



De-escalation 2021: Law & Best Practices For Massachusetts Police

Tuesday, June 29, 2021
9:00 a.m.- 1:00 p.m.
(Virtual Training)

All attendees must register with a separate email and remain on camera individually to receive a certificate.. (OSHA raining Institute Ed Center Region 1 current best practice for virtual training).

Program Content

This training is for police officers, supervisors, and commanders. You will learn how to apply the new Use of Force (UOF) standard in Massachusetts and its “de-escalation” mandate. You will also be introduced to realistic, national best practices in de-escalation. This foundation helps determine what de-escalation techniques are feasible in rapidly unfolding encounters, whether you are the officer on scene or the investigator who later evaluates the situation.

Part 1: The Law

Attorney John Scheft

- **Understanding UOF under 6E, § 14**
- **The De-Escalation Mandate: Feasible or Fail**
 - Listed “best practices”
 - Duty to identify, 41, §§ 98C and 98D, and the irony of complaints
- **The Duty to Intervene under 6E, § 15**

Part II: Best Practices & Perspectives

Captain Peter Hoerr (ret)

Go in knowing:

- Facts
- Resources
- Mission
 - Avoid “mission creep” (sometimes it’s best to leave, refer, check in later, or apply for a complaint)
 - At the same time, do your duty (e.g., 209A and 258E restraining orders, danger, or ongoing disruption)

Assess safety:

- Subject (weapons and behavior)
- Potential victims
- Environment

Simple steps (the real force multiplier!):

- Distance
- Backup

- Time (slow it down!)

Communication:

- Introduce yourself and get their name
- Easy empathy: Acknowledge emotions (“What’s going on?”)
- Options and consequences: How to issue a warning without escalating
 - Caveat: Communication is not always possible — the ego of the negotiator; the ego of 20/20 hindsight
 - Caveat: Don’t argue about the law — talk about what needs to happen
 - Caveat: The last resort — offenses like “interfering with a police officer” and disorderly when de-escalation fails

Resources:

- The value of co-response with clinicians, caseworkers, and maybe family/friends

Part III: The Special Case of the Emotionally Disturbed Person (EDP)

Attorney John Scheft

- The essential mindset
 - Allies — Is there anyone who knows the EDP on scene?
 - Non-compliant does not mean dangerous
 - Ideally one voice speaks
 - Ask the “factual question” instead of demanding a behavior

Application of 123, § 12 in the field

- Categories 1 to 4
- Home entry
- For the police lockup, don’t forget the § 18 transfer

Part IV: The Consequences

Attorney John Scheft and Captain Peter Hoerr (ret)

- POST: Decertification, Suspension, & Retraining
- The Courts: Civil liability under 42 USC § 1983 and related state statutes
- Report Writing: The Critical Liability Shield
 - From the involved officer perspective
 - From the commander and supervisor coaching & review perspective

About the Presenters

Attorney John Sofis Scheft is the founder and principal of Law Enforcement Dimensions, LLC. He is the author of the most widely used manuals on criminal law and procedure, and juvenile issues in Massachusetts. He has taught for MIIA since 2008 on a variety of legal and human relations issues of concern to law enforcement. In addition to MIIA, notable clients include the Drug Enforcement Administration (DEA); State Police; Boston Police; Massachusetts Association of Campus Law Enforcement Administrators (MACLEA); and Executive Officer of Public Safety & Security (EOPSS).

Scheft worked as a police trainer for the Attorney General and as an Assistant District Attorney in Middlesex County, where he specialized in sexual assault cases. A graduate of Northeastern University’s School of Law and Harvard University, Scheft lives with his wife and two children in Arlington.

Captain Peter Hoerr recently retired after a successful career with the Belmont Massachusetts Police Department. He has significant experience in police misconduct investigation. He also earned his law degree in 1996 from New England School of Law. Of special importance to MIIA and this program, Captain Hoerr completed the nationally recognized De-Escalation Instructor Course presented by the Force Science Institute. This certification required that Captain Hoerr understand and apply the concept of “de-escalation” and the many elements in determining its feasibility or effectiveness in a variety of encounter types.



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