

**“JUST  
THE  
FACTS”**



## MTIBRS Training & Technical Assistance

**Justifiable Homicides - Not a Crime,  
but reportable!**

### FBI Justifiable Homicide Data Requirements

The killing of a perpetrator of a serious criminal offense by a law enforcement officer in the line of duty, or the killing, during the commission of a serious criminal offense, of the offender by a private individual.

Justifiable Homicide, by definition, always occurs in conjunction with a serious criminal offense (i.e., a felony or high misdemeanor). Agencies must report the crime that was being committed when the Justifiable Homicide took place as a *separate* incident. The definition of an incident requires all offenders to act in concert. Certainly, the criminal killed justifiably did not act in concert with the police officer or civilian who killed him; likewise, the police officer or civilian who killed the criminal did not act in concert with the criminal in committing the offense that resulted in the Justifiable Homicide. Therefore, Justifiable Homicide cases involve at least two incidents rather than one. If the “justified” killer committed another offense in connection with the Justifiable Homicide (e.g., illegal possession of the gun he/she used), the LEA should report a third incident.

This is the FBI’s definition of a Justifiable Homicide

## Montana's Use of Force in Defense of Person

### ▶ Use Of Force In Defense Of Person 45-3-102:

A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the conduct is necessary for self-defense or the defense of another against the other person's imminent use of unlawful force. However, the person is justified in the use of force likely to cause death or serious bodily harm only if the person reasonably believes that the force is necessary to prevent imminent death or serious bodily harm to the person or another or to prevent the commission of a forcible felony.

From 1973 and then updated in 2009

## Justifiable Homicide Circumstances

- ▶ Your RMS should have a Justifiable Homicide Offense Selection
  - ▶ It does connect to MCA's Deliberate Homicide (45-5-102), but it is mapped as a Justifiable Homicide to both the State & FBI.
- ▶ The Aggravated Assault/Homicide Circumstances Field
  - ▶ LEAs must enter *one* circumstance per victim segment:
    - ▶ 20 = Criminal Killed by Private Citizen
    - ▶ 21 = Criminal Killed by Police Officer

## Justifiable Homicide Circumstances Cont.

- ▶ Additional Justifiable Homicide Circumstance Field
- ▶ LEAs must enter *one* circumstance per victim segment:
  - ▶ A = Criminal Attacked Police Officer and That Officer Killed Criminal
  - ▶ B = Criminal Attacked Police Officer and Criminal Killed by Another Police Officer
  - ▶ C = Criminal Attacked a Civilian
  - ▶ D = Criminal Attempted Flight From a Crime
  - ▶ E = Criminal Killed in Commission of a Crime
  - ▶ F = Criminal Resisted Arrest
  - ▶ G = Unable to Determine/Not Enough Information

## Reporting a Justifiable Homicide

1. The one incident with *only* the Justifiable Homicide.
2. Separate incident for any crimes committed prior, such as a Felony PFMA before LEO Arrival.
3. Third incident if the justified “killer” committed an offense in connection with the Justifiable Homicide, such as illegal possession of a firearm.
4. Law Enforcement Related? - Use of Force Report
5. Per the FBI, for NIBRS reporting, as long as there is an MOU, an investigating agency may report a Justifiable Homicide, but the Use-of-Force report must be completed by the agency who applied force.

#3 Example, civilian on civilian such as burglary incident and the justified killer had an illegal firearm, etc.

#5 Example, if a small PD had an officer involved shooting where the subject died and the SO ended up being the investigating agency, the SO could report the Justifiable Homicide on behalf of the PD BUT the PD would still need to complete the Use of Force Report themselves.

## Justifiable Homicide Tips

- ▶ Scenario: While resisting an arrest, a fugitive brandished a gun and fired twice in the direction of two police officers who were attempting to take the fugitive into custody. Neither officer sustained injury, but both drew their weapons and returned fire, killing the fugitive.
  - ▶ The agency should enter “21 = Criminal Killed by Police Officer” for the Aggravated Assault/Homicide Circumstances Field and for the Additional Justifiable Homicide Circumstance Field, you would select “A = Criminal Attacked Police Officer and That Officer Killed Criminal.”
- ▶ When there is an officer-involved shooting that results in injury or death, does the officer need to be listed as the offender for NIBRS reporting?
  - ▶ Yes, for NIBRS reporting, the officer would be listed as the “offender” in this situation.

Scenario from NIBRS user’s Manual and question from our UCR colleagues at Washington State

## Possible Justifiable Homicide Errors

- ▶ 669 - NO ARRESTEE RECORDS ALLOWED FOR A JUSTIFIABLE HOMICIDE
  - ▶ By definition a justifiable homicide never involves an arrest of the offender (the person who committed the justifiable homicide).
- ▶ 670 - JUSTIFIABLE HOMICIDE CANNOT BE AN ARREST OFFENSE CODE
  - ▶ Not a valid arrest offense.
- ▶ 266 - NO OTHER OFFENSE CAN BE REPORTED
  - ▶ When a Justifiable Homicide is reported, no other offense may be reported in the Group A Incident Report. These should be submitted on another Group A Incident Report.
- ▶ 270 - BIAS MOTIVATION MUST BE *NONE*
  - ▶ Justifiable Homicide must be coded as non bias motivated.

## FBI Justifiable Homicide Data 2015-2019

### Justifiable Homicide

by Weapon, Private Citizen,<sup>1</sup> 2015-2019

[Download Excel](#)

Year	Total	Total firearms	Handguns	Rifles	Shotguns	Firearms, type not stated	Knives or cutting instruments	Other dangerous weapons	Personal weapons
2015	333	268	216	6	13	33	40	10	15
2016	334	278	201	11	9	57	34	8	14
2017	368	313	238	7	8	60	35	8	12
2018	375	317	229	6	10	72	33	13	12
2019	386	334	237	16	8	73	32	8	12

### Justifiable Homicide

by Weapon, Law Enforcement,<sup>1</sup> 2015-2019

[Download Excel](#)

Year	Total	Total firearms	Handguns	Rifles	Shotguns	Firearms, type not stated	Knives or cutting instruments	Other dangerous weapons	Personal weapons
2015	457	456	316	40	7	93	0	1	0
2016	440	432	313	51	5	63	2	5	1
2017	444	436	284	57	2	93	3	4	1
2018	435	431	292	56	4	79	1	2	1
2019	340	334	248	32	2	52	2	2	2



### Montana Board of Crime Control Statistical Analysis Center Staff

5 S. Last Chance Gulch | PO Box 201408 | Helena, MT 59620 |  
[MBCCdata@mt.gov](mailto:MBCCdata@mt.gov)

#### Kathy Wilkins

Statistical Analysis Center Director  
Office: 406-444-4298 | Email: [kwilkins@mt.gov](mailto:kwilkins@mt.gov)

#### Jess Hard

Data Integrity Analyst  
Office: 406-444-2084 | Email: [jess.hard@mt.gov](mailto:jess.hard@mt.gov)

#### Megan Martin

Data Integrity Analyst  
Office: 406-444-3651 | Email: [megamartin@mt.gov](mailto:megamartin@mt.gov)

**“JUST THE FACTS”**

What's coming up?

August 31 → Theft 45-6-301  
September 14 → Hate Crimes & Cargo Thefts  
September 28 → Educator/Healthcare Worker/Legal Representative

- Go to <https://mbcc.mt.gov/Data/MTIBRS-Training> to register for all 2022 sessions. Make sure to bookmark this page.
- Future Just the Facts Training:
  - Hate Crimes & Cargo Thefts - September 14, 2022
  - **Educator/Healthcare Worker/Legal Representative - COMBINED WITH September 14 training because of the FBI NIBRS training during this session September 28, 2022**
  - Victim/Offender Relationship - October 12, 2022
  - Property Values, Stolen and Recovered - XML additions - October 26, 2022
  - Stolen and Recovered - XML additions - November 9, 2022
  - Drugs - new XML fields, measurements, drug types and more - November 23, 2022
  - Multi Jurisdiction Incidents - December 7, 2022
  - Warrants - December 21, 2022