



# DETROIT POLICE DEPARTMENT

MANUAL

<b>Series</b> 300 Support Services	<b>Effective Date</b> TBD	<b>Review Date</b> Three Years	<b>Directive Number</b>  304.10
<b>Chapter</b> 304 - Training			
<b>Reviewing Office</b> Office of Support Services			<input checked="" type="checkbox"/> <b>New Directive</b>
<b>References</b> Michigan Law Enforcement Accreditation Commission 1.10.1, 1.10.2, and 3.3.1			<input type="checkbox"/> <b>Revised</b>

## **FOAM ROUND 40MM LAUNCHER**

### **304.10 – 1 PURPOSE**

The purpose of this directive is to establish guidelines for the issuance, storage, and deployment of the Foam Round 40mm Launcher, in accordance with Department use-of-force policy and applicable law.

### **304.10– 2 POLICY**

The Detroit Police Department (DPD) authorizes the Foam Round 40mm Launcher as a less-lethal force option to reduce the risk of serious injury while attempting to control a violent or potentially violent individual. Only Department-authorized 40mm foam rounds and launchers shall be used. Use shall be in accordance with this directive and Department use-of-force policy. Members shall not carry or deploy the device while off duty or during secondary employment. Authorization to carry and deploy the Foam Round 40mm Launcher is limited to members who have successfully completed Department-approved training. Members shall use only the level of force reasonably necessary.

### **304.10 – 3 DEFINITIONS**

#### **304.10 – 3.1 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.). (Michigan Commission of Law Enforcement Standards, Section IV.C.3.2).

#### **304.10 – 3.2 Application / Applied**

Refers to any attempt on the members' part to discharge the Foam Round 40mm Launcher, regardless of whether the round makes contact or achieves the intended effect, except during training.

#### **304.10 – 3.3 Foam Round 40mm Exact Impact™ Sponge Round**

A lightweight, high-speed projectile consisting of a plastic body with a blue foam tip. The round is 1.6 inches in diameter and four inches in length. The round is designed to travel at a velocity of 325 fps (99 m/s), with a minimum "safe range" of five (5) feet and a maximum effective range of 131 feet. Deployment within this distance increases the

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*likelihood of injury.*

#### **304.10 – 3.4 Foam Round 40mm Launcher**

*The Foam Round 40mm Launcher is a hand-held single shot rifled barrel 40mm launcher that discharges a single 40mm Exact Impact™ sponge round.*

#### **304.10 – 3.5 Less-Lethal Force**

*Any force other than deadly force which is neither likely to cause, nor intended to cause, death or serious injury.*

#### **304.10 – 3.6 Proficiency**

*The demonstration of proper and safe weapon operation, including its care, maintenance, disassembly and assembly, capabilities, and limitations.*

#### **304.10 – 3.7 Target Area**

*The primary target area is the larger muscle groups like, buttocks or thighs. Secondary target areas are the shoulders, shoulder blades, forearms, shins, calves, and feet. Members shall not intentionally target the head, neck, groin or spine except where deadly force would otherwise be authorized.*

### **304.10 – 4 Procedure**

#### **304.10 – 4.1 Authorization to Carry and Use**

*Only those who have successfully completed the DPD required training course and have demonstrated proficiency in the utilization of the Foam Round 40mm Launcher are allowed to carry and deploy the launcher. Members are required to uphold DPD's standard for annual recertification to maintain the proficiency needed for use.*

#### **304.10 – 4.2 Proper Use of Force Decision Making**

*In Graham v. Connor, the United States Supreme Court explained that the objectively reasonable standard is to be applied—from the perspective of a reasonable law enforcement officer on the scene and include an allowance for the fact that law enforcement officers are often forced to make split-second decisions about the amount of force necessary in circumstances that are both uncertain and rapidly evolving. Although the test of reasonableness is not capable of precise definition or mechanical application, the following factors must be considered:*

- 1. The severity of the crime at issue;*
- 2. Whether the suspect poses an immediate threat to the safety of Department members or others; and*
- 3. Whether the suspect is actively resisting arrest or attempting to evade the arrest by flight.*

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*Notwithstanding any of the provisions listed below, which constitute only guidelines for the purpose of informing a member's decision on whether to utilize the Foam Round 40mm Launcher, the question of whether the member's use of the launcher is proper will always depend on the totality of the circumstances surrounding each incident.*

**304.10 – 4.3 Verbal Warning**

*Members shall issue a clear verbal warning prior to deploying the Foam Round 40mm Launcher to provide the subject with an opportunity to comply and alert other members and persons in the immediate area. The warning may be omitted when it is not practical under the circumstances or would compromise member safety.*

**304.10 – 4.4 Application of the Foam Round 40mm Launcher**

*Subject to the objectively reasonable standard, members may discharge the Foam Round 40mm Launcher under the following circumstances:*

- a. The subject is violent or actively resisting.*
- b. The subject's words or actions demonstrate an intention to be violent or to physically resist, and the subject's conduct appears to present the potential of harm to members, the subject, or others.*

*When deciding whether to discharge the Foam Round 40mm Launcher, members must balance safety concerns with the totality of the circumstances, including but not limited to the following:*

- a. Severity of the Incident: The circumstances of the crime leading to arrest or detention.*
- b. Subject's Behavior: The demeanor and behavior of the suspect, level of aggression, and physical actions.*
- c. Vulnerability Factors: The age and health of the person.*
- d. Pregnancy: Whether the person is known, or there is reason to believe the person is pregnant.*
- e. Physical Limitations: Whether the person has any apparent physical disabilities that would prevent the subject from becoming compliant.*

**304.10 – 4.5 Special Deployment Considerations**

*The use of the Foam Round 40mm Launcher on certain individuals must be avoided, unless the totality of the circumstances indicates that there is a clear need to take the subject under control, and that other available options would likely be ineffective, present greater danger to the member, the subject, or others. These individuals include, but are not limited to the following:*

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- a. *Individuals known to be, or who reasonably appear to be pregnant.*
- b. *Elderly individuals.*
- c. *Juveniles.*
- d. *Individuals in danger of falling or becoming entangled in machinery or heavy equipment, which could result in death or serious bodily injury, unless deadly force is authorized.*
- e. *Deployment should be avoided when it could cause a subject to fall into water, from an elevated position, or into hazardous machinery, unless deadly force is authorized.*
- f. *Individuals whose position or activity may result in collateral injury (e.g., running, possible fall from high location, operating vehicles).*

**304.10 – 4.6 Target Considerations**

*Reasonable efforts should be made to target the larger muscle groups like buttocks, thighs, lower legs, and area of the forearms. Members shall avoid the head, neck, eyes, and groin. If the dynamics of a situation or member safety factors do not permit the member to limit the application of the Foam Round 40mm Launcher to a precise target area, members shall monitor the condition of the subject if it strikes the head, neck, eyes, or groin until the subject is examined by paramedics or other medical personnel.*

**304.10 – 4.7 Multiple Applications of the Foam Round 40mm Launcher**

*If the first application of the Foam Round 40mm Launcher appears to be ineffective in gaining control of an individual, the member shall consider certain factors before attempting an additional application, including but not limited to the following:*

- a. *Effectiveness: Whether the previous round achieved the intended effect.*
- b. *Compliance: Whether the individual has been given a reasonable opportunity to comply with commands.*
- c. *Alternatives: Whether verbal commands, alternative tactics, or other force options would be more effective or appropriate.*

**304.10 – 4.8 Prohibited Uses**

1. *The Foam Round 40mm Launcher shall not be used to psychologically torment, elicit statements from, or to punish any individual.*
2. *Members shall not discharge the launcher at a person who is already restrained or under control.*
3. *Absent the subject presenting a lethal threat or engaging in life-threatening resistance, the device shall not be used against a person less than five (5) feet away.*
4. *Direct fire shall not be used indiscriminately against a person, a crowd, or group of people, even if some members of the crowd or group are violent or disruptive. See Manual Directive 205.4, First Amendment Activities, for related information.*

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5. *Members shall not use the launcher to dispatch animals.*
6. *Members shall not use the launcher against persons who are only engaged in passive or lesser forms of resistance.*
7. *The launcher shall not be "skip-fired"-(i.e. intentionally fired such that the round impacts another surface first before striking the intended target).*
8. *Members shall not intentionally target the head, neck, or spine unless deadly force is authorized.*

**304.10 –4.9 Medical Treatment**

*Members shall request Emergency Medical Services (EMS) or otherwise ensure an appropriate medical evaluation is performed in the following circumstances:*

- a. *The person is suspected of being under the influence of controlled substances or alcohol.*
- b. *The person may be pregnant.*
- c. *The person is a juvenile or elderly individual.*
- d. *The person reasonably appears to need medical attention.*
- e. *The Foam Round 40mm Launcher made contact, or is suspected of making contact with a sensitive area (e.g., groin, female breast, eyes, head, face, neck).*
- f. *The person requests medical treatment.*

*Members shall continuously monitor the subject until EMS arrives or the subject is transferred to medical personnel.*

*Any refusal of medical attention shall be documented and recorded on the member's body-worn camera (BWC). In the rare event that a BWC is not available, the refusal shall be witnessed by medical personnel or at least one other member.*

**304.10 –4.10 Reporting Requirements**

*Members shall refer to Manual Directive 201.11, Use of Force/Detainee Injury Reporting/Investigation and Manual Directive 304.2, Use of Force, for reporting and investigation requirements.*

**304.10– 4.11 Use of Force Report**

*A Use of Force Report shall be completed following all discharges of the Foam Round 40mm Launcher except during testing, training, malfunction.*

*Members shall document the following:*

- *The time and location of the incident;*
- *The device's serial number.*
- *The number of rounds discharged.*

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- *De-escalation efforts and the verbal warnings issued prior to deployment.*
- *Any complaints of pain and/or signs of injury.*
- *Medical care received or refusal of medical treatment.*
- *Actions of the subject that necessitated the use of force.*

*The Use of Force Report shall be submitted as soon as possible, following the incident, but prior to the end of his or her tour of duty.*

**Related Procedures:**

- *Directive 201.11 – Use of Force Reporting and Investigation*
- *Directive 304.2 – Use of Force*
- *Training Directive 04-03 – Use of Force Continuum*
- *Directive 202.1 – Arrests*
- *Directive 202.2 – Search and Seizure*
- *Directive 205.4 – First Amendment Activities*

**Forms and Reports:**

- *Use of Force Report (UF-002)*
- *Supervisory Investigation Report (UF002a) Form (SIR)*
- *Use of Force/Detainee Injury Investigation Guide*
- *Investigation Checklist*