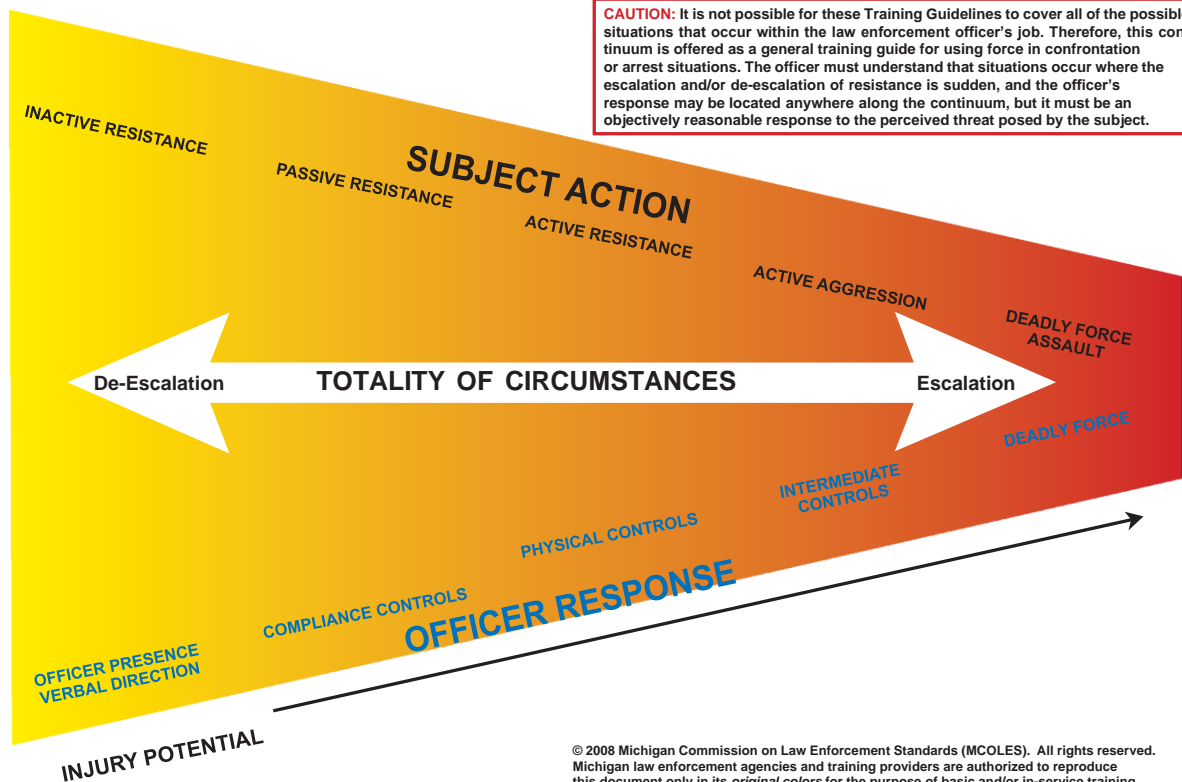
Appendix A

MCOLES Subject Control Continuum



SUBJECT CONTROL CONTINUUM

A Training Guide for Escalation and De-Escalation of Subject Control



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TRAINING GUIDE FOR THE MCOLES SUBJECT CONTROL CONTINUUM

This Subject Control Continuum is published by the Michigan Commission On Law Enforcement Standards (MCOLES) and is offered as a general training guide for controlling subjects in confrontation or arrest situations. It is imperative that law enforcement officers are properly trained in the interpretation and application of this training guide, and be annually updated on relevant legal issues, technological advances, departmental policy, and department approved tactics, techniques and skills used for subject control.

SUBJECT ACTIONS	
INACTIVE RESISTANCE	Resistance that may include psychological intimidation and/or verbal resistance (e.g., blank stare, clenching of fist(s), tightening of jaw muscles, etc.).
PASSIVE RESISTANCE	Any type of resistance whereby the subject does not attempt to defeat the officer's attempt to touch and control the subject, but still will not voluntarily comply with verbal and physical attempts of control (e.g., dead weight, failure to obey verbal commands, etc.).
ACTIVE RESISTANCE	Any action by a subject that attempts to prevent an officer from gaining control of the subject (e.g., pulling/pushing away, blocking, etc.).
ACTIVE AGGRESSION	Physical actions/assaults against the officer or another person with less than deadly force (e.g., advancing, challenging, punching, kicking, grabbing, wrestling, etc.).
DEADLY FORCE ASSAULT	Any force used against an officer or another person that may result in great bodily harm or the loss of human life.
OFFICER RESPONSE*	
OFFICER PRESENCE/VERBAL DIRECTION	Identification of Authority (e.g., uniformed presence or identification as a police officer), Verbal Direction (e.g., for arrest or to control subject's movements), Use of Restraint Devices (e.g., compliant handcuffing).
COMPLIANCE CONTROLS	Soft Empty Hand Techniques (e.g., joint lock, pressure points, etc.), Compliance Control Devices (e.g., Do-Rite, baton, Kubotan, PR-24, etc.).**
PHYSICAL CONTROLS	Hard Empty Hand Techniques (e.g., strikes, take downs, etc.).
INTERMEDIATE CONTROLS	Intermediate Weapons (e.g., impact weapons).
DEADLY FORCE RESPONSE	Any force used by an officer that has a reasonable probability to cause death.
<p>* NOTE: All officer response controls available at the lower end of the continuum are still available to the officer as the subject's actions escalate (e.g., an officer attempting to arrest a subject who is actively resisting may use verbal direction and compliance controls as a control measure, even though the officer may be justified in using chemical aerosol spray and/or hard empty hand techniques).</p> <p>**NOTE: Compliance Control Devices fall under Compliance Controls when used as a compliance control device rather than as an impact weapon.</p> <p>Less-Lethal Subject Control Devices (e.g., chemical aerosol sprays, electrical devices, impact projectile systems, etc.) have different risks of injury associated with them and may be considered different levels of force. The decision to deploy any less-lethal device, when used to physically control a subject, should be based on the subject's actions, the totality of the circumstances, and be consistent with the objectively reasonable standard that governs the application of force by law enforcement officers.</p>	
TOTALITY OF CIRCUMSTANCES	
The question is whether the officer's actions are " objectively reasonable " in light of <u>all</u> the facts and circumstances confronting the officer at the time the force is used.	
CIRCUMSTANTIAL CONSIDERATIONS	
(List is not all inclusive)	
Type of crime committed or attempted; relative size/stature of subject(s); exigent conditions: number of officers on scene, number of subjects involved, and availability of back-up; reaction time; relative strength; subject(s) access to weapons; subject(s) under the influence of alcohol or drugs; exceptional abilities/skills of suspect(s) (e.g., martial arts); injury to, or exhaustion of, the officer; weather or terrain conditions; immediacy of danger; distance from the subject; special knowledge (e.g., subject's prior history of violence), etc.	
<p>Last Resort: Situations may occur where immediate and drastic measures must be undertaken by an officer to protect human life. Force used in these life threatening situations may involve the use of tactics, techniques, or weapons not specifically authorized by policy (e.g., neck restraint, striking with flash light, etc.).</p>	

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Review Responsibility:

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Accreditation Standards:

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