



## ***ALAMEDA COUNTY SHERIFF'S OFFICE***

**July 2005**  
**LD 20 – Use of Force**

Course Title: Learning Domain 20 – Use of Force

Instructor(s): Wiley Eggers

Date: July 1, 2005

Review Date: July 1, 2010

Hours: 19.5 Hours

Learning Objectives: Students will discuss reasonable force as stated by law, the components of the 4<sup>th</sup> Amendment standard for objective reasonableness, when a peace officer may use force, agency policies concerning use of force, and peace authority to use force.

Instructional Techniques: Lecture, discussion groups, scenarios

Material & Equipment: Classroom, blackboard, computer and projector

Handouts: See Basic Course Workbook for Learning Domain 20

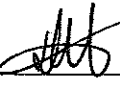
Lesson Plan: See attached

Hourly Schedule: Varies according to facility and instructor availability.

Safety Policy: Not required for this course

Test: POST test for LD-20, Mid-Course and End-of-Course tests

Evaluation: Written - Provided by Training / POST

Approved by: Captain D. Houghtelling 

Date: July 1, 2010

## LD 20 – Use of Force

### 1. Introduction to the Use of Force

- a. Discuss *reasonable force* as stated by law
- b. Discuss the components of the Fourth Amendment standard for determining *objective reasonableness*, as determined by the U.S. Supreme Court
- c. Explain the legal framework establishing a peace officer's authority during a legal arrest including:
  - 1) subject's requirement to submit to arrest without resistance, and
  - 2) peace officer's authority to use reasonable force during a detention or arrest
- d. Identify the circumstances set forth in the California Penal Code when a peace officer has the authority to use force
- e. Discuss the level of authority agency policies have regarding the use of force by a peace officer

### 2. Force Options

- a. Discuss the term "*force option*"
- b. Identification that the objective of using force is to overcome resistance to gain control of an individual and the situation
- c. Recognition of force options and the amount of force a peace officers may use based on the subject's resistance
- d. Explain the importance of training and ongoing practice when responding to potentially dangerous situations that may require the use of force
- e. Discuss effective communication when using force

### 3. Use of Deadly Force

- a. Identify the legal standard for the use of deadly force
- b. Identify the factors required to establish *sufficiency of fear* for use of deadly force
- c. Recognition of the facts an officer should consider when determining whether or not to use deadly force
- d. Discuss the role of agency policies regarding the use of deadly force
- e. Recognition of the law regarding justifiable homicide by a public officer and the circumstances under which the homicide is considered justifiable

### 4. Documenting the Use of Force

- a. Describe why complete documentation of the use of force is critical to the peace officer and the peace officer's agency, to include:

- 1) justification for using force
- 2) relevant factors and detail

5. Concept of Control in the Use of Force

- a. Discuss factors that can affect a peace officer's response when threatened with danger, to include:
  - 1) reasonable
  - 2) unreasonable
- b. Anger
- c. Indecision and hesitation
- d. Give examples of acceptable techniques for managing anger
- e. Describe the benefits of ongoing physical and mental training for peace officers involving the use of force

6. Consequences of Unreasonable Force

- a. Explain the legal and administrative consequences associated with the use of unreasonable force
- b. Explain an *agency's* potential liability associated with the use of unreasonable force
- c. Explain the consequences of an officer's failure to intervene when unreasonable force is used by another peace officer
- d. Discuss immediate and delayed intervention techniques
- e. Discuss factors that may inhibit a peace officer from intervening in a situation where a fellow officer may be applying unreasonable force



## **ALAMEDA COUNTY SHERIFF'S OFFICE**

### **July 2005 LD 20 – Use of Force**

Course Title: Learning Domain 20 – Use of Force

Instructor(s): Paul Needham

Date: July 1, 2005

Review Date: July 1, 2009

Hours: 23.5 Hours

Learning Objectives: Students will discuss reasonable force as stated by law, the components of the 4<sup>th</sup> Amendment standard for objective reasonableness, when a peace officer may use force, agency policies concerning use of force, and peace authority to use force.

Instructional Techniques: Lecture, discussion groups, scenarios

Material & Equipment: Classroom, blackboard, computer and projector

Handouts: See Basic Course Workbook for Learning Domain 20


Lesson Plan: See attached

Hourly Schedule: Varies according to facility and instructor availability.

Safety Policy: Not required for this course

Test: POST test for LD-20, Mid-Course and End-of-Course tests

Evaluation: Written - Provided by Training / POST

Approved by: Captain T. McCarthy 

Date: July 1, 2009



## **ALAMEDA COUNTY SHERIFF'S OFFICE**

**July 2005**

### **LD 20 – Use of Force**

Course Title: Learning Domain 20 – Use of Force

Instructor(s): Mr. Paul Needham

Date: July 1, 2005

Review Date: October 14, 2008

Hours: 15 Hours

Learning Objectives: Students will discuss reasonable force as stated by law, the components of the 4<sup>th</sup> Amendment standard for objective reasonableness, when a peace officer may use force, agency policies concerning use of force, and peace authority to use force.

Instructional Techniques: Lecture, discussion groups, scenarios

Material & Equipment: Classroom, blackboard, computer and projector

Handouts: See Basic Course Workbook for Learning Domain 20

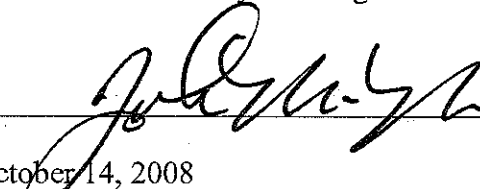
Lesson Plan: See attached

Hourly Schedule: Varies according to facility and instructor availability.

Safety Policy: Not required for this course

Test: POST test for LD-20, Mid-Course and End-of-Course tests

Evaluation: Written - Provided by Training / POST

Approved by: \_\_\_\_\_

Date: October 14, 2008\_\_\_\_\_



## **ALAMEDA COUNTY SHERIFF'S OFFICE**

**July 2005**

### **LD 20 – Use of Force**

Course Title: Learning Domain 20 – Use of Force

Instructor(s): Mr. Paul Needham

Date: July 1, 2005

Review Date: December 2, 2007

Hours: 15 Hours

Learning Objectives: Students will discuss reasonable force as stated by law, the components of the 4<sup>th</sup> Amendment standard for objective reasonableness, when a peace officer may use force, agency policies concerning use of force, and peace authority to use force.

Instructional Techniques: Lecture, discussion groups, scenarios

Material & Equipment: Classroom, blackboard, computer and projector

Handouts: See Basic Course Workbook for Learning Domain 20

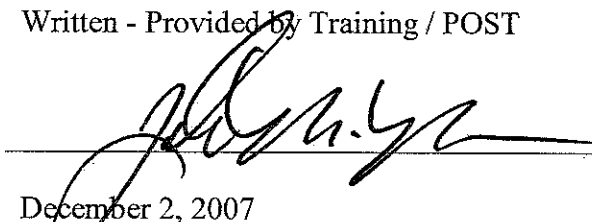
Lesson Plan: See attached

Hourly Schedule: Varies according to facility and instructor availability.

Safety Policy: Not required for this course

Test: POST test for LD-20, Mid-Course and End-of-Course tests

Evaluation: Written - Provided by Training / POST

Approved by:   
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Date: December 2, 2007  
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## ALAMEDA COUNTY SHERIFF'S OFFICE

July 1, 2005

### LD 20 – Use of Force

Course Title: Learning Domain 20 – Use of Force

Instructor(s): Paul Needham, Mark Overby, Michael Peretti

Date: July 1, 2005

Review Date: December 20, 2005 / December 28, 2006

Hours: 15 Hours

Learning Objectives: Students will discuss reasonable force as stated by law, the components of the 4<sup>th</sup> Amendment standard for objective reasonableness, when a peace officer may use force, agency policies concerning use of force, and peace authority to use force.

Instructional Techniques: Lecture, discussion groups, scenarios

Material & Equipment: Classroom, blackboard; computer and projector

Handouts: See Basic Course Workbook for Learning Domain 20

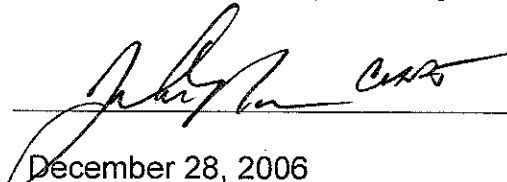
Lesson Plan: See attached

Hourly Schedule: Varies according to facility and instructor availability.

Safety Policy: Not required for this course

Test: POST test for LD-20, Mid-Course and End-of-Course tests

Evaluation: Written - Provided by Training / POST

Approved by:   
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Date: December 28, 2006  
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## ALAMEDA COUNTY SHERIFF'S OFFICE

July 1, 2005  
LD 20 - Use of Force

Course Title: Learning Domain 20 - Use of Force

Instructor(s): Paul Needham, Mark Overby, Michael Peretti

Date: July 1, 2005

Revision Date: December 20, 2005

Hours: 14 Hours

Learning Objectives: Students will discuss reasonable force as stated by law, the components of the 4<sup>th</sup> Amendment standard for objective reasonableness, when a peace officer may use force, agency policies concerning use of force, and peace authority to use force.

Instructional Techniques: Lecture, discussion groups, scenarios

Material & Equipment: Classroom, blackboard, computer and projector

Handouts: See Basic Course Workbook for Learning Domain 20

Lesson Plan: See attached

Hourly Schedule: Varies according to facility and instructor availability.

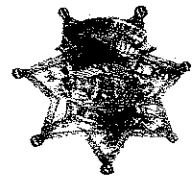
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Test: POST test for LD-20, Mid-Course and End-of-Course tests

Evaluation: Written - Provided by Training / POST

Approved by: John H. Hart, Captain

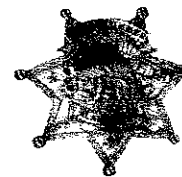
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## COURSE OUTLINE

### Use of Force (LD-20)

1. **Course overview**
  - A. The role of knowledge and the development of self-confidence
2. **Video-taped use of force**
  - A. CHP and Vallejo PD
  - B. Indio, CA
  - C. Tacoma, WA
  - D. Broward County, FL
3. **Reasonable Force**
  - A. 843 PC
  - B. Graham v. Connor
  - C. 834 a PC
  - D. 835 PC
  - E. 835a PC
  - F. Department policies
4. **Hypothetical Situations**
  - A. Student's critical thinking is challenged with use of force scenarios
5. **Force Options**
  - A. Presence
    - a. Presence
    - b. Verbalization
    - c. Restraints
  - B. Non-injuring force
    - a. Takedowns
    - b. Chemical agents
    - c. Unarmed striking
  - C. Injuring force
    - a. Impact weapons
  - D. Lethal force
    - a. Force likely to produce death
  - E. Force options are restricted by agency policy as identified in each agency's policy documentation materials.
    - a. Agency policy and procedures knowledge is mandatory



b. ACSO use of force handout

**6. Levels of resistance**

- A. Passive resistance
- B. Active resistance
- C. Combative resistance (the use of, or threatened use, of injuring force)
- D. Life-threatening resistance

**7. The objective for the use of force**

- A. To gain or maintain control of an individual and therefore – the situation.

**8. Force use considerations**

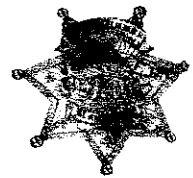
- A. Officer safety
- B. The amount and nature of the resistance which must be overcome
- C. Presence of a weapon
- D. Seriousness and nature of the offense
- E. Characteristics of the suspect as compared to the officer's characteristics
- F. Availability of assistance to the officer
- G. Nature and condition of the location and surroundings
- H. Level of resistance
- I. Constant re-evaluation of the situation

**9. Discussion**

- A. Hypothetical situations

**10. Tactical Communication**

- A. When words fail – S. A. F. E. R
  - a. S E C U R I T Y
  - b. A T T A C K E D
  - c. F L E E
  - d. E X C E S S I V E R E P E T I T I O N
  - e. R E V I S E D P R I O R I T I E S
- B. Disrespect issues and officer safety
- C. Five-step "Hard-style"
  - a. Ask
  - b. Set context
  - c. Present options
  - d. Confirm
  - e. Act
- D. 8-Step Tactical Car Stop
  - a. Greeting



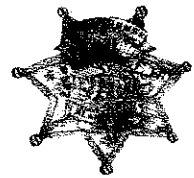
- b. Identifying self and department
- c. Explanation of the reason for the stop
- d. Asking if there is any justification for their actions
- e. Requesting driver's license
- f. Requesting Registration
- g. Making a decision to warn, cite, or arrest
- h. Closing appropriately with the decision made
- E. Tactical communication role play exercises
  - a. Car stop; dealing with a driver license refusal using the 5-step Hard-style
  - b. Practice conducting the 8-step tactical car stop
  - c. 5-step / 8-step cards handout

**11. Lethal force**

- A. Considerations regarding the use of lethal force
- B. Types of lethal force
- C. Distinguishing between person crimes and property crimes
  - a. Serious felonies (public safety threat)
  - b. Non-violent felonies
  - c. Property crimes
  - d. Misdemeanors
- D. Legal standard for the use of lethal force
  - a. Tennessee v. Garner
    - 1. Four part legal standard for the use of lethal force established by the supreme court
  - b. Serious bodily harm or injury
  - c. Reasonable necessity
  - d. Imminent danger
  - e. Sufficiency of fear
    - 1. 198 PC requirement
- E. Departmental policies
  - a. Officers must conform to their agency's policies, regardless of what federal or state law might allow.
  - b. The conditions under which lethal force may be employed are strictly controlled by department policy.

**12. Homicide by a peace officer**

- A. 196 PC
  - a. Interpretation in light of the legal standard established by the United States Supreme Court in Tennessee v. Garner.
- B. Unlawful homicide by a peace officer
  - a. Conditions where homicide by a peace officer may NOT be justifiable



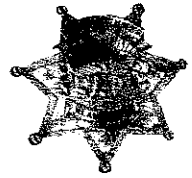
- C. Considerations before using lethal force
  - a. Threat to life
  - b. Immediacy of the threat
  - c. Type of crime/suspects
  - d. Suspect's and weapon's capabilities
  - e. Location and shooting background
  - f. The officer's present capabilities
  - g. Totality of circumstances
- D. Review, discussion, hypothetical situations and actual lethal force incidents

**13. Documenting the use of force**

- A. The documentation cycle (heavily covered in ACSO LD-18)
  - a. Suspect actions
  - b. Officer reactions
  - c. Force results
  - d. Investigation and documentation
    - 1. Cycle of force handout

**14. The emotional aspects of the use of force**

- A. The concept of control is a 2-edged sword
  - a. Physical control of an adversary
  - b. Emotional control of oneself
- B. Control: fitness, training, practice and mental preparation
  - a. The psychology of survival
  - b. Psycho-sensory distortions
- C. Managing fear
  - a. Physical responses
    - 1. Increased adrenaline (fight or flight syndrome)
    - 2. Increased respiration
    - 3. Increased heart rate
    - 4. Blood clotting enzymes flow
    - 5. Vision and hearing effected
    - 6. Time distortion
    - 7. Raised pain thresholds
    - 8. Fine motor skills impaired
  - b. Types of fear
    - 1. Reasonable
    - 2. Unreasonable
    - 3. Managing fear
  - c. Managing anger
    - 1. "Sooner the better" is a good training model for anger management
    - 2. Visualization training



- 3. Anger triggers and self-awareness compensation training
  - a. Managing fear handout

**15. The role of fitness, training, practice, and mental preparation**

- A. Appearance
  - a. Fitness and survival
- B. Training
  - a. The Newhall model
  - b. Proper training and practice are essential elements to successfully dealing with potentially dangerous situations.
  - c. Trained responses are superior to reactions
  - d. Reactions can be predictable; dangerous to the officer and others
  - e. The Elverado Torres shooting
- C. Practice
  - a. Ongoing practice is vital to extinguishable skills
    - 1. 5%’er handout
    - 2. Presumed compliance handout
- D. Mental preparation
  - a. Visualization training
  - b. Discomfort training
  - c. Controlled breathing training
    - 1. Controlled breathing handout

**16. Intervention and the use of excessive force**

- A. The legal basis for intervention
  - a. Lawful resistance
  - b. Appropriate intervention
  - c. Intervention techniques
  - d. Factors affecting intervention
  - e. Barriers to intervention
  - f. Consequences for failure to intervene
  - g. Consequences of unreasonable force

# LD-20 Use of Force Course Outline

## Block 1 (Three Hours)

1. Reasonable Force
  - a. What is considered reasonable force in law enforcement has changed over the years
  - b. Mid-1960's
    - i. Era of change
    - ii. President's Commission on Law Enforcement and Administration of Justice
      1. Quality of personnel
      2. Quality of officer preparation and training
      3. Law enforcement / community relations
      4. Law enforcement delivery of services
  - c. History
    - i. 843 PC
      1. Warrant arrests – Officer may use force to effect arrest if suspect flees or resists
      2. Court rulings have further defined what constitutes necessary and/or reasonable force
  - d. Reasonable Force
    - i. 835a PC
      1. That force reasonable for restraint of the suspect and to get the suspect to submit to custody.
  - e. Fourth Amendment "objective reasonableness" standard
    - i. 1989
    - ii. *Graham v. Connor*
      1. The court noted that determining the objective reasonableness for the use of force must be *fact specific* and established four components for determining reasonableness.
    - iii. Four components for determining reasonableness of force used
      1. Judged from the perspective of the **reasonable officer**.
      2. Examined through the eyes of an officer on the scene *at the time the force was applied*
      3. Based on the facts and circumstances confronting the officer *without regard to the officer's underlying intent or motivation*
      4. Based on the knowledge that the officer *acted properly under the established law at the time*
  - f. The Officer's Perspective
    - i. The totality of the circumstances must be evaluated from the perspective of the officer at the scene
    - ii. No hindsight
    - iii. Must be based on the facts and circumstances known to the officer at the time force was used.
      1. Example: Gun pointed at officer – Officer shoots in fear – Investigation reveals it was an unloaded gun.

iv. Objective Reasonableness Standard

1. "The amount of force necessary for the situation is determined by the object reasonableness as judged by a reasonable officer given the officer's training and experience."

g. The Officer's Intent

- i. The primary objective for the application of force is to **ensure control** of a suspect.
- ii. Case law determined an officer's subjective feelings toward a suspect should not be considered when establishing force use necessity or reasonableness.

h. Additional Gauges for Reasonableness

- i. The severity of the crime
- ii. The nature and extent of the threat posed by the suspect
- iii. The degree to which the suspect resists arrest or detention
- iv. Any attempts by the suspect to evade arrest by flight

2. Authority to use force

- a. It is the role of the peace officer to protect and serve the public. Peace officers who make or attempt to make an arrest may use force when faced with a hazard, threat, or with resistance.

- b. It is the suspect's duty to submit to arrest

i. 834 a PC

1. If persons have knowledge, or by the exercise of reasonable care should have knowledge, that they are being arrested by a peace officer, **it is the duty of such persons to refrain from using force or any weapon to resist such arrest.**

ii. Read the code section

iii. Discussion

- c. Officer's Authority to use restraint

i. 835 PC

1. An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. **The person being arrested may be subjected to such restraint as is reasonable for their arrest and detention.**

ii. Read the code section

iii. Discussion

- d. Authority to use force – warrant arrest

i. 843 PC

1. When an arrest is being made by an officer under the **authority of a warrant** and if, after being informed of the intention to make the arrest, the suspect to be arrested either flees or forcible resists, the officer may use all necessary means to effect the arrest.

ii. Read the code section

iii. Discussion

- e. Criteria for the use of force

i. 835 a PC

1. Reasonable force to effect an arrest is only that force reasonable for restraint of the suspect and to get the suspect to submit to custody.

ii. Read the code section

iii. Discussion

- iv. Use of force to arrest a person who has probably [Probable Cause] committed a crime:
  - 1. To effect an arrest or detain for investigation a person whom the officer reasonably believes or suspects has committed a criminal offense.
  - 2. To prevent the escape of a person whom the officer reasonably believes has committed a criminal offense.
  - 3. To overcome resistance, or the use or threatened use, of physical force directed against the officer or another person.
- f. The officer's rights
  - i. If the force used by an officer is reasonable, that officer is not considered the aggressor.
  - ii. Officers have a legal right to:
    - 1. Use reasonable force to overcome resistance
    - 2. Stand their ground against any aggressor; they need not retreat or desist.
    - 3. Use reasonable force for protection; "the right of self-defense is not lost".
- g. Department policies
  - i. Detailed considerations and regulations are established by each agency's departmental policies.
    - 1. Know them!
      - a. They protect you and the agency from criminal and civil liability
  - ii. You are responsible for becoming intimately familiar with your agency's use of force policy.
  - iii. Distribute ACSO use of force policy
- h. Hypothetical Situations
  - i. You and other officers respond into a neighborhood related to a residential burglary having just occurred. The suspect, fully described by the victim, fled the scene on foot. You are searching the surrounding neighborhood and see a man who closely matches the suspect description. You stop him and begin an investigation, but the man is uncooperative. As you prepare to search him and detain him for a "field show up", he takes a swing at you and you scuffle. You force the man to the ground and handcuff him. In the process he sustains a scraped chin and is bleeding. Do you feel the officer's use of force was lawful?
    - 1. Discussion
  - ii. Related to consideration of what force is reasonable in any given circumstance, do peace officers have rights, too?
    - 1. What are they?
      - a. Discussion
    - 2. How do they apply when dealing with violent suspects who resist arrest?
  - iii. Why be concerned about your department's policies on use of force?
    - 1. Discussion
- i. Force Options
  - i. Reasonable force to effect control
    - 1. No force
      - a. Presence

- b. Verbalization
    - c. Restraints
    - d. Compliance techniques
  - 2. Intermediate force
    - a. Takedowns
    - b. Chemical agents
    - c. Unarmed striking
  - 3. Injuring force
    - a. Impact weapons
  - 4. Lethal Force
    - a. Force likely to produce death
      - i. Common example: Gunshot
- ii. Levels of resistance
  - 1. Physiological intimidation
    - a. Unblinking stare
    - b. Fighting posture
  - 2. Verbal non-compliance
    - a. "You're going to have to take me"
    - b. "Fuck you, leave me alone"
  - 3. Static resistance
    - a. Going limp
    - b. Not moving
    - c. Failure to respond when given verbal commands
  - 4. Defensive resistance
    - a. Pulling away
    - b. Moving out of reach
    - c. Locking arms to prevent handcuffing
  - 5. Active aggression
    - a. Striking or pushing officer
    - b. Hands and feet
  - 6. Aggravated aggression
    - a. Force likely to produce death or great bodily injury
      - i. Weapon use against officer
        - 1. Disarming attempts
      - ii. Kicks to head or facial area
- iii. Force options are choices available to a peace officer concerning the force methods available as identified in each agency's or department's policy documentation materials.
  - 1. Example: some agencies restrict the use of the carotid restraint – others do not.
  - 2. You **must know** you agency's policies and procedures related to the use of force.
    - a. FTO program competency testing
- iv. The objective for the use of force
  - 1. To **gain or maintain control** of an individual and therefore – the situation.
- v. When using force, peace officers are required to
  - 1. Use force only when authorized to do so (e.g., to overcome resistance to a lawful process)
  - 2. Use the type of force **which is reasonable** under the circumstances

3. Use **only the amount of force reasonable** to overcome resistance and to gain or maintain control of a suspect
4. Use only the **amount and type of force which is permitted by individual agency or department policy.**
  - a. Discussion
    - i. How does that effect the presentation of LD-20 materials to recruits from varied agencies?
    - ii. **Knowing your agency's use of force policy is your responsibility**
- vi. Officer Judgment
  1. Your agency's use of force policy is the foundation for the reasonable exercise of an officer's judgment.
  2. Every situation is unique
    - a. Agencies rely on their individual officer's judgment to employ reasonable force in specific situations.
    - b. Officer state of mind
      - i. Knowledge is power!
      - ii. Training is fundamental to use of force
- vii. Many factors affect the selected force option and the amount of physical force applied. **Some of these are:**
  1. Officer safety
  2. The amount and nature of the resistance which must be overcome
    - a. Passive resistance
    - b. Active resistance
    - c. Combative resistance
    - d. Life-threatening resistance
  3. Presence of a weapon
    - a. The type of weapon
      - i. Edged weapons
      - ii. Impact weapons
      - iii. Firearms
      - iv. Availability
      - v. Preclusion
  4. Seriousness and nature of the offense
  5. Characteristics of the suspect as compared to the officer's characteristics
    - a. Size, age, capabilities, history
    - b. Example: 210 lb. 6'-2" male suspect v. 140 lb. 5'-4" officer
      - i. Does size matter?
  6. Availability of assistance to the officer
  7. Nature and condition of the location and surroundings
    - a. Availability of weapons
      - i. Kitchens
      - ii. Garages
    - b. Danger to bystanders
      - i. Open rural field
      - ii. Crowded urban sidewalk
- j. Level of resistance
  - i. *The actions of the individual suspect will determine* the type or amount of force applied by peace officers

1. Use of force is suspect driven and reactive to their behavior
- ii. Suspect resistance
  1. An officer's selection of the force option or amount of force should be based on the amount or degree of resistance of the suspect as well as other relevant conditions or circumstances of the specific situation.
  2. Refer to chart of **page 2-5** of the workbook
    - a. Discussion
  3. Totality of the circumstances
    - a. Officers must take into account the **totality of the circumstances** when selecting a reasonable force option for a given situation.
- iii. Constant re-evaluation of the situation
  1. Peace officers must use the force option that is appropriate for the situation.
    - a. Situations change rapidly
    - b. Escalation and de-escalation of force levels
      - i. Transitioning to the tools and techniques as needed **at that moment in time.**
- iv. Officer preparation
  1. Uniforms
    - a. Discussion
  2. Gear
    - a. Discussion
  3. Firearms
    - a. Discussion
  4. Body armor
    - a. Discussion
  5. Construction worker comparison to peace officers
    - a. What do they wear; why?
    - b. Tools of their trade
    - c. Tool maintenance considerations
    - d. Safety and protective gear
      - i. Chain saw "ballistic" pant wear
      - ii. Protective eyewear
- v. Practice and training
  1. Peace officers revert to trained responses
    - a. Tactical performance **will depend entirely** upon on how well and effectively you have trained and practiced.
    - b. Without an ongoing practice and training, peace officers are placing themselves and others in jeopardy.
- vi. Examples and discussion of use of force situations
  1. Page 2-7 and 2-8 in the workbook

# LD-20 Use of Force Course Outline

## Block 2 (four hours)

### 1. Tactical Communication

#### a. Benefits

##### i. Outstanding Officer Safety

1. Improved Communication Skills
2. Enhanced Professionalism
3. Respect

##### ii. Do you think there is a relationship between peace officer treatment of people and their safety?

1. Could a problem officer become a hazard to the personal safety of other officers?
2. Do you think disrespect can get you (or your partner) killed?
3. Appearance
4. Do you think your general appearance has anything to do with officer survival?
5. Could your appearance ever be a significant consideration in the mind of the serious criminal offender?
6. QUESTION: "Who's smarter? The officer who talks someone into the back seat of his patrol car, or the officer who has to fight the guy there?"

##### iii. Over a 25-year career

1. How many arrests will you make?
2. How many radio calls will you answer?
3. How many times will you talk with a citizen about a problem he or she is having?
4. How many car stops will you make?
5. How many tickets will you write?
6. How often will you be forced to use force?
7. Knowledge is power
8. Laws and Regulations
9. Departmental Policies and Procedures
  - a. Case Law
  - b. Police Tactics
  - c. Psychology of Offenders
  - d. Influencing Others
  - e. What are My Limitations?
  - f. What are My Strengths?
  - g. Enforcing the law
  - h. Community Expectations
  - i. Are there differences from community to community?

##### iv. Departmental Expectations

1. Does your department encourage proactive law enforcement?
2. How will your work habits effect your brother and sister law enforcement officers?

- v. When we decide to become cops, we give up certain rights
  - 1. The right to say anything we want
  - 2. The right to look any way we want
- vi. Fairness and Impartiality
  - 1. Letter of the law vs. Spirit of the law
  - 2. Knowledge of Beat Areas
  - 3. Hot spots
  - 4. Dangerous areas
  - 5. Crime Prevention
  - 6. Proactive
  - 7. Reactive
- vii. Tactical communication benefits
  - 1. Improved officer Safety
    - a. Over 100 officers killed in the line of duty nationally each year
    - b. 700 times that number are hurt each year
    - c. 1 in 20 officers will meet some form of resistance when making an arrest
    - d. 97% - 98% of contact with the public is verbal
    - e. The "cocked tongue" is the most dangerous weapon
  - 2. Enhanced professionalism
    - a. Fewer complaints
    - b. Looks good
    - c. Sounds good
    - d. Result: Is good
    - e. Generally, looks will dictate perception
      - i. If it looks or sounds bad, a bad ending is completely predictable
  - 3. Vicarious Liability
    - a. One sentence can cost a career
    - b. Negative retention issues
    - c. The problem officer is no longer wanted or tolerated
  - 4. Natural Language is Disastrous
    - a. The moment you let words rise readily to your lips – you'll make the greatest speech you will ever live to regret.
    - b. Disrespect is a common violence trigger in all cultures
  - 5. Personal stress
    - a. How many arrests will you make?
    - b. How many radio calls will you answer?
    - c. How many times will you talk with a citizen about a problem he or she is having?
    - d. How many car stops will you make?
    - e. How many tickets will you write?
    - f. How often will you be forced to use force?
    - g. The daily practical use of tactical communication reduces personal stress in law enforcement officers
- b. Verbal judo ©
  - i. George Thompson – The Verbal Judo Institute
    - 1. The mastery of communication by redirecting behavior with words
    - 2. JU – meaning: gentle – flexible
    - 3. DO – meaning: way

- ii. The professional use of language
  - 1. The use of words to achieve professional objectives
  - 2. Being in tune with your audience
  - 3. Skillful communication (habit of mind vs. natural language)
  - 4. Maximum efficiency and maximum effectiveness with minimum effort
- iii. Verbal Judo (tactical communication) is a "contact art"
  - 1. Helps you avoid personal face
  - 2. Establishes professional face
  - 3. All cultures can cooperate with the 5-step hard-style
  - 4. Clarifies – we look good and sound good
  - 5. Takes care of you on a "bad day" (pro vs. amateur)
  - 6. Used in your reports
  - 7. Helpful in court
  - 8. Useful in home and private life
  - 9. Useful in employee / supervisor relationships
    - a. Pass it on to the public
    - b. Change how others see you (your "jacket")
    - c. Never fails
      - i. Only the subject can fail
      - ii. (S.A.F.E.R.)
      - iii. Complete – all the bases are covered
      - iv. Consistent – a pattern of behavior is established
- iv. Five-step "Hard-style"
  - 1. Ask
  - 2. Set context
  - 3. Present options
  - 4. Confirm
  - 5. Act
- v. 8-Step Tactical Car Stop
  - 1. Greeting
  - 2. Identifying self and department
  - 3. Explanation of the reason for the stop
  - 4. Asking if there is any justification for their actions
  - 5. Requesting driver's license
  - 6. Requesting Registration
  - 7. Making a decision to warn, cite, or arrest
  - 8. Closing appropriately with the decision made
- vi. When words fail – S. A. F. E. R
  - 1. S E C U R I T Y
  - 2. A T T A C K E D
  - 3. F L E E
  - 4. E X C E S S I V E R E P E T I T I O N
  - 5. R E V I S E D P R I O R I T I E S
- vii. The professional
  - 1. We share the same traits as the best and highest paid professionals in the country (Doctors, Lawyers, CEO's)
  - 2. High visibility
  - 3. Life and death decisions in a fraction of a second
  - 4. Codified body of knowledge

5. Continuous ongoing training
6. Ethical standard of conduct
7. Licensed
8. Our badge is a symbol of public trust
9. We are the only people in America entrusted to
  - a. Carry deadly force
  - b. Stop
  - c. Search
  - d. Seize
  - e. Pat down
  - f. Investigate
  - g. Arrest
- viii. Deadly shootings
  1. Imminent Jeopardy
  2. Intent
  3. Ability
  4. Means
  5. Opportunity
  6. Preclusion
    - a. No other options available
- ix. The primary goals of law enforcement
  1. Removal of the serious offender from our communities
  2. To generate voluntary compliance
  3. Getting people to do what we want them to do, but... they don't want to do
- x. **FORCE OPTIONS** (are control choices available to a peace officer concerning the methods available **as identified in each agency's or department's policy documentation**)
  1. Control events and encounters
    - a. Don't be a victim of them
  2. The following are generally accepted guidelines
    - a. **PRESENCE (ZERO INJURY)**
      - i. Appearance
      - ii. Right face for the right person
      - iii. "calm down!!!" (don't say it... be it. )
      - iv. Street savvy (the ability to become who you have to be to handle the call)
      - v. Tactical communication (the right words, at the right time, for the right person)
    - b. **EMPTY HAND CONTROLS (CHANCE OF INJURY)**
      - i. "Hands on" force
        1. Pain compliance
        2. Body manipulation
      - ii. This is where cops are the weakest
        3. Must practice OFTEN
    - c. **TOOLS (ZERO TO SMALL INCIDENCE OF INJURY)**
      - i. OC pepper spray (chemical agents)
      - ii. Taser
    - d. **IMPACT WEAPONS (HIGH INCIDENCE OF INJURY)**
      - i. Straight stick

- ii. ASP
  - iii. PR-24
  - iv. Canine
- e. **DEADLY FORCE**
  - i. Shooting
  - ii. Carotid restraint
  - iii. Vehicle use
  - iv. Lethal impact weapon use
- xi. The contact professional uses adrenaline; the amateur is ruled by it
  - 1. **HABIT OF MIND**
    - a. General rule: Respond, don't react
      - i. Response = studied
      - ii. React = Impulsive
    - b. Flexibility is strength; rigidity is weakness
      - i. People are flawed, not evil
      - ii. See as the other sees
    - c. Remember: 93% of communication is delivery and presentation style
      - i. **THE GOLDEN RULE**
    - d. Anticipate, don't expect
      - i. Use positive feedback when you least want to
    - e. "Cultivate" your group or person; don't try to absolutely control or run them
    - f. Redirect rather than resist
  - 2. **THREE TYPES OF PEOPLE**
    - a. Compliant people (nice people)
      - i. Always cooperate with you
      - ii. You could be rude and they would still cooperate with you
    - b. Difficult people (resistant people)
      - i. Most cops fall into this category
      - ii. Always want to know "why?"
      - iii. Seldom do what you ask the first time
    - c. Back stabbers
      - i. Oh yes... to your face (then they complain about you behind your back)
      - ii. No guts
      - iii. Suck their way to "suck-cess"
      - iv. Frequently appear to be harmless
      - v. Can be a HUGE officer safety risk
  - 3. Be able to recognize these three types of people
    - a. Know how to "work" these people
    - b. If you get a complaint (or get attacked) from someone you didn't expect, you failed to recognize a back stabber.
- xii. Deflecting verbal abuse
  - 1. When enemy throws spear at head... move head
    - a. Deflectors
      - i. Natural reaction is confrontation
      - ii. Studied response is deflection and redirection
      - iii. Planned or rehearsed language

- iv. We must speak differently than anyone else in America
- v. Deflectors have no meaning; they are simply a goal-oriented, rehearsed, tactical verbal response to insults
  - 1. Examples
  - 2. "preciate that... but..."
  - 3. "I hear that, but..."
  - 4. "Oh ya... I know, but..."
  - 5. "I bleave that... but..."
  - 6. "I got that... but..."
- b. Deflectors springboard you from confrontational language to goal oriented focus
  - i. Sounds good to the public
  - ii. We're ALWAYS playing to an audience!
- c. Focus language
  - i. Every word after "but" will be goal oriented, professional language Getting people to comply is the primary goal
  - ii. Examples
    - 1. "I 'preciate that, but how about letting me help you?"
    - 2. "I hear that, but I think somewhere along the line you both loved eachother... what would solve this problem today?"
    - 3. "I 'bieve that, but I know you're smarter than that..."
  - iii. Never show "personal face" – if you do, then they've won
  - iv. Professional Face – the actor's face (chameleon)
- 2. Principles to Handle Verbal Abuse
  - a. Say what you want... do as I say (unless it is an officer safety problem)
  - b. I have the last act... therefore, I give you the last word (win – win situation)
    - i. Citizen is speaking to save face
  - c. Respect vs. Respect
    - i. Disrespect = death
      - 1. Disrespect = death in all cultures
    - ii. Played out every day in prisons and on the street
      - 1. Street gangs
      - 2. To be "disrespected"
    - iii. We have no right to disrespect the citizen
    - iv. We have no right to humiliate the citizen
    - v. We have no right to treat the citizen poorly in front of his peers
    - vi. Golden Rule
      - 1. Always treat the citizen as we would want to be treated in identical circumstances
- 3. The three great arts
  - a. Representation

- b. Translation
  - c. Mediation
- 4. The art of representation
  - a. Representing something other than yourself
    - i. In contact with organization
    - ii. In contact with self
    - iii. In contact with subject
  - b. You represent
    - i. Chief or Sheriff
    - ii. City or County
    - iii. State of California
- 5. The art of Translation
  - a. You must be able to explain to the citizen, in a language he understands
    - i. Law, Policy, Procedure
  - b. It must be done in a way to generate voluntary compliance
  - c. Know what you're talking about
    - ii. Law
    - iii. Policy
    - iv. Procedure
- xiii. The four steps in communication
  1. Deciding how to express yourself
  2. Expression of the message
  3. Reception of your message
  4. Confirmation
    - a. Deciding how to express yourself
      - i. Use words that will have influence on your audience
      - ii. Use words your audience understands
      - iii. Use words to achieve a professional objective
    - b. Expression of your message
      - i. Content (7-10%)
        1. Law – Policy – Procedure
        2. Any mistakes and your have lost credibility
      - ii. Voice (33-40%)
        1. Verbal personality
        2. Tone = Attitude
        3. Voice is the "window of the soul" (intention)
      - iii. Other non-verbals (ONV) (50-60%)
        1. This is your body language
    - c. Reception of your message
      - i. It is our responsibility to make sure the citizen understands our message accurately
      - ii. Influenced by many variables
    - d. Confirmation
      - i. Clarification as may be necessary
- xiv. Influences on effective understanding
  1. Officer prejudices
    - a. Racial / Ethnic
  2. Inexperience
  3. Fear

4. Frustration, ego
5. Timeliness
6. Citizen under the influence of
  - a. Alcohol
  - b. Drugs
  - c. Fear
  - d. Rage
  - e. Frustration
  - f. Anxiety
  - g. Anger
  - h. Tiredness
  - i. Stupidity
7. Traffic and other external noise
8. Peer pressure
9. Problem officers at the scene
- xv. Street principles
  1. Principle #1
    - a. Any conflict between role and voice, people always believe the VOICE
  2. Principle #2
    - a. Any conflict between voice and ONV, people always believe ONV
  3. Principle #3
    - a. The body can't lie, but 90-99% of it can. Therefore, whenever you detect a contradiction in body language, be prepared to believe the discrepancy
- xvi. The art of mediation
  1. If someone has something to gain or lose, you have something to use.
    - a. Create options
      - i. Misdemeanor vs. felony
      - ii. Length of stay in jail (bail or no bail)
      - iii. Job
      - iv. Wife – girlfriend
      - v. Record
  2. Options of the citizen
    - a. Fight
    - b. Run
    - c. Surrender
    - d. Go with dignity
  3. The 5-STEP "hardstyle" approach
    - i. **Ask** (show no ego but show only professional face)
    - ii. **Set context** (explain why stopped, detained, etc)
    - iii. **Options** (personal appeal; options=selfish reasons)  
We think for others as they might think for themselves 48-72 hours later .
    - iv. **Confirm** ("Sir, is there anything I can do or say to get your cooperation...?")
    - v. **Act** (if any resistance is encountered at step #4, act immediately)

4. The twins of a great contact
  - a. Get in and out quickly and efficiently.
  - b. After you leave, the citizen feels better than before you showed up.
5. Words – three deadly arenas
  - a. Street
  - b. Court
  - c. Media
6. The three selves
  - a. REAL SELF
    - vi. How raised
    - vii. prejudices
  - b. SELF AS SEEN BY ONESELF
    - viii. Type of person, officer, you think you are
    - ix. How you think you're handling the present situation
  - c. SELF AS SEEN BY OTHERS
    - x. How do others see you?
    - xi. Whenever there is a conflict between how you see yourself and how others see you
    - xii. How you are seen by others will always rule.
  - d. **Officer safety begins and ends with your ability to read people**

xvii. HARMONIZE – ROLE AND VOICE

1. 93% of what you say to someone has to do with your **delivery style!**
  - a. 07-10% = Content
  - b. 33-40% = Voice
  - c. 50-60% = ONV (body language)
  - d. Being right has almost no influence whatsoever
2. Content
  - a. Only 7-10% of what you say will have any impact on another in terms of changing their behavior
  - b. Should you make a single error in content – you will lose credibility
  - c. Street principles regarding content mistakes made by officers
    - i. Citizens will lose belief in you as a professional
    - ii. You will lose power
    - iii. You will lose influence
    - iv. You cannot afford to make a content mistake
3. Voice
  - a. 33-40% of your impact on the citizen
    - i. Tone
    - ii. Your tone of voice can be destructive or creative
    - iii. Tone reveals your attitude
      1. Example: sarcastically stated, "have a nice day..." sounds just like you're saying "have a nice day, asshole!"
    - iv. Tone causes more
      1. Divorces
      2. Lost cases

3. Lawsuits
4. Citizen complaints
5. Tone causes more violence in America than a single thing
6. 85-90% of a Personnel Complaints are tonal in nature (attitude)
- v. Role and voice must harmonize
- vi. If there is a conflict between role and voice, citizen will always believe the voice
- vii. **Do not perform the "inner voice"**
  1. As your temperature rises, your officer safety goes down
  2. Acting "as if" (voice must lie)
- viii. Police work is the greatest performing art in the world
  1. Become the role of who you have to be to handle the situation
  2. Every cop should go to acting school
  3. Role and voice must harmonize
- ix. Voice is the window to a subject's intentions
  1. Pace
  2. Pitch
  3. Modulation
- xviii. **THE 5-STEP "HARD STYLE"**
  1. **ASK** (ethical appeal)
    - a. The art of representation
    - b. 0 out of 10 difficult people will cooperate
  2. **SET CONTEXT** (reasonable appeal)
    - a. Con-text = with book
    - b. The art of translation
    - c. If you explain why, people will usually do what you ask
    - d. Ground them and yourself in the law, policy, or procedure
    - e. 7 out of 10 difficult people will cooperate at this stage!
  3. **PRESENT OPTIONS** (personal appeal)
    - a. The art of mediation
    - b. If they have something to gain or lose, you have something to use! (what's in it for them?)
    - c. 9 of 10 difficult people will cooperate at this stage!
  4. **CONFIRM** (practical appeal)
    - a. "Sir, is there anything I can do or say to get you to cooperate at this time?"
    - b. Citizen can still cooperate with you at this stage on not lose face
  5. **ACT!**
- xix. Benefits of the 5-Step "hardstyle"
  1. It gives you more confidence because you have a plan
  2. It is great for report writing!
  3. It can serve as options to buy time until backup arrives
  4. It sounds very good in court
  5. It sounds great to the public
  6. IT CAN SAVE YOUR LIFE!

**xx. The tactical 8-steps for non-threatening car and person stops**

1. Greeting
2. Identifying self and department
3. Explanation of the reason for the stop
4. Asking if there is any justification for their actions
5. Requesting driver's license
6. Requesting Registration
7. Making a decision to warn, cite, or arrest
8. Closing appropriately with the decision made
  - a. (step 1) Greeting
    - i. "Hello..."
  - b. (step 2) Identifying self and department
    - i. "I'm Officer Jim Johnson with the Stockton Police Department..."
  - c. (step 3) Explanation of the reason for the stop
    - i. This will make people listen (they will stop talking)
    - ii. Everyone wants to know why you stopped them
  - d. (step 4) Asking if there is any justification for their actions
    - i. This is where they will convict themselves 99% of the time
  - e. (step 5) Requesting driver's license
    - ii. If any resistance go directly to the 5-step
  - f. (step 6) Requesting Registration
    - i. License first, then registration!
    - ii. Officer safety
  - g. (step 7) Making a decision to warn, cite, or arrest
    - i. Warn, cite, or arrest
  - h. (step 8) Closing appropriately with the decision made
    - i. It is critical that step 7 and 8 harmonize

**xxi. S.A.F.E.R. – WHEN WORDS FAIL**

1. S ecurity
2. A ttack
3. F light
4. E xcessive Repetition
5. R evised Professional Priorities
  - a. S ecurity
    - ii. Whenever others are in imminent jeopardy – ACT!
    - iii. Whenever property under your control is threatened – ACT!
  - b. A ttack
    - i. Whenever your personal danger zone is violated – ACT!
  - c. F light
    - i. Whenever a subject unlawfully flees – ACT!
  - d. E xcessive Repetition
    - i. No voluntary compliance is forthcoming
    - ii. You have exhausted all verbal options (5-step) – ACT!
  - e. R evised Professional Priorities
    - i. Whenever a matter of higher priority requires your immediate attention or presence – ACT!

### 3. Review

- a. How often are peace officers called upon to use their verbal communication skills?
- b. What is the 5-Step "hardstyle" method?
  - i. What are the five steps?
    - 1. Explain each one in detail
    - 2. There are many ways the 5-Step "hardstyle" approach helps officers
      - a. Name and discuss some of them
- c. There are situations when words fail. What are they?
- d. How does being able to define when words fail assist officers in
  - i. Decision making
  - ii. Report writing
  - iii. Court
- e. What are the tactical 8 steps for non-threatening car and people stops?
  - i. Discussion of advantages for officers in adopting this style
- f. You arrive alone at a violent domestic violence call. A woman is bleeding from substantial facial injuries and identifies her husband as her attacker. He is angry, and he has been drinking. He warns you that unless you leave, he'll hurt you. He says, "I'll teach you a lesson you'll never forget!". You tell him to stay seated where he is. He is a very big man, weighing over 250 pounds. He gets up. His fists are clenched, his expression is angry, his eyes are bulging outward, and his face is reddened. He advances toward you, quickly and directly. You spray him with OC pepper spray and he stops, falls to the floor, and screams in pain in response.
  - i. How does the acronym SAFER apply to use of force in this situation?
- g. Give an example of a force option for the following circumstances
  - i. Verbal threats of attacking you, accompanied by a menacing physical posture
    - 1. How does the acronym SAFER apply to use of force in this situation?
  - ii. A suspect, armed with a baseball bat, beats a man with the bat in your presence
    - 1. How does the acronym SAFER apply to use of force in this situation?
  - iii. A woman accused of shoplifting angrily sits on the floor and won't follow your instructions
    - 1. How does the acronym SAFER apply to use of force in this situation?
  - iv. A man stopped for drunk driving on the freeway, oblivious to the danger, walks onto the freeway and into oncoming traffic.
    - 1. How does the acronym SAFER apply to use of force in this situation?

# **LD-20 Use of Force Course Outline**

## **Block 3 (five hours)**

1. Considerations regarding the use of lethal force
  - a. The use of lethal force is the most serious decision a peace officer may ever be called upon to make.
    - i. Such a decision should be guided by a reverence for human life and used only when other means of control are impractical or have been exhausted
  - b. Lethal force
    - i. A force likely to cause death or serious bodily injury
      1. What are the types of lethal force commonly associated with law enforcement?
        - a. Gunfire
        - b. Automobile (isn't a high speed chase lethal force?)
        - c. Impact weapon use to the head
      2. We must distinguish between person crimes and property crimes
        - a. Serious felonies
          - i. Public safety threat
        - b. Non-violent felonies
          - i. Property crimes
            1. Forgery
            2. Property theft
        - c. Misdemeanors
          - i. No lethal force
      - ii. Factors influencing officer decisions to use lethal force
        1. Preparation by training
        2. Officer judgment
        3. Mental alertness
        4. Emotional maturity
        5. Existing circumstances
        6. Understanding the law as it relates to department policies concerning the use and level of force that is objectively reasonable to achieve the law enforcement mission.
          - a. Knowledge is power
        7. Considerations for public safety must always be the overwhelming consideration in use of, or the potential use of, lethal force.
          - a. Discussion

- i. High speed chases
  - ii. Shoot – don't shoot situations
- c. Legal standard for the use of lethal force
  - i. 1985 – Tennessee v. Garner
    - 1. United States Supreme Court case
  - ii. Four part legal standard for the use of lethal force established by the court
    - 1. Analysis based on the Fourth Amendment protection from unreasonable acts by peace officers
  - iii. In order for peace officers to employ lethal force, they must
    - 1. Life-threatening escape ("where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others...")
    - 2. Life-threatening felony ("if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction of serious bodily harm...")
    - 3. Give warning where feasible ("the court imposes a constitutional requirement that some warning be given prior to the use of lethal force where feasible..."  
[Halt, police! Stop or I'll shoot!])
    - 4. If necessary to prevent escape ("in order for lethal force to be constitutionally permissible, there must be probable cause to believe that the use of lethal force is reasonably necessary...")
  - iv. This federal legal standard is only the baseline starting point for use of deadly force.
    - 1. Peace officers must also regard penal code and department policies
- d. Discussion of terms
  - i. Serious bodily harm or injury
  - ii. Reasonable necessity
  - iii. Imminent danger
- e. Sufficiency of fear
  - i. 198 PC requirement
    - 1. Bare fear alone does not justify the lethal use of force
    - 2. There must be a sufficiency of fear for the use of lethal force to be justified
      - a. Three elements
        - i. The circumstances must be sufficient to excite the fears of a reasonable person in like circumstances.
        - ii. The person must not act under the influence of fear alone. There has to be

some circumstance or overt act apart from the officer's fear.

- iii. The decision to use lethal force must be made to save one's self or another from great bodily injury or death.

f. Departmental policies

- i. Officers must conform to their agency's policies, regardless of what federal or state law might allow.
- ii. The conditions under which lethal force may be employed are strictly controlled by department policy.
  - 1. Common issues addressed by department policies
    - a. Defense of self and others against great bodily injury or death
    - b. The use of warning shots
    - c. Shooting at non-violent felons, juveniles, or moving vehicles.
    - d. Shooting from a moving vehicle

g. Review and discussion

- i. While investigating a burglary in progress call, the officer confronts the suspect inside the premises. The burglar runs away and attempts escape.
  - 1. Is lethal force permissible to preclude his escape?
- ii. In the same scenario, the suspect arms himself with a crowbar and attacks the officer.
  - 1. Is the use of lethal force permissible?
- iii. Expanding on the burglary scenario above, it is at night and the suspect has attacked and raped a woman residing at the house. He flees and attempts escape.
  - 1. Is lethal force permissible to preclude his escape?
- iv. While investigating a silent alarm tripped at a local jewelry store, you confront a robber, armed with a pistol, leaving the premises. He points his pistol at you.
  - 1. Is lethal force permissible?
  - 2. Under what theory (theories)

2. Homicide by a peace officer

a. Homicide definition

i. Justifiable homicide by a public officer

- 1. 196 PC
- 2. Occurs when public officers, such as peace officers or people working for them, kill a person in the performance of their duty or in self-defense in arresting or retaking a felon who is armed or poses a significant threat of death or serious bodily injury to the officer or others.

b. Conditions for a homicide by a peace officer to be deemed justifiable, and therefore lawful

- i. The officer is under orders to carry out a death sentence
    - 1. Executions
  - ii. Acting in the course of duty
    - 1. Coupled with other conditions or perceptions
  - iii. Retaking escaping felons
    - 1. **Fleeing felon alone is no longer adequate justification**
    - 2. 196 PC
      - a. Homicide is justifiable when necessarily committed in retaking felons who have been rescued or have escaped.
  - iv. Arresting a felon who resists to the point where lethal force is reasonable
    - 1. A threat to life exists
    - 2. The suspect could not have been taken by the use of other than lethal means
  - v. These conditions must be read in light of the legal standard established by the United States Supreme Court in *Tennessee v. Garner*.
- c. Unlawful homicide by a peace officer
  - i. Revisit 835a PC
    - 1. Discussion
  - ii. Conditions where homicide by a peace officer may NOT be justifiable, and therefore A CRIME:
    - 1. Pursuing non-violent felons
      - a. Example: shooting at a forgery suspect
      - b. This theory is important to grasp as it relates to some high-speed chase conditions.
    - 2. Arresting or pursuing a felon who does not pose or present a threat to life
      - a. What is a violent felony?
    - 3. When arresting or pursuing a misdemeanor
      - a. Use of lethal force upon a misdemeanor is not justified
      - b. It is the policy of the law that it is better to allow a misdemeanor to escape than to apply lethal force against the individual.
- d. Considerations before using lethal force
  - i. Threat to life
    - 1. Not limited to just the officer's life
  - ii. Immediacy of the threat
    - 1. Preclusion
  - iii. Type of crime/suspects
    - 1. Violent felony
  - iv. Suspect's and weapon's capabilities
  - v. Location and shooting background

1. Is it safe to shoot?
- vi. The officer's present capabilities
  1. What options does the officer have?
  2. *Present capabilities* versus abstract capabilities
    - a. Factors
      - i. Exhaustion
      - ii. Weapon capability
- vii. Totality of circumstances
- viii. Mental preparation and training
  1. Split-second decisions
  2. Visualization training
- e. Review and discussion
  - i. Insane person armed with a large knife at a busy grocery store, confronting customers.
  - ii. Officer witnesses an obvious drug deal and attempts to capture the fleeing dealer who is simply running away.
  - iii. A shoplifting suspect pulls a pistol.
  - iv. An officer with a trainee is attacked by a man at a domestic violence call. They struggle with the man, who grabs at and dislodges the officer pistol. The man desperately tries to obtain the pistol.
  - v. What does the term "sufficiency of fear" mean?
  - vi. What conditions might be those under which no warning could reasonably be issued before using lethal force.
    1. *Tennessee v. Garner*
3. Documenting the use of force
  - a. The importance of proper, detailed, and complete documentation of use of force in police reports
    - i. 5-Step Hardstyle
    - ii. S.A.F.E.R.
    - iii. Put the reader in your shoes!
  - b. Fourth Amendment "objective reasonableness" standard
    - i. 1989
    - ii. *Graham v. Connor*
      1. The court noted that determining the objective reasonableness for the use of force must be *fact specific* and established four components for determining reasonableness.
    - iii. Four components for determining reasonableness of force used
      1. Judged from the perspective of the **reasonable officer**.
      2. Examined through the eyes of an officer on the scene *at the time the force was applied*

3. Based on the facts and circumstances confronting the officer *without regard to the officer's underlying intent or motivation*
  4. Based on the knowledge that the officer *acted properly under the established law at the time*
- c. The Officer's Perspective
- i. The totality of the circumstances must be evaluated from the perspective of the officer at the scene
  - ii. No hindsight
  - iii. Must be based on the facts and circumstances known to the officer at the time force was used.
  - iv. Objective Reasonableness Standard
    1. "The amount of force necessary for the situation is determined by the object reasonableness as judged by a reasonable officer given the officer's training and experience."
- d. The Officer's Intent
- i. The primary objective for the application of force is to **ensure control** of a suspect.
  - ii. Case law determined an officer's subjective feelings toward a suspect should not be considered when establishing force use necessity or reasonableness.
- e. Additional Gauges for Reasonableness
- i. The severity of the crime
  - ii. The nature and extent of the threat posed by the suspect
  - iii. The degree to which the suspect resists arrest or detention
  - iv. Any attempts by the suspect to evade arrest by flight
- f. Inadequate documentation
- i. Common issues
    1. Perceived "lack of time" to do a good job
    2. Short versions are mandated
    3. Trying to take shortcuts and not including every application of force
  - ii. Realize in most cases, the attorney defending the suspect (or the attorney representing the plaintiff in a civil action) will try every avenue to diminish your credibility.
    1. Common to "put the officer on trial"
    2. Common to "put the department on trail"
  - iii. Many use of force cases are not litigated for years.
    1. Refreshing recollection
  - iv. Reference to *Amarillas v. Needham*
    1. Civil trial was 5 years after lethal use of force incident
    2. The issue was department credibility
      - a. Discrepancies in police reports and witness recollection was dramatic
- g. Level of detail

- i. Precipitous acts
  - 1. Lay the foundation for understanding how the officer came to confront the use of force issue
  - 2. Officer dress and identification issues
  - 3. Initial officer observations
- ii. Suspect behavior
  - 1. Put the reader in your shoes!
  - 2. Use suspect quotes where applicable
    - a. Quoted threats are extremely valuable in a police report.
  - 3. Describe what the suspect did – NOT simply what you inferred from the actions
    - a. WRONG: "The suspect assumed an attack posture..."
    - b. RIGHT: Bonda threatened me saying, "I'm gonna teach you a lesson you'll NEVER forget!". He had an angry expression on his face, his face was reddened, and his eyes were bulging out. Bonda came at me with clenched fists held in up near his chest.
- iii. Physical characteristics
  - 1. The physical size differences between the offender and yourself.
  - 2. Numbers of suspects
  - 3. Genders and ages
  - 4. Clothing
  - 5. Impairments
    - a. Drunkenness
    - b. Drug influence
  - 6. Prison tattoos or gang affiliation
  - 7. Weapons used
- iv. Environment
  - 1. Proximity of weapons or aid from allies
    - a. Example: a kitchen where there are pots, pans, knives, etc.
- v. Describing the type of force used
  - 1. Tactical communication documentation
    - a. S.A.F.E.R.
    - b. 5-step "hardstyle"
  - 2. Be clear about the force used
    - a. Use of proper names versus specialized defensive tactics terminology
    - b. Effects or non-effectiveness of a particular force use
    - c. Escalation or de-escalation rationale
- vi. Post use-of-force actions

1. Documentation of medical assistance
    - a. Required by law
  2. Photography
    - a. Scene
    - b. Officer
    - c. Suspect
    - d. Collateral victim(s)
  3. Collection of evidence
    - a. Torn clothing
    - b. CCTV
    - c. Blood samples
    - d. Tape recordings
  4. Witness statements
    - a. Absolutely vital!
    - b. We don not care if they are "friendly" or "unfriendly" witnesses
      - i. Locking witnesses into versions of what they saw is most important.
  5. Example use of force report
    - a. Discussion
4. Emotional aspects of the use of force
- a. The concept of control
    - i. The objective of force use is to control the subject, and therefore, the situation
  - b. 835a PC – Authority to use force
  - c. Factors affecting the peace officer's responses
    - i. Attitude or prejudices
    - ii. Insensitivity or arrogance, creating a negative emotional response
    - iii. Sincere and courteous behavior, reducing problems and danger associated with an arrest
    - iv. Life experience, past performance, training, fitness, etc.
  - d. Officer use of force
    - i. It is essentially defensive
    - ii. Is dependant upon and in reaction to the suspect's actions
  - e. Control
    - i. Control is that degree of influence the officer must exert to take a suspect safely into custody
    - ii. Control is a two-way street
      1. Self-control
  - f. Physical control
    - i. Flows from proper training
      1. Practice
    - ii. Fitness and conditioning
  - g. Emotional control
    - i. Huge asset to peace officers

- ii. Results from confidence in one's knowledge, skills and fitness level
    - 1. Training, practice, experience, and visualization reduces lag time and increases confidence.
  - iii. Mind – Body connection
    - 1. Emotional control enhances
      - a. Concentration and alertness
      - b. Precision delivery of force
      - c. Reduced lag time
    - 2. Prepare the mind and the body will follow
      - a. The psychology of survival
      - b. The will to survive
- 5. Managing fear
  - a. Use of force in dangerous situations may bring on emotional responses as well as physiological responses that officers must be prepared to recognize and deal with
    - i. Psycho-sensory distortion
    - ii. Memory impairment
    - iii. Anger
    - iv. Fear
  - b. Physical responses
    - i. Inappropriate responses are often the direct result of uncertainty
      - 1. Uncertainty is likely to result in
        - a. Indecision
        - b. Increased or pronounced lag time
        - c. Verbal abuse
        - d. Unreasonable/unnecessary force
  - c. Fear
    - i. Is an unpleasant, normal and predictable response to a perceived threat (real or unreal)
      - 1. A person's fear changes with time and experience
        - a. It is not a problem for the peace officer until it begins to interfere with the officer's ability to perform effectively.
      - 2. Fear produces a heightened state of alertness
        - a. Examples
          - i. Response to sudden movement or noise
          - ii. Increased muscle tension
            - 1. Knowledge is power
  - d. A few of the many physiological reactions to fear
    - i. Reactions vary from human being to human being
      - 1. Increases of adrenaline (fight or flight syndrome)
      - 2. Increased respiration
      - 3. Increased heart rate
      - 4. Blood clotting enzymes flow into the system

5. Vision and hearing effected
  - a. Tunnel vision
  - b. Hearing losses
6. Time distortion
7. Raised pain thresholds
8. Fine motor skills impaired
  - a. Reloading
  - b. Overcoming a weapon mechanical failure
- e. Types of fear
  - i. Reasonable
    1. Situational fear stimuli
      - a. Sudden moves
      - b. Weapn sightings
      - c. Recognition of vulnerability
      - d. Sudden sounds
      - e. Unexpected responses to the officer's actions
  - ii. Unreasonable
    1. Situational fear stimuli
      - a. Past traumas
      - b. Personal prejudices
      - c. Anxiety / uncertainty of one's own skills and expertise
        - i. Physical sources of unreasonable fear
          1. Personal injury to the officer
          2. Phobias
          3. Social sources of unreasonable fears
            - a. Peer disapproval
            - b. Responsibility for making critical decisions
            - c. Racial, cultural, or religious-based fears
  - f. Managing fear
    - i. Prior training and experience
      1. More training and experience = better fear management
      2. Research
        - a. Knowledge is power
    - ii. Mental rehearsals
      1. Visualization training
    - iii. Discussing fears with others
      1. Demystifies
      2. Helps remove their power
    - iv. Deep breathing
    - v. Slowing down

1. Speed can cause an officer to pass by potential harms
6. Managing anger
  - a. Easier to control initially than later
    - i. "Sooner the better" is a good training model for anger management
    - ii. Controlled anger expression
      1. Occurs easier at the low end of the emotional scale
      2. Few can control anger at the high end of the emotional scale
  - b. Depersonalization
  - c. Visualization training
  - d. Mental rehearsal
  - e. Seek advice from more experienced officers
7. What are your anger cues?
  - a. Triggers
    - i. Self awareness increases self control through compensation training
      1. Example: if one of your anger triggers flows from being cursed at, developing a training model working that weakness is no different than working your legs at the gym to increase leg muscle strength.
      2. Knowledge is power
8. Role of initial and ongoing training
  - a. Old euphemism: Piss poor training = piss poor performance
  - b. Proper training and practice are essential elements to successfully dealing with potentially dangerous situations.
    - i. They help develop confidence
    - ii. Promote a trained response
    - iii. Enhance mental alertness and concentration
    - iv. Dispel unwanted reactions
    - v. Trained and controlled responses may be faster than a reactionary response in a dangerous situation
      1. Training helps discipline the mind
      2. It can reduce lag time
  - c. Trained responses are superior to reactions
    - i. Reactions can be predictable
      1. Limited
      2. Improper
      3. Dangerous to the officer and others
    - ii. Trained responses
      1. Are less predictable
      2. Are correctable
      3. Are flexible
      4. Can lead to increased self-control
  - d. Training and practice effect the following parameters

- i. Confidence
    - ii. Responses
    - iii. Mental alertness and concentration
    - iv. Self-control over body and emotions
      - 1. Ongoing training and practice are a personal responsibility of every officer
        - a. It is NOT just the department's responsibility
        - b. Professional officers seek and obtain training from a wide range of sources
          - i. Frequently paying for it themselves
    - e. Knowledge is power
      - i. Training and practice increases self-knowledge
    - f. From the trenches
      - i. Training and its relationship to performance
9. Review and discussion
  - a. How might an officer's uncertainty endanger that officer or others?
  - b. Describe two ways the body's natural physiological reaction to fear could help an officer in a dangerous situation?
    - i. How might unmanaged fear cause an officer to react?
  - c. Discussion
    - i. Activity question from page 5-20 in the workbook
10. Intervention and the use of excessive force
  - a. View video of officers actions using force
    - i. Discussion
      - 1. Legal authority to use force
      - 2. The appropriateness of the force option selected
      - 3. Whether the amount of the force used was objectively reasonable
      - 4. Whether intervention was appropriate
  - b. Basis for intervention
    - i. Intervention = prevention or stopping
      - 1. Intervention in the application of unnecessary or excessive force is a community expectation
      - 2. Fourth Amendment protections
        - a. United States Code Title 18, sections 241 and 242
        - b. Failure to intervene implies adoption and liability
    - ii. Lawful resistance
      - 1. 692 PC
        - a. Lawful resistance to the commission of a public offense
      - 2. 693 PC
        - a. Resistance sufficient to prevent the offense may be undertaken in
          - i. Self-defense

- ii. Defense of others
- iii. Prevention or taking or injuring the property in that person's lawful possession.

3. 694 PC

- a. Any person, in aid or defense of the person about to be injured, may make resistance sufficient to prevent the offense.

iii. Appropriate intervention

1. May save officers from

- a. Injury
- b. Disciplinary action
- c. Criminal complaints and prosecution
- d. Financial loss from civil suit damages awards

11. Intervention techniques

a. Immediate intervention

- i. High-stress situations coupled with variables can produce incidents involving excessive force
  - 1. Cops are human
  - 2. We need our brothers and sisters in uniform to step in immediately to diffuse those situations before they get out of control
    - a. If not for the officer's own good, for their own protection.

ii. Techniques

- 1. Verbal
- 2. Physical
- 3. Restraint

b. Delayed intervention

i. Formal or informal

- 1. Fellow officer versus supervisor
  - a. Discussion
  - b. Admonishment
  - c. Training

ii. Situations illustrating immediate and delayed intervention

- 1. Discussion of page 6-7 in the workbook

12. Factors affecting intervention

a. Necessity

- i. Law
- ii. Morals and ethics
- iii. Integrity
- iv. It enhances officer safety
- v. It preserves professionalism
- vi. It strengthens public confidence
- vii. It reduces personal and organizational liability
  - 1. Criminal

- 2. Civil
- 3. Administrative
- 4.
- b. Barriers to intervention
  - i. Inexperience
  - ii. Lack of familiarity with the fellow officer
  - iii. Peer pressure
  - iv. Fear or being ostracized
  - v. Fear of supervisor's reaction
- c. Consequences for failure to intervene
  - i. Loss of peace of mind
  - ii. Embarrassment
  - iii. Civil or criminal liability
  - iv. Disciplinary action
    - 1. Loss of career
- 13. Consequences of unreasonable force
  - a. Peace officer and agency liability
    - i. Liability should not be taken lightly
  - b. Reasonable force use
    - i. Officers not considered the aggressor by law
    - ii. They do not lose the right to self-defense when they use force to
      - 1. Effect an arrest
      - 2. Prevent escape
      - 3. Overcome resistance
    - iii. Discussion
      - 1. Officer's perception at the time
  - c. Goal of force application
    - i. To gain control of an individual and therefore, the situation.
  - d. Unreasonable force
    - i. Type, degree, or duration of force is
      - 1. Unnecessary
      - 2. Inappropriate to the circumstances
  - e. Consequences
    - i. Criminal action
    - ii. Civil rights violation
    - iii. Compensatory damages
    - iv. Administrative or departmental action
    - v. Moral impact
  - f. California Penal Code Statutes regarding officer behavior
    - i. 147PC
      - 1. Willful inhumanity or oppression toward any prisoner
    - ii. 149 PC
      - 1. Assault or battery under color of authority
    - iii. 661 PC

1. Peace officer removal from office for neglect or the violation of their duty
- iv. 673 PC
  1. Unlawful aid, abet, attempt, apply cruel, corporal, or unusual punishments in reformatories, institutions, jails, state hospitals, etc
- g. Federal law regulating officer behavior
  - i. United States Code
    1. Section 242, Title 18 (criminal)
      - a. Peace officers prohibited from depriving citizens of their rights under color of law.
      - b. If death results, officers may be punished by life imprisonment
    2. 1982, Title 18 (civil)
      - a. Peace officers prohibited from depriving citizens of their rights under color of authority
  - ii. Vicarious liability
    1. Master-servant rule of law
      - a. Liability issues
      - b. Negligent or inadequate training
      - c. Failure to supervise
      - d. Negligent retention
        - i. Discussion

## 14. Review

# **LD-20 Use of Force Course Outline**

## **Block 4 (three hours)**

1. Review of LD-20
  - a. Reasonable force
    - i. Definition
    - ii. Four components of Graham v. Connor
  - b. Authority to use force
    - i. 834a PC
    - ii. 835 PC
    - iii. 843 PC
    - iv. 835a PC
    - v. Department policies
  - c. The objective of force use
  - d. Force options
    - i. Use of force
    - ii. Factors considered
  - e. Level of resistance
    - i. Relationship of level of resistance to force use level
  - f. Tactical communication
    - i. 5-Step "hardstyle"
    - ii. S.A.F.E.R
    - iii. 8-Step tactical non-threatening car or person stop
  - g. Considerations regarding the use of lethal force
    - i. Tennessee v. Garner considerations
      1. Four part legal standard established by the U.S. Supreme Court
    - ii. Sufficiency of fear
    - iii. Department policies
  - h. Homicide by a peace officer
    - i. Legal standard for use of lethal force
      1. 196 PC
        - a. Tennessee v. Garner considerations
    - ii. 835a PC
    - iii. Totality of the circumstances
    - iv. Unlawful homicide by a peace officer
  - i. Documenting use of force
    - i. Considerations for writing effective police investigative reports documenting use of force
      1. Collateral documentation
      2. Corroboration
    - ii. Uses for police reports documenting use of force
  - j. Emotional aspects of the use of force

- i. Control
  - 1. Use of force to establish control
  - 2. Self-control
    - a. Physical
    - b. Emotional
- ii. Techniques for managing fear
- iii. Managing anger
- iv. Fear
  - 1. Physiological aspects of fear
  - 2. Managing fear
- k. The role of initial and ongoing training
  - i. Relationship between training and performance
- l. Intervention and the use of excessive force
  - i. Lawful resistance
  - ii. Intervention techniques
- m. Consequences of unreasonable use of force
  - i. Related California statutes
  - ii. Applicable federal laws
- n. Peace officer and agency liability
  - i. Vicarious liability

## **Learning Domain 20: Use of Force**

### **Prerequisites**

Prior to these learning activities, the students shall either have been instructed in or had the opportunity to study the student workbooks and noted materials for:

- LD 1: *Leadership, Professionalism and Ethics*
- LD 20: *Use of Force*
- LD 20: *Use of Force DVD in the POST Basic Training DVD Series*
- Have read their agency's policies regarding the use of force or an exemplar policy on the same topic.

### **Introduction**

A learning activity is required as a component of instructional delivery in this Domain. This Learning Domain has significant implication with regard the applied skills of peace officers, the community's perceptions and confidence in their policing agencies and the manner in which the law allows police practitioners to use coercion to enforce the law and maintain public order. It is a content area where it is critical to teaching the "why and when" of the use of force in addition to the acquisition of necessary psychomotor skills for students to successfully demonstrate proficiency in its use.

### **Learning Outcomes**

At the conclusion of this training segment, the student will be able to:

- Understand and apply force options as taught in conformance with best practice and department policies and procedures.
- Analyze and respond to ambiguous situations where force may or may not be an appropriate option, then evaluate the effectiveness of their choice.
- Compare and contrast uses of force in the context of the community's perceptions and beliefs by applying knowledge gained in training.

## **Activities**

### **Activity One**

This activity is a homework assignment that is used as a foundation for class discussion and refining of the issues regarding perceptions of the use of force by the police.

Students will be assigned to locate a news article recounting a recent use of force by the police. The article may be from a local newspaper, a magazine or from an Internet

search. Students will take turns reading their articles to the class (this activity is also suited as a transitional activity at the beginning or end of training blocks or when returning from lunch or similar break period. In those instances, the instructor may elect to have only a small number of students present their findings at one time, allowing for more thorough discussion of each story). Students should seek to identify ethical issues and also assess the community's perception of the propriety of the use of force in the described incident.

The instructor will facilitate the process of student presentations. Other students will be asked to comment, ask questions or render opinions concerning the article and its implications for policing. The student presenting should be critiqued regarding their clarity of presentation, effectiveness of analysis and the public speaking skills used to make the presentation.

Time estimate: Time per student will be about 2-3 minutes. If conducted as a class segment, the time will expand according to the number of students present. The instructor may elect to have students work in groups, presenting their topics to one another. The groups would then report findings and compare/contrast issues with other groups.

### Comprehensive Questions

The choice of article is not as important as the student's efforts to analyze its contents and discuss its relevance with others. The instructor should work to facilitate the student's work to dig deeply and assess how they might feel if they were the subject of force, a family member of the person against which force was applied, or a community member witnessing the incident. This is not done to hinder their learning, but to enhance their success when they are asked to perform these duties once in the field as a peace officer.

### Application

Student discussions of their current event should be related to how they might have acted in a similar situation, what policy and law might say with regard to the incident, and how their community might react to reading the same article.

### Resources

Students will perform research to locate articles independently. The instructor will advise them at the time of giving the assignment of the likely places to locate articles of relevance to their work.

## **Activity Two**

This activity will present a role-play scenario witnessed by the class, and to which they will then have to break into groups to discuss and evaluate the conduct of the officers involved. This activity will allow students to synthesize training on the appropriate use of force, and how to apply the concept of intervening with another officer when they are engaged in inappropriate actions.

The instructor will select a student to be their “partner” officer as they will take action to arrest someone for an outstanding warrant. Other students in the classroom will be community members who happen to be in the area where this arrest will take place. The person playing the arrestee will have to be advised of the nature of their role, and also the actions they will take within the scenario. The instructor will be the primary officer, with the student acting as secondary officer. The instructor will make contact, and subsequently advise the suspect he or she is under arrest. The student will be told to handcuff the subject, which will be met with mild resistance. The instructor will, a) slap the suspect (simulated), b) grab them at the throat, or c) grab their clothing roughly and call the suspect an “asshole.” If the student does nothing, the suspect will cease any resistance and allow the student to handcuff them, completing the role-play.

Students will be broken into groups of 6-8 members, and be required to select a recorder and spokesperson. The groups will:

- Identify the appropriate and inappropriate actions taken by the officers.
- Identify the intervention technique/s used by the student, and also identify any options for intervention that would have been appropriate in this circumstance.
- Evaluate the ethical dimensions of this incident.
- Assess and analyze the community’s possible reactions to witnessing such conduct on behalf of the police.

Time estimate: The role-play will take about five minutes. It will take 3-5 minutes to break the class into groups with their instructions. Group presentations will take about five minutes each, including appropriate discussion and facilitator’s comments. The instructor should consider having each group answer only one question on the list to avoid a duplication of comments.

## **Comprehensive Questions**

Instructor questions of students should be aimed at enhancing their understanding of the application of force options, limits on the use of force as judged by reasonability and necessity and the legal implications of using force inappropriately and witnessing such use by others without taking action. Open-ended questions work best in this, and many other learning situations. Instructors may also consider revising the scenario

incrementally during class discussion to allow students to evaluate at what point/s action is necessary on their behalf. Consider using questions such as:

- What if...(modify scenario).
- OK, now consider this from the perspective of...(the public, a jury deciding this in court, the community, community activists, etc.).
- All right, now you're the Patrol Captain. How do you justify this to...(media, the Chief, the city council, etc.).

The instructor should also consider broaching the topic of fear and its impact on action, both in the need to use force against another and fear brought about due to action anxiety over whether or not to intervene when another officer or deputy has gone too far (or will if not stopped).

### Application

Application of force options is a complex learning topic, requiring reinforcement to allow students to gain appropriate physical skills to complete the use of force as intended and also requiring the instructor to ensure students understand the moral dimension in using coercion against another person to carry out the intent of the law. Students should be motivated to learn skills they perceive will enhance their chances of surviving a violent encounter in the streets. It may be more difficult to motivate them to understand the need to be disciplined and restrained in their application of force to situations where it is absolutely necessary.

### Resources

The training environment should provide the student adequate time to analyze actions and their consequences. The combination of large and small group activities will allow for individual reflection by students as well as opportunities for the student to articulate and defend their choices. Resources for this activity are minimal, and would include only items already in the classroom. Primary instructors in this domain are required to complete added instructor development training prior to leading this block of instruction, and added resources should be found in the domain-specific training.

### Activity Three

This activity allows the student to gain knowledge regarding community perspectives of the use of force, and will also provide a forum for students to practice public speaking skills in an environment of conflict.

The activity is a role-play by students with the instructor facilitating the process of setting the stage and providing a safe environment for students to speak to others. Each student will be given an assigned topic (the topic may be given to them with a one-

minute preparation period before taking their place at the front of the class) and be told they are speaking to a community meeting about a recent use of force in the city. Other students will play the role of community members, and be encouraged to ask appropriate questions as the scenario unfolds.

Depending on class size, it may not be possible to have each student take a turn as the peace officer. In those instances, ensure there is added emphasis on the debriefing portion of each scenario to allow others to learn application techniques from the experiences of others.

In each instance, officers will be required to:

- Demonstrate the ability to speak clearly.
- Respond in an appropriate manner to questions posed, even if asked in a rude or accusatory manner.
- Apply their understanding of the relevant department policies and law.
- Present their position in a manner that would not be seen as hostile or defensive by others.
- Evaluate and synthesize questions asked to form appropriate follow-up answers.

Possible topics to choose may be:

- Following the pursuit and apprehension of auto theft suspects where officers were seen on video striking one or more of the suspects with their batons (why did they do it? Why didn't they just grab the suspect and handcuff him?).
- Following an officer-involved shooting involving five officers who fired more than 40 rounds at the suspect (Why so many rounds fired?).
- In the aftermath of an incident where officers used a Taser and beanbag round to subdue a distraught mental patient who was threatening passers-by (Why couldn't the officers have talked to her longer before using force?).
- After an officer-involved shooting of a knife-wielding subject who was threatening the officer (Why couldn't the officer have just shot the knife out of his hand instead of shooting at his heart?).
- Following a foot pursuit where officers were seen kicking the unarmed suspect while they were taking him into custody (How come the officers treated that guy like a dog?).
- On the heels of an officer-involved shooting where the officer shot a man who was waving a length of iron pipe at him (Why didn't the officer just keep backing up until enough other officers got there?).

- Subsequent to an incident where an officer used a carotid restraint to subdue a local teen who had been drinking and who was resisting being taken into custody for being drunk in public (Isn't there a better way than to choke someone unconscious?).
- A week after an incident where a canine was used to apprehend a burglary suspect inside a local business, and where the canine caused bleeding to the suspect (I thought the cops were supposed to try to prevent someone being injured. Why send in a dog that does just that?).
- After an incident where an officer shot a driver who was driving her car at the officer, apparently intending to strike him (Can't you just step out of the way? It's only a driving infraction, isn't it?).

Note - The instructor may also wish to use the facts circumstances of some of the articles brought to class by students for activity one completed earlier, or use recent events to create a suitable topic.

Time estimate: The community meeting should take 4-5 minutes per speaker, with 2-3 minutes of debriefing per speaker led by the instructor.

### Comprehensive Questions

One of the most significant fears of adults is public speaking. At the same time, communicating effectively is a critical skill for peace officers. This activity allows students to experience public speaking in a safe setting, and where their mistakes will allow them to "fail forward" with the facilitated discussion of their strengths and weaknesses subsequent to the speaking.

The topics used will enhance the student's understanding of the consequences of using force, and also allow them to apply speaking skills in a directed environment.

Questions following individual speakers may be similar to:

- Who are the stakeholders in this incident (who is affected)?
- Does the use of force in this instance create any ethical or moral dilemmas for the speaker or department?
- How does the officer's demeanor while answering questions impact the views of the audience?
- What process could you use to determine how to answer this type of questioning?
- What does your department's policy say about.....?

### Application

Students may misperceive that they would not be asked to speak to community groups as line employees, and that this type of environment would only be faced by supervisors and managers. They should be made aware that these skills will be applied in a variety of circumstances, and that questions from the community on police affairs are common while answering calls for service, during informal contacts with the public, and in settings ranging from one-on-one contacts to neighborhood meetings on an unrelated topic. Speaking effectively is a necessary skill, and their knowledge of department policy, relevant law and force options are the tools they will use to answer public concerns in a manner that represents the department well.

### Resources

Laws concerning the police use of force, including applicable case law; force option policies and practices. The class environment can be used to stage this activity with little or no modification, and with no added resources necessary. Added Resources are:

- Training and Testing Specifications for Peace Officer Basic Courses, LD20; Learning Activities for LECP
- POST LEOKA Report (available at [www.lp.post.ca.gov](http://www.lp.post.ca.gov))

### Additional Information for Instructors

While the use of force may be taught in a physically interactive environment to allow students to acquire and reinforce methods by which they may defend themselves, subdue combative subjects and protect the innocent, training them to analyze, revise and evaluate their actions in a social framework that will assess their actions in the context of being both lawful and necessary. Although peace officers may see an application of force through trained eyes, the vast majority of our constituents do not have a similar viewpoint. Officers must be mindful of the overarching requirement that all force used to effect arrests or to quell resistance must at all times be judged according to the “reasonable person” standard.

Beyond legal standards that limit a peace officers ability to use force except as necessary to perform their duties is the moral standard that mandates a reverence for life that dictates force as the last option to be considered, and deadly force be considered only to save the life of that officer or another person. The community expects its peace officers to understand the need to be self-disciplined in their use of the authority granted to them to use force. The training of students to understand their role as the representative of the law and their department is perhaps the most important part of force training.

Motivation to complete any task is a function of developing competence in its practice along with the student's perception of the value of doing it. In Use of Force training, the instructor must build competence through the applied skills. Encouraging students to see value in restraint, and to teach them how to use force while at the same time not using it to punish or "get even" with a suspect is inevitably a more difficult task. Learning experiences in this Domain should incorporate context and relevance to real-world application, and be mindful of the student's tendency to exclude analysis and evaluation of the use of force options being trained if they focus too specifically on the acquisition of the physical skills necessary to properly follow steps in an option's application.

The activities presented herein, therefore, focus more on the community's perception, the moral issues surrounding the use of force and the context of its use rather than the mechanics of applying force. Your creativity and expertise as an instructor will be a primary means by which the students will gain an understanding of the need for the use of force in specified circumstances, while also developing a respect for the need for restraint and discretion in its use.

## USE OF FORCE

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### I. Introduction to the Use of Force

#### A. Learning needs (TTS)

1. Peace officers must recognize that they have the authority to use reasonable force to effect an arrest, to prevent escape, or to overcome resistance as authorized by the California Penal Code. For their safety, and for the safety and well-being of fellow officers, it is critical that peace officers know the laws governing the use of force.

#### B. Learning objectives (TTS)

1. Discuss reasonable force as stated by law
2. Discuss the components of the Fourth Amendment standard for determining objective reasonableness, as determined by the U.S. Supreme Court.
3. Explain the legal framework establishing a peace officer's authority during a legal arrest, including:
  - a. Subject's requirement to submit to arrest without resistance
  - b. Peace officer's authority to use reasonable force during a detention or arrest.
4. Identify the circumstances set forth in the California Penal Code when a peace officer has the authority to use force.
5. Discuss the level of authority agency policies have regarding the use of force by a peace officer.

#### C. Reasonable Force [20.01.EO1, 20.01.EO2]

1. Reasonable force is a legal term for how much and what kind of force a peace officer may use in a given circumstance.
2. Penal Code Section 835a states: "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance."

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3. Fourth Amendment "objective reasonableness" standard
  - a. In 1989, the United States Supreme Court applied an objective standard to a force situation and further established how reasonable force must be judged objectively (*Graham v. Connor*, 490 U.S. 386, 109 S.Ct. 1865) (1989). The Court's analysis began by considering the subject's Fourth Amendment right to remain free from any unreasonable seizure against the government's interest in maintaining order through effective law enforcement.
  - b. The Court noted that determining the objective reasonableness for use of force must be fact specific, and established the following four components for determining reasonableness:
  - c. The reasonableness of a particular use of force must be...
    - 1) Judged from the perspective of a reasonable officer.
    - 2) Examined through the eyes of an officer on the scene at the time the force was applied, not the 20/20 vision of hindsight.
    - 3) Based on the facts and circumstances confronting the officer without regard to the officer's underlying intent or motivation.
    - 4) Based on the knowledge that the officer acted properly under the established law at the time.
4. The officer's perspective
  - a. Peace officers will constantly be faced with decisions of when to use force and to what degree it should be applied.
  - b. The totality of the circumstances must be evaluated from the perspective of the officer at the scene, rather than from an outsider's benefit of "20/20" hindsight. Reasonable force must be based on the facts and circumstances known to the peace officer at the time the force was used.
  - c. The Court noted that:
    - 1) "The amount of force necessary for the situation is determined by the objective reasonableness as judged by a reasonable officer given the officer's training and experience."

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- 2) A reasonable officer is defined as an officer with similar training, experience, and background in a similar set of circumstances, who will react in a similar manner.
5. Community policing
  - a. Community members want their officers to possess the skills necessary to subdue violent and dangerous subjects. They also want officers to use these skills to apply only the amount of force that is reasonable to effect an arrest, to overcome resistance, or to prevent escape. Force should never be used to punish subjects. In the American criminal justice system, punishment in the form of judgments is the sole responsibility of the courts.
6. The officer's intent
  - a. The objective for the use of force by peace officers in any situation is to ultimately gain or maintain control of an individual and the situation.
  - b. Control, as it relates to defensive tactics, means maintaining composure to make sound judgments and decisions.
7. Additional gauges for reasonableness
  - a. The Court noted that the following facts should also be considered, but not limited to, when gauging reasonableness:
    - 1) The severity of the crime
    - 2) The nature and extent of the threat posed by the subject
    - 3) The degree to which the subject resists arrest or detention
    - 4) Any attempts by the subject to evade arrest by flight
8. Reasonable officer standard
  - a. The reasonable officer standard:
    - 1) Would another officer
    - 2) With like or similar training and experience,
    - 3) Facing like or similar circumstance,

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- 4) Act in the same way or use similar judgment?

### D. Authority to Use Force [20.01.EO3, 20.01.EO4, 20.01.EO5, 20.01.EO6]

1. It is the role of the peace officer to protect and serve the public. Peace officers who make or attempt to make an arrest may use reasonable force when faced with a threat or resistance.
2. Subject's duty to submit to arrest
  - a. Whether a subject is legally detained or arrested, it is the subject's duty to refrain from resisting the officer's authority.
  - b. Penal Code Section 834a states:
    - 1) "If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest."
3. Officer authority to use restraint
  - a. An arrest can be made by physically restraining a subject or by the subject submitting to the authority of the officer.
  - b. Penal Code Section 835 states:
    - 1) "An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subjected to such restraint as is reasonable for arrest and detention."
4. Authority and criteria for the use of force
  - a. Penal Code Section 835a states:
    - 1) "Any officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect an arrest, to prevent escape or to overcome resistance."

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- 2) A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.”

### 5. Agency policies

- a. Although the law and courts have presented a foundation for the use of force by a peace officer, the most detailed considerations and regulations are established by each agency’s policies.
- b. Limitations on the use of force are set by agency policy. These policies are attempts to provide reasonable guidelines for officers to protect them and their agency from criminal and civil liability.
- c. Peace officers are responsible for becoming familiar with and complying with their agency’s policies and guidelines regarding the use of force.

## II. Force Options

### A. Learning needs (TTS)

1. Peace officers must recognize that they have a range of force options available to them. However, in all cases the use of force must be reasonable compared to the threat, resistance, and other circumstances known to the officer at the time the force was used.

### B. Learning objectives (TTS)

1. Discuss the term “force option.”
2. Identify that the objective of using force is to overcome resistance to gain control of an individual and the situation.
3. Recognize force options and the amount of force peace officers may use based on the subject’s resistance.
4. Explain the importance of training and ongoing practice when responding to potentially dangerous situations that may require the use of force.
5. Discuss the importance of effective communication when using force.

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- C. Force Options [20.02.EO1, 20.02.EO2, 20.02.EO4]
  - 1. Force options are choices available to a peace officer in each agency's policy to overcome resistance, effect arrest, prevent escape, or gain control of the situation.
  - 2. Objective for use of force
    - a. The objective for the use of force by peace officers is to ultimately gain and maintain control of an individual and the situation.
    - b. Peace officers are required to:
      - 1) Use the type of force which is reasonable under the circumstances.
      - 2) Use only the amount of force reasonable to overcome resistance and to gain or maintain control of a subject.
      - 3) Conform to agency policy and federal and state law
  - 3. Officer judgment
    - a. The amount of force applied should not exceed what is reasonable to overcome the subject's resistance to gain or maintain control of the subject. Each officer must rely on their judgment to employ objectively reasonable force for that specific situation.
    - b. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer. Examined through the eyes of an officer on the scene at the time the force was applied, not the 20/20 vision of hindsight. Based on the facts and circumstances confronting the officer without regard to the officer's underlying intent and motivation. Based on the knowledge that the officer acted properly under the established law at the time.
  - 4. Officer preparation
    - a. In law enforcement, preparation can mean the difference between life and death as well as generate a professional image for a peace officer. The following identifies some items officers must consider and prepare for:
    - b. Uniforms

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- 1) Proper fit
- 2) Neat, professional appearance
- 3) Does not impair free movement
- 4) Benefits
  - a) More effective
  - b) Command presence
- c. Gear
  - 1) In good condition
  - 2) Inspected regularly
  - 3) Readily accessible
  - 4) Benefits
    - a) Increased confidence in the application of physical force
- d. Firearms
  - 1) Cleaned after each firing
  - 2) Serviced by a trained armorer as necessary
  - 3) Benefits
    - a) Increased confidence in the application of deadly force
- e. Body armor
  - 1) Fits well
  - 2) Does not interfere with movement
  - 3) Is used!
  - 4) Benefits

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- a) Enhanced survivability
- 5. Practice and training
  - a. It has been established that peace officers, when required to respond in dangerous situations, will revert to the responses they learned in training. Officers' tactical performance may depend entirely on how well and effectively they have trained and practiced required skills and abilities.
  - b. Without ongoing practice and training, peace officers place themselves and others in jeopardy.
- 6. Factors affecting selection
  - a. There are a number of factors that can affect which option is selected and the amount of physical force applied. The following identifies but is not limited to some of the most critical ones:
  - b. Public safety
    - 1) Immediate action required for self-defense or defense of others
  - c. Amount and nature of the resistance which must be overcome
    - 1) Passive resistance
    - 2) Active resistance
    - 3) Combative resistance
    - 4) Life-threatening resistance
  - d. Presence of a weapon and type of weapon
    - 1) Other Weapons
    - 2) Firearms
  - e. Seriousness and nature of the offense
    - 1) Misdemeanor cite and release
    - 2) DUI

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- 3) Armed Robbery
  - d. Characteristics of the subject as compared to the characteristics of the officer
    - 1) Size
    - 2) Age
    - 3) Knowledge of Capabilities
    - 4) History
  - e. Availability of assistance
    - 1) Number of officers
    - 2) Available backup units
  - f. Nature and condition of the location and surroundings
    - 1) Danger to bystanders
    - 2) Availability of weapons
- D. Resistance [20.02.EO3]
- 1. The degree of resistance to an arrest will determine the type of force used by peace officers.
  - 2. Subjects actions
    - a. The following illustrates how a subject's resistance can correlate to the force applied by an officer:
    - b. Cooperative
      - 1) Subject offers no resistance
        - a) Mere professional appearance
        - b) Nonverbal actions
        - c) Verbal requests and commands

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- c. Passive non-compliance
  - 1) Does not respond to verbal commands but also offers no physical form of resistance
    - a) Officer's strength to take physical control
    - b) Controlling holds and techniques to direct movement or immobilize a subject
- d. Active Resistance
  - 1) Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, or verbally signaling or prevent being taken into or retained in custody.
    - a) Controlling holds and techniques to control the subject and situation
    - b) Use a personal weapon in self-defense and to gain advantage over the subject
    - b) Use of devices to secure compliance and ultimately gain control of the situation
- e. Assaultive
  - 1) Aggressive or combative; attempting or threatening to assault the officer or another person
    - a) Use of devices and/or techniques to secure compliance and ultimately gain control of the situation
    - b) Use of personal body weapons in self-defense and to gain advantage over the subject
- f. Life threatening
  - 1) Any action likely to result in serious injury or possibly the death of the officer or another person
    - a) Utilizing firearms or any other available weapon or action in defense of self and others

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- g. Officers must take into account the totality of the circumstances when selecting a reasonable force option. It is not the intent of this chart to imply that an officer's options are limited based on any single factor.
      - h. Officers must be aware of and comply with their specific agency policies regarding appropriate force options.
  - 3. Constant reevaluation
    - a. Peace officers must use the force option appropriate for the situation as conditions may change rapidly. Officers must continually reevaluate the subject's actions and must be prepared to transition as needed to the appropriate force options.
    - b. Tools and Techniques for Force Options
      - 1) Verbal Commands/Instructions/Command Presence
      - 2) Control Holds/Takedowns
      - 3) Impact Weapons
      - 4) Electronic Weapons (Tasers, Stun Guns, etc.)
      - 5) Chemical Agents
      - 6) Firearms
      - 7) Body Weapons
      - 8) Impact Projectiles
      - 9) Carotid Restraint Control Hold
  - 4. Examples
    - a) The following presents examples of situations and an appropriate and inappropriate use of force based on the level of resistance that is being offered by the subject:
    - b) During a traffic stop an officer discovered that the driver had several outstanding traffic warrants.

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- 1) The driver offered no resistance, was cooperative, and responded immediately to the verbal commands of the officer.
- 2) Reasonable:
  - a) The officer's presence and verbal commands were reasonable to maintain control of the situation.
- 3) Unreasonable:
  - a) The officer used a physical control hold immediately before giving verbal commands. The driver became fearful of the officer's actions and began to struggle with the officer. Absent other mitigating factors, the officer's use of force was unreasonable and may have escalated the threat.
- c) During a traffic stop an officer discovered that the driver had several outstanding traffic warrants.
  - 1) The driver complied with the officer's verbal command to get out of the car and showed no signs of threatening behavior, but refused to cooperate in any other way.
  - 2) Reasonable:
    - a) The officer used a firm grip to overcome the driver's passive resistance to the officer's efforts to direct the movement of the driver and maintain control of the situation.
  - 3) Unreasonable:
    - a) The officer used an impact weapon to disable the subject before applying a control hold and placing the subject under arrest.
- d) During a traffic stop an officer discovered that the driver had several outstanding traffic warrants.
  - 1) The driver complied with the officer's verbal command to get out of the car but then pulled away and assumed a fighting stance.

- 2) Reasonable:
  - a) The officer used a leg sweep takedown technique to gain physical control of the subject and then placed the subject under arrest. Since the subject exhibited aggressive resistance toward the officer, the use of force by the officer was reasonable.
- 3) Unreasonable:
  - a) The officer continued making verbal requests for the subject to comply and attempted no other action to gain control of the subject. Even though the subject was not actively attacking the officer, he was actively and aggressively resisting the officer's attempt to arrest him. By not responding to the changing situation with reasonable force, the officer may have placed himself in greater danger of losing control and placed himself at risk of serious injury

E. Communication [20.02.EO5]

- 1. Effective communication enables a peace officer to gain cooperation and voluntary compliance in stressful situations (e.g., confronting a hostile subject).
- 2. Importance of effective communication
  - a. The vast majority of law enforcement responsibilities involve effective communication. Communication involves both professional demeanor and words resulting in improved safety. The following highlights some benefits of effective communication:
  - b. Safety
    - 1) Provides skills that reduce the likelihood of physical confrontation.
    - 2) Can result in a reduction of injuries.
  - c. Professionalism
    - 1) Renders more effective public service and improves community relations.

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- 2) Decreases public complaints and internal affairs investigations.
  - 3) Decreases civil liability.
  - 4) Lessens personal and professional stress.
3. The law enforcement profession and communication
- a. Law enforcement is a highly visible profession. When peace officers communicate, they represent the:
    - 1) Themselves/Agency
    - 2) Executive Staff (chief or sheriff),
    - 3) Government (city, county, state, federal),
    - 4) Public interest,
    - 5) Authority (laws, the Constitution, the Bill of Rights, etc.),
    - 6) Law enforcement profession as a whole.
  - b. Effective communication is a basic element of the use of force. A major goal of law enforcement is to gain voluntary compliance without resorting to physical force.
  - c. For additional information regarding effective communication refer to LD 3, Policing in the Community, LD 18, Investigative Report Writing, LD 22, Vehicle Pullovers, and LD 37, Persons with Disabilities.

### III. Use of Deadly Force

#### A. Learning needs (TTS)

1. Peace officers must fully comprehend their authority, responsibility, and liability regarding the use of deadly force as authorized by law.

#### B. Learning objectives

1. Identify the legal standard for the use of deadly force.
2. Identify the factors required to establish sufficiency of fear for the use of deadly force.

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3. Recognize facts an officer should consider when determining whether or not to use deadly force.
  4. Discuss the role of agency policies regarding the use of deadly force.
  5. Recognize the law regarding justifiable homicide by a public officer and the circumstances under which the homicide is considered justifiable.
- C. Considerations Regarding the Use of Deadly Force [20.03.EO1, 20.03.EO2, 20.03.EO3, 20.03.EO4]
1. The use of deadly force is the most serious decision a peace officer may ever have to make. Such a decision should be guided by the reverence for human life and, used only when other means of control are unreasonable or have been exhausted.
  2. Definition
    - a. Deadly force applied by a peace officer is force that creates a substantial risk of causing death or serious bodily injury.
  3. Leadership
    - a. Reverence for life is the foundation on which the use of deadly force rests. Deadly force is always the last resort used in the direst of circumstances. The authority to use deadly force is an awesome responsibility given to peace officers by the people who expect them to exercise that authority judiciously. In the law enforcement/community partnership, peace officers are expected to be self-disciplined, accountable, and in turn, the community is expected to support its peace officers
  4. To protect self or life
    - a. An officer may use deadly force to protect oneself or others when the officer has the objective and reasonable belief that his life, or the life of another, is in imminent danger of death or serious physical injury based upon the totality of the facts known to the officer at the time.
  5. Use of deadly force on fleeing subject
    - a. In 1985, based on a person's Fourth Amendment protection from unreasonable seizures by peace officers, the United States Supreme Court ruled on a case where an officer used a firearm (deadly force) to prevent the escape of a nonviolent fleeing felon. The

officer in this case relied on the “fleeing felon” standard, which allowed the use of deadly force on any category of felon that was attempting to escape. The Court applied the reasonableness test set forth on the 4th Amendment (Tennessee v. Garner).

- b. The lessons learned from the United States Supreme Court case of Scott v Harris (2007) 127S. Ct 1769 is that there is no way-to-apply a legal test. The ultimate question is whether the use of the particular force in a particular situation was reasonable. To make that determination, the court must balance the nature and quality of the intrusion on the individual’s Fourth Amendment’s interest against the importance of the governmental interests alleged to justify the intrusion.
  - c. The Court applied the following points that would make it reasonable for an officer to use deadly force against a fleeing subject in this particular set of circumstance (i.e. using a firearm a stop a fleeing suspect escaping on foot).
  - c. Components of the Garner decision...
    - 1) “...if the subject threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction of serious bodily harm [or death]...”
    - 2) “...probable cause to believe that the subject poses a threat of death or serious physical harm, either to the officer or others...”
    - 3) “...probable cause to believe that the use of deadly force is reasonably necessary...” [to prevent escape]
    - 4) “...some warning be given prior to the use of deadly force where feasible...”
  - d. This US Supreme Court decision is only the baseline for use of deadly force in this particular set of circumstances. Peace officers must also know the California Penal Code and agency policies. Officers must conform to agency policy and federal and state law.
6. Related terms
- a. In order to understand the aspects of the use of deadly force, peace officers need to become familiar with the following terms.

- b. Serious bodily harm or injury means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement. (Penal Code Section 243(f)(4))
  - c. Reasonable necessity means that delay in apprehension would create substantial and unreasonable risk to officers or others possibly resulting in serious physical injury or death.
  - d. Imminent danger means a significant threat that peace officers reasonably believe will result in death or serious bodily injury to themselves or to other persons. Imminent danger is not limited to "immediate" or "instantaneous." A person may pose an imminent danger even if they are not at the very moment pointing a weapon at another person.
7. Sufficiency of fear
- a. According to the law, fear alone does not justify the use of deadly force. There must be a sufficiency of fear for the use of deadly force to be justified. (Penal Code Section 198)
  - b. There are three elements needed to establish sufficiency of fear.
    - 1) The circumstances must be sufficient to excite the fears of a reasonable person in like circumstances.
    - 2) The person must not act under the influence of fear alone. There has to be some circumstance or overt act apart from the officer's fear.
    - 3) The decision to use deadly force must be made to save one's self or another from great bodily injury or death.
8. Considerations when deciding to use deadly force
- a. The decision of whether or not to use deadly force may be influenced by the officer's:
    - 1) Preparation by training
    - 2) Judgment
    - 3) Mental alertness

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- 4) Emotional maturity
- 5) Existing circumstance
- 6) Understanding of the law as it relates to:
  - a) Agency policies concerning the use, and
  - b) Amount of force that is objectively reasonable to achieve the law enforcement mission.
- 9. Agency policies
  - a. Although the law and courts have established a baseline for the use of deadly force, the conditions under which deadly force may be used are strictly controlled by agency policy. Officers must conform to agency policy and federal and state law
  - b. Some of the issues most common to the use of deadly force addressed by agency policies include, but are not limited to:
    - 1) Defense of self and others against great bodily harm or death.
    - 2) Use of warning shots.
    - 3) Shooting at:
      - a) Nonviolent fleeing felons,
      - b) Juveniles, or
      - c) Moving vehicles.
  - c. Shooting from a moving vehicle.
  - d. Intentional strikes to the head or neck with an impact weapon.
- 10. Examples
  - a. The following presents examples that illustrate the selection of deadly force based on the details of the situations given:

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b. Situation #1

- 1) A neighbor called the police to report that there seemed to be suspicious activity in the house next door; the owner is known to be away on vacation.
- 2) Subject's Action(s) / Officer's Response(s)
  - a) A burglar, surprised by a peace officer entering the room, shot at the officer and missed.
    - i. Since the burglar used deadly force against the officer, the officer had the authority to use deadly force to shoot back in self-defense.
  - b) After missing the officer, the burglar threw his weapon down and surrendered to the officer.
    - i. The officer was no longer in immediate danger of being seriously injured or killed and no longer had the authority to use deadly force. The burglar should be apprehended through other means.

c. Situation #2

- 1) A peace officer got out of the patrol car to question a man loitering on a street corner.
- 2) Subject's Action(s) / Officer's Response(s)
  - a) The subject, using only his fists, attacked the officer.
    - i. The attack was of such force and violence to cause the officer to reasonably believe there was danger of being seriously injured. Provided that all other reasonable means of self defense had been exhausted or would have been ineffective, the officer would have had the authority to use deadly force in self-defense.
  - b) The subject's attack was haphazard indicating that he was not experienced in any form of physical

fighting skills and was reacting in fear rather than in rage.

- i. Based on no other circumstances, the attack might not have been life-threatening to the officer, and other less than deadly force options would have been available to the officer to gain control of the situation.

d. Situation #3

- 1) Two officers were dispatched to a convenience store where silent alarm was tripped.

- 2) Subject's Action(s) / Officer's Response(s)

- a) An armed male subject saw the official patrol vehicle and fled.

- i. The officers saw that the store clerk had been shot but was still alive and gesturing toward the fleeing subject. The officers realized that the subject was trying to escape and they had seen that he had a gun. Because the subject used a firearm to commit the crime, if necessary, the officers have the authority to discharge their firearms to prevent the escape and effect the arrest.

- ii. The store clerk had not been injured and the officers did not know if the fleeing subject was armed. Unless the officers have knowledge that the robbery included the use or threatened use of force likely to cause death or serious injury, they would not have the authority to use deadly force to prevent the subject from fleeing.

D. Justifiable Homicide by Public Officer [20.03.EO5]

- 1. Homicide is the lawful or unlawful killing of a human being by another human being. Under certain circumstances homicide by a peace officer can be justifiable and legal.

## 2. Definition

- a. Penal Code Section 196 states: "Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either:
  - 1) In obedience to any judgment of a competent court,
  - 2) When necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty
  - 3) When necessarily committed in retaking felons who have been rescued or have escaped, or when necessarily committed in arresting persons charged with a felony, and who are fleeing from justice or resisting such arrest."

## 3. Justifiable homicide by a public officer

- a. There are conditions that must be met in order for a homicide by a public officer to be deemed justifiable, and therefore lawful. The following further identifies these conditions:
- b. Homicide by a public officer may be justified when...
  - 1) Ordered by a court to carry out a death sentence.
    - a) If officers are under the orders of a competent court to participate in capital punishment, the officers would be committing legal execution and could not be held responsible or prosecuted.
  - 2) Acting in the course of duty.
    - a) In self defense an officer shoots at an armed subject and kills a bystander. This would be legally justified, but only if the accident happened in the course of duty.
  - 3) Retaking escaping felons.
    - a) Homicide is justifiable when necessarily committed in retaking felons who have been rescued or have escaped. (Penal Code Section 196)

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- b) Fleeing felon alone is no longer adequate justification.
  - 4) Arresting a felon who resists to the point where deadly force is reasonable. This applies to arrest situations where:
    - a) A threat to life exists, and
    - b) The subject could not have been taken by using other than deadly means.
  - c. These conditions must be read in light of the legal standard established by the U.S. Supreme Court in *Tennessee v. Garner*.
- 4. Unjustifiable homicide by a public officer
  - a. The following illustrates the circumstances under which homicide by a public officer may not be justified (based on mitigating factors):
  - b. Homicide by a public officer may NOT be justified when...
    - 1) Pursuing nonviolent felons.
      - a) In the case of nonviolent offenses, such as forgery or grand theft, the consideration for human life and the safety of bystanders would preclude shooting the subject.
    - 2) Arresting or pursuing a felon who does not present a threat to life.
      - a) If it is not a violent felony, then the use of deadly force against the fleeing subject would be improper.
      - b) A violent felony is one which threatens death or serious bodily harm.
    - 3) When arresting or pursuing a misdemeanor who does not pose imminent danger of death or serious bodily injury to people.
      - a) When an arrest is for a misdemeanor, use of deadly force is not justified. It is the principle of the law that it is better to allow a misdemeanor to escape than to apply deadly force against the individual.

## 5. Considerations before using deadly force

- a. In some instances, peace officers have the time to evaluate and assess all aspects of a situation. In most situations, split-second decisions must be made.
- b. As part of the mental process for preparing to use deadly force, peace officers should consider several important factors before a situation requiring the use of deadly force arises. The following suggests, but is not limited to, a few of the mitigating circumstances that should be considered.
  - 1) Threat to life
    - a) Does the subject present a threat to the officer or others?
    - b) Peace officers may use force reasonable to defend their lives or the lives of others.
  - 2) Imminent threat
    - a) Does the subject present an imminent threat to life?
    - b) Is the subject threatening the officer or others with a weapon?
    - c) Subject's access to weapons or potential weapons
    - d) Proximity of subject to the officer
  - 3) Type of crime/subjects
    - a) Is the nature of the crime violent or non-violent?
    - b) Is there a large number of subjects to be confronted?
  - 3) Type of weapon
    - a) Can it cause serious bodily injury or death?
  - 4) Subject's capabilities
    - a) Does the subject demonstrate superior physical skill over the officer?

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- 5) Location and background
    - a) Is there a crowd of innocent people behind the subject?
  - 6) The officer's present capabilities
    - a) What sort of weapon or other capabilities are at the officer's disposal
  - c. Officers must always take into account the totality of circumstances when selecting a force option for a given situation. It is not the intent of this chart to imply that any one circumstance alone may or may not justify the use of deadly force.
6. Examples
- a. The following illustrates examples of the use of deadly force by an officer:
  - b. An officer in a patrol vehicle witnessed a drug transaction taking place on a sidewalk near a group of juveniles.
    - 1) Seeing the officer leave the vehicle and move toward him, the suspected dealer fled down the street. The dealer entered a large building to escape.
      - a) The officer drew his firearm, shot and killed the fleeing subject. Even though the offense witnessed by the officer was a felony, the crime did not involve the use or threatened use of force likely to produce death or serious injury. The homicide by the peace officer in this situation would have been unjustified and therefore unlawful.
    - 2) While fleeing the scene, the dealer pulled a handgun from his waistband and began firing randomly toward the officer.
      - a) In this situation, the subject was posing an immediate danger of causing the death or serious injury to the officer as well as to nearby bystanders. The homicide by the peace officer would have been justified and lawful.

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- c. During a riot, an officer witnessed two men shoplifting from a store in the area.
  - 1) In the confusion of the riot, one of the subjects pulled out a handgun and began to fire at others who were trying to prevent his actions.
    - a) The initial crime was a misdemeanor; however, the situation had now escalated because of the use of deadly force by the subject. In such extreme circumstances, the officer's actions are lawful and the homicide justifiable.
  - 2) When the men fled the scene, the officer drew his firearm and ordered the men to stop. They ignored the officer's commands.
    - a) The officer fired at the fleeing subjects and fatally shot one. Since the offense witnessed by the officer was a misdemeanor and non-violent; the homicide would not have been justified and therefore was unlawful.

### IV. Documenting the Use of Force

#### A. Learning needs (TTS)

- 1. When a force option has been employed, peace officers' reports must include the critical information to ensure that the chronology, specifics of the events, and the people involved are properly documented.

#### B. Learning objectives (TTS)

- 1. Describe why complete documentation of the use of force is critical to the peace officer and the peace officer's agency, to include:
  - a. Justification for using force
  - b. Relevant factors and detail.

**C. Documenting the Use of Force [20.04.EO1]**

1. A peace officers ability to clearly document the facts and activities of a use of force incident not only reflects on the officer's own professionalism, but also on the ability of the justice system to prosecute the criminal case or limit civil liability. Every use of force incident is different and may require different information
2. Facts and circumstances are not limited to the written report. Other factors to be considered include:
  - a. Crime scene processing
  - b. Evidence collections
  - c. Photographs
  - d. Witness and subject statements
  - e. Medical records
3. "Objective reasonableness" standard
  - a. The U.S. Supreme Court has determined that the objective reasonableness for the use of force must be fact specific.
  - b. The reasonableness of an officer's use of force in the line of duty must be...
    - 1) Judged from the perspective of a reasonable officer.
    - 2) Examined through the eyes of a reasonable officer on the scene at the time the force was applied. Not 20/20 hindsight.
    - 3) Based on the facts and circumstances confronting the officer without regard to the officer's underlying intent or motivation.
    - 4) Based on the knowledge that the officer acted properly under the established law at the time.
  - c. In order for the officer's actions to be properly evaluated, the courts must rely on the documentation of all relevant factors.

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4. Inadequate documentation
  - a. Peace officers may not clearly or adequately remember the specific details of an event. The most frequent reasons given for not including information are, but not limited to:
    - 1) Exhaustion/injury,
    - 2) Lack of time,
    - 3) Brevity is mandated
    - 4) Trying to shorten the process by not including every application of force.
  - b. It is imperative that each report be thorough and comprehensive, documenting all aspects of the use of force based on the officer's recollection.
  - c. It sometimes takes years before a case works its way through the court system. As time increases between the incident when force was used and any legal or civil action:
    - 1) An officer's memory may begin to fade,
    - 2) Evidence may be destroyed
    - 3) A witness may be unavailable or cannot be located.
5. Level of detail
  - a. To ensure that all the relevant information is included in their reports, officers need to be aware of the degree of detail required when documenting the use of force.
6. Precursory acts
  - a. Precursory acts are those events that led up to the encounter with the subject, including how the officer arrived at the scene as well as what observations helped the officer assess the situation.
  - b. Giving detailed information of the precursory acts provides the background information necessary to justify the use of force. Possible information includes, but is not limited to:

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- 1) Establishing that the officer was acting in an official capacity.
  - 2) The wearing of an approved uniform that clearly identifies the officer as a peace officer.
  - 3) Mode of travel and whether or not the vehicle was clearly identifiable as a law enforcement vehicle
  - 4) Identification as a peace officer
  - 5) The reason for the officer's presence
7. Subject behavior
- a. Officers should describe the specific orders, commands, or requests that they gave to the subject. Both the officer's and the subject's responses and reactions to those commands should be documented, including direct quotes if possible.
8. Factors
- a. Officers need to describe the factors between the subject and themselves that justify the use of force, including but not limited to:
    - 1) Number of officers/subjects
    - 2) Height and weight of each subject
    - 3) Gender and age of each subject
    - 4) Strength and fighting skills of each subject
    - 6) Physical condition of each subject
    - 7) Clothing (i.e., uniform with equipment vs. casual attire)
    - 8) Stance of each subject (describe).
  - b. In addition to the subject's physical attributes, it is necessary to document the specific characteristics regarding the identification of a subject. Some characteristics include, but are not limited to:
    - 1) Prior contact

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- 2) Obvious prison or gang tattoos
  - 3) Specific gang attire
  - 4) Access to potential weapons such as knives, boots, rings, or guns.
9. Environment
  - a. Officers should observe and record details regarding the environment where the confrontation took place. This information includes, but is not limited to:
    - 1) Physical environment where the contact took place (e.g., high crime area, etc.).
    - 2) Subject's potential to gain assistance or aid from friends or associates.
10. Describing the type of force used
  - a. Officers need to be very clear regarding the type of force applied in given situations. This includes, but is not limited to:
    - 1) Identifying techniques by their proper names and providing a written description
    - 2) The effect or non-effect of the force technique used upon the subject
    - 3) The rationale for escalating or de-escalating the level of force
    - 4) Communication during or after the use of force.
11. Post-custody actions
  - a. After the subject has been taken into custody, peace officers should describe other actions such as, but not limited to:
    - 1) Safe and effective adjustment of handcuffs
    - 2) Double locking the handcuffs (reduces the possibility of inflicting injury from handcuffs over-tightening)

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- 3) Obtaining first-aid or medical treatment for the subject and/or themselves
- 4) Damage to their clothing (i.e., uniforms) and equipment
- 5) Collection of evidence (what, where, and by whom).

### 12. Witness statements

- a. Statements made immediately after the confrontation are often the most accurate since there is little time to become confused or let outside influences confuse the facts. Whenever possible, witnesses should be located and interviewed at the scene of the confrontation.
- b. Using a tape recorder or videotaping the statements from witnesses and subjects may be beneficial to the reporting officer.
- c. It is important to collect all statements including from those persons who claim they did not see any part of the incident.

### D. Report Writing Tip

#### 1. Use of force

- a. Use of force incidents are measured against a standard called "objective reasonableness" (Graham vs. Conner, 1989). It is imperative, therefore, for you to thoroughly understand this concept. Without a grasp of it, the effectiveness of your writing for this purpose will be diminished. Before reading further, review the "objective reasonableness" standard in Learning Domain 20, Use of Force student workbook or related DVD materials.

#### 2. Specific fact patterns

- a. When writing a "use of force" report, you must document all the facts and circumstances "at the moment" of the particular use of force. In other words; what specific fact patterns, observations or circumstances were apparent to you when you made the decision to use force?

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- b. First, begin by “setting the stage.” Document the type of call and all information known to you before and after the call. Second, describe each person involved in the force transaction which includes, but is not limited to, their physical traits, apparent mental and emotional state, objective symptoms (drugs/alcohol), weapons, etc. Third, document a chronological step-by-step detailed account of the force transaction. Most importantly, articulate how the force transaction interconnected with the primary objective of maintaining control. Fourth, think of your writing as a “video” that replays the event visually, mentally, emotionally and physically for others so it communicates what transpired effectively and clearly.
3. Set the stage
  - a. ..I was on duty and in uniform. I was dispatched to John’s Liquor store at 2330 hours in regards to a WMA, 6-0’, 250 lbs, 23-25 years old, wearing a blue jacket, white “tee” shirt and blue jeans. According to dispatch, an anonymous female (RP), who was leaving the Liquor Store, said the WMA (suspect) asked if she wanted to buy drugs. The RP said the suspect showed her a small plastic bag containing white powder...
4. Involved person(s)
  - a. ...I arrived at John’s Liquor store at 2335 hours. I approached on foot from approximately 50-yards north of the liquor store, which is located on the west side of the street. I saw (with an unobstructed view) the above-described suspect to stop, but he continued to advance and repeated, “you’re going down!” When the suspect came within about eight feet of me, I sprayed him directly in the face with a two-second burst of pepper spray. The suspect immediately dropped to his knees and started screaming, “You blinded me!”
5. Step by step account
  - a. ...The suspect said in a loud voice, “What do you want?” I told the suspect I needed to ask him a couple of questions. The suspect clenched his hands into fists and raised his arms chest height and shouted, “You’re going down!” The suspect started walking slowly toward me with his fists chest high. I ordered the suspect to stop, but he continued to advance and repeated, “You’re going down!” When the suspect came within about eight feet of me, I sprayed him directly in the face with a two-second burst of pepper spray. The suspect immediately dropped to his knees and started screaming, “You blinded me!”...

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### 6. Thinking questions

- a. What additional and specific fact patterns should be expected in a use of force report?
- b. Why is it important that a use of force report be written in a way that shows what the officer was thinking and perceiving at the time of the force transaction?

### 7. The link

- a. In every use of force transaction, give an accurate account of who did what within the circumstances that were apparent to you when you made the decision to use force.
- b. This is not all there is to know about how to write a use of force report. Additional training is needed in areas such as scene description, interviews, evidence, medical, etc. This “tip” is only intended as a starting point for further discussion or learning activities with your instructor to broaden your expertise in this critical area.

## V. Fear and Anger Management in the Use of Force

### A. Learning needs (TTS)

1. Peace officers must be ready to, and capable of, safely taking control of a dangerous situation.

### B. Learning objectives (TTS)

1. Discuss factors that can affect a peace officer's response when threatened with danger, to include:
  - a. Fear
    - 1) Reasonable
    - 2) Unreasonable
  - b. Anger
  - c. Indecision and hesitation
2. Give examples of acceptable techniques for managing anger.

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3. Describe the benefits of ongoing physical and mental training for peace officers involving the use of force.

### C. Fear and Anger Management in the Use of Force [20.05.EO1]

1. The objective of using force is to gain control of a person or situation. It is acceptable for a peace officer to take the initiative to confront a suspected law violator. The use of force by an officer is not one of hostility but rather one designed to defend and protect the community from criminal violence.
2. Authority to use force (reemphasis)
  - a. Any peace officer who has reasonable cause to believe the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. (Penal Code Section 835a)
3. Ethics
  - a. Reverence for the law is the basis for the use of reasonable force by peace officers. The rule of law is what distinguishes democracy from authoritarian control. The use of reasonable force is guided and restricted by ethics, law and agency policy. Officers study law and policy so they act lawfully and ethically; in confidence that they can withstand the test of public scrutiny.
4. Factors affecting the peace officer's response
  - a. When peace officers use force to effect an arrest, there are several factors that can influence their actions and the outcome of the event. These include the officer's:
    - 1) Attitude or prejudices toward any involved party (e.g., self, partner, bystander, subject, etc.).
    - 2) Insensitivity or arrogance, creating a negative emotional response.
    - 3) Sincere and courteous behavior, reducing problems and danger associated with an arrest.
    - 4) Life experience, past performance, training, etc.

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5. Officer's use of force
  - a. Peace officers who use force are not considered hostile, but rather they are using it for the defense and protection of the community from criminal violence.
  - b. What constitutes reasonable force is dependent on the subject's actions. The subject's actions can be:
    - 1) Cooperative,
    - 2) Resistive
    - 3) Assaultive
    - 4) Life-threatening
    - 5) Passive non-compliance
6. Self-control
  - a. Self-control is one of a peace officer's greatest assets in dealing with a person or a situation
  - b. Self-control
    - 1) Is the result of the development of confidence in one skills
    - 2) Also comes through training, practice and experience
    - 3) Improves decision making/reaction time
  - c. Self-control is maintaining composure to make sound judgments and decisions
  - d. Some subject can be controlled by the peace officer's command presence
    - 1) Professional demeanor can have a positive influence on calming a subject, making it easier to take the subject safely into custody
    - 2) Nonprofessional demeanor can easily lead to increased conflict, encouraging dangerous behavior by the subject and resulting in poor behavior on the part of the officer.

**D. Self Control [20.05.EO1, 20.05.EO4]**

1. The use of force in dangerous situations may bring on emotional responses as well as physiological responses that officers must be prepared to recognize and manage.
2. Emotional responses
  - a. Two major emotional factors that officers need to focus on during their training:
    - 1) Fear, an emotional response to a perceived threat
    - 2) Anger, a feeling of displeasure from perceived opposition.
  - b. It is important to be able to understand fear and anger, since both can affect officers' reactions during a dangerous situation.
    - 1) Uncontrolled fear and anger tend to decrease the officers' ability to make sound judgments and decisions
    - 2) Uncontrolled fear and anger tend to increase hesitation, verbal abuse and unreasonable force
3. Definition of fear
  - a. Fear is a normal emotional response to a perceived threat (real or unreal). Fear is normal and does not become a problem until it interferes with the ability to perform effectively.
4. Experiencing fear
  - a. Everyone has experienced the sensation of fear. It is unpleasant but normal, natural, and often necessary.
  - b. A person's fear changes with time and experience. Fear may alter alertness during stressful situations. Courage or bravery are not the lack of fear, but in fact, the control of fear.
5. Physiological reactions to fear
  - a. When a person experiences fear, the body reacts, often by an increase in adrenaline, heart rate, and breathing. In addition, some common body responses to fear may include:

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- 1) Blood clotting enzymes flow into the system to minimize damage from wounds
  - 2) Vision and hearing become more acute and focused (e.g., tunnel vision and tunnel hearing)
  - 3) Increased muscle tension and perspiration
  - 4) Raised pain thresholds
  - 5) Time distortion
  - 6) Color distortion
  - 7) Impaired fine motor skills
6. Types of fear
  - a. There are two types of fear: reasonable and unreasonable. The following explains the differences between the two.
  - b. Reasonable Fear
    - 1) A controlled and legitimate fear
    - 2) A mechanism that is necessary for officer safety based on perceived circumstances
  - c. Unreasonable Fear
    - 1) Generated in the officer's mind with no direct correlation to facts and situations
7. Situations that may generate reasonable fear
  - a. Reasonable fear may result when officer experiences increased tension in response to a potential threat.
  - b. The officer may experience reasonable fear as a result of:
    - 1) A sudden or erratic move by a subject
    - 2) The sight of a weapon in a subject's possession
    - 3) The knowledge that a person is in danger of bodily harm

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- 4) A sudden sound produced outside of the officer's field of view
  - 5) Unresponsive, unexpected response to the officer's action.
8. Situations that may generate unreasonable fear
  - a. Unreasonable fear includes overreactions to true potential threats as well as reactions to unreal threats based on prejudice or poor application of past experience.
  - b. The officer may experience unreasonable fear as a result of:
    - 1) An emotional response to a traumatic event,
    - 2) Generalization of past trauma (such as being bitten by a dog as a child or suffering a painful gunshot wound),
    - 3) Personal prejudice against people of a particular race, religion, ethnic group, etc., or
    - 4) Overall anxiety as a result of uncertainty about one's own skills and expertise.
9. Sources of unreasonable fear
  - a. Unreasonable fear can be responsible for inappropriate responses such as a failure to respond, or responding inappropriately (using unreasonable force).
  - b. There are several factors that can lead to unreasonable fear, some physical and some social. The following lists some types of fear.
  - c. Physical Source of Unreasonable Fear
    - 1) Personal physical harm
    - 2) Phobias (e.g., claustrophobia)
    - 3) Psychological (i.e., paranoia)
  - d. Social Source of Unreasonable Fear
    - 1) Racial, cultural, or religious based
    - 2) Responsibility for making critical decisions

## 3) Peer disapproval

## 10. Managing fear

- a. It is normal for peace officers to experience fear whenever they encounter a potentially dangerous situation.
- b. Discussing fears with others is one step toward managing fear. In addition, going through the mental rehearsal before an incident takes place ("what ifs") as well as after-action assessments ("what could I have done differently") will better prepare the officer in dealing with fear.
- c. Other methods for managing fear include focusing on:
  - 1) What must be done and not solely on the danger itself,
  - 2) Evaluating the situation and determining what must be done to achieve the goal
  - 3) The survival phase in order to control the feeling of vulnerability.

## 11. Definition of anger

- a. Anger is a feeling of displeasure from perceived injury, mistreatment, or opposition, to one's self or to another person. When anger is inappropriate or out of control (i.e., rage), it becomes a liability.

## 12. Recognizing anger

- a. Peace officers often act as if they should not have angry reactions to things they see or experience during the performance of their duties. Denying or suppressing anger for long periods may create emotional and physical problems.

## 13. Acceptable anger

- a. To a certain extent, anger allows officers to be assertive. It even plays a small role in command presence.
- b. Peace officers have reported that anger appropriately channeled has enabled them to keep fighting, or at least keep trying, during a crisis situation.

- c. The emotional response of anger can either aid or hinder an officers' performance.

14. Identifying situations causing anger

- a. It is important for peace officers to acknowledge and recognize that anger is a normal reaction. There are two types of situations that can provoke anger, as explained in the following:

- b. Anger-Provoking Situation

- 1) Universal

- a) Being attacked or shot at

- 2) Personal

- a) Individual sensitivities that may prompt a reaction (e.g., history, personality, etc.)

15. Managing anger

- a. Few people can exercise effective emotional control when their anger is near the top of the scale. To avoid getting to this point, peace officers need to prepare themselves for dealing with anger. Some of these methods are listed in the following:

- b. Managing anger by...The peace officer needs to...

- 1) Depersonalizing what people say or do.

- a) Recognize that the subject is reacting to the uniform and not to the person in the uniform.

- 2) Identifying anger inducing scenarios.

- a) Visualize anger inducing situations (e.g., a child taking drugs, subject beating up partner, etc.).

- 3) Developing problem-solving solutions.

- a) Practice mental rehearsals of different scenarios, do some role-playing, seek advice from more experienced officers, etc.

- 4) Recognizing the onset
  - a) Control breathing; if appropriate take a step back from the situation

16. Examples

- a. Two peace officers made a vehicle stop after the driver ran a stop sign. As the driver came to a stop, one officer indicated to his partner that he thought he recognized the driver from his time in high school. As this officer made the initial contact, his partner noticed he remained polite, but his voice was more formal. As he returned to the patrol vehicle with the man's driver's license, he confided to his partner that this man had started the officer's own brother on a drug habit. The officer then delivered the citation in a matter-of-fact manner with no spare commentary. Talking it out for even a few minutes while the record check was done allowed the officer to control personal anger, some of which he had already directed, appropriately, into increased formality.

E. Role of Initial and Ongoing Training [20.05.E05]

- 1. Proper training and practice are keys to dealing effectively with dangerous situations. They help develop confidence, promote a trained response, and enhance mental alertness and concentration as well as develop emotional control.
- 2. Response vs. reaction
  - a. Through continual training, officers can learn to discipline the mind to remain calm, flexible, and alert at all times and, to reduce reaction time.
  - b. Trained responses...
    - 1) Are less predictable to the subject than an instinct.
    - 2) Are correctable.
    - 3) Are flexible (can be adjusted and customized).
    - 4) Can lead to increased self-control.

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- c. Reactions may be...
  - 1) More predictable to the subject.
  - 2) Limited.
  - 3) Improper.
  - 4) Dangerous to the officer or others.
- 3. Training and practice
  - a. Training and practice in both physical and emotional skills provide the understanding and manipulative ability needed by a peace officer in the use of force in potentially dangerous situations.
  - b. The following highlights what an officer gains from training and what may happen without it:
  - c. Training and practice can help attain...
    - 1) Confidence in an officer's abilities.
      - a) Officers gain essential confidence in themselves to respond appropriately and apply the use of force effectively to gain control of subjects and situations.
    - 2) Correct responses.
      - a) The ability to make split-second decisions may mean the difference between life and death. Officers must be prepared at all times to respond quickly and effectively to any potential threat.
    - 3) Mental alertness and concentration.
      - a) By staying alert and able to concentrate under all types of conditions, officers will be able to keep their minds on the situation and maintain awareness

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- 4) Control over body and emotions.
  - a) Control of emotions will enhance an officer's mental as well as physical ability to act properly. Physical control will increase an officer's self-confidence and help further develop emotional control
- d. Lack of and inadequate practice may result in...
  - 1) Lack of confidence.
    - a) Lack of confidence can seriously affect officer's ability to control their own physical and emotional instinctive reactions.
  - 2) Incorrect reactions.
    - a) Not being able to respond correctly may cause an officer to overreact or under react. This can cost the officer's life or the lives of innocent people.
  - 3) Panic.
    - a) Panic is the total and absolute loss of control. Panic in crisis situations will render officers incapable of applying the correct and necessary defensive action for the situation.
  - 4) Loss of control over body and emotions.
    - a) When officers lose control of themselves they may lose control of the situation.
- e. Without proper, adequate, and continued training, physical skills deteriorate
- 4. Officer responsibility
  - a. Training and ongoing practice are a personal and agency responsibility. Officers must seek training and maintain their level of skill throughout their entire career.

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### VI. Consequences of Unreasonable Force

#### A. Learning needs (TTS)

1. Peace officers must recognize the consequences of using unreasonable force, and their legal and ethical responsibilities to intervene if the force being used by another peace officer is inappropriate or unlawful.

#### B. Learning objective

1. Explain the legal and administrative consequences associated with the use of unreasonable force.
2. Explain an agency's potential liability associated with the use of unreasonable force.
3. Explain the consequences of an officer's failure to intervene when unreasonable force is used by another peace officer.
4. Discuss immediate and delayed intervention techniques.
5. Discuss factors that may inhibit a peace officer from intervening in a situation where a fellow officer may be applying unreasonable force.

#### C. Peace Officer and Agency Liability [20.06.EO4, 20.06.EO5]

- 1) Society imposes a tremendous burden upon peace officers when it grants, by statute, permission to use deadly force.
- 2) Reasonable force
  - a. Peace officers who make or attempt to make an arrest need not retreat or desist from their efforts because of resistance or threatened resistance from the person being arrested. They are not considered the aggressor nor do they lose the right of self-defense when they use force to:
    - 1) Effect an arrest
    - 2) Prevent escape
    - 3) Overcome resistance.

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- b. Justification for the use of force is limited to what is known or perceived by the officer at the time. Facts discovered after the event, no matter how compelling, cannot be considered in determining whether the force was justified or not.
- 3) Objective of force application
  - a. The objective for the use of force by peace officers in any situation is to ultimately gain or maintain control of an individual and the situation. As conditions change, officers must constantly reevaluate force options.
  - b. Peace officers are required to:
    - 1) Use force only when authorized to do so (e.g., to overcome resistance to a lawful process).
    - 2) Use the type of force which is reasonable under the circumstances.
    - 3) Use only the amount of force reasonable to overcome resistance and to gain or maintain control.
    - 4) Use only the amount and type of force which is permitted by agency policy.
- 4) Unreasonable force
  - a. Unreasonable force occurs when the type, degree, and duration of force employed was not necessary or appropriate.
- 5) Consequences of unreasonable force
  - a. Malicious assaults and batteries committed by peace officers constitute unlawful conduct. When the force used is unreasonable, the officer can face criminal and civil liability, and agency disciplinary action.
  - b. The following highlights a number of these consequences:
    - 1) Criminal action
      - a) Face criminal charges for unreasonable use of authority or force.

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- 2) Civil Law suits
  - a) Compensatory and punitive damages
- 3) Civil rights violation
  - a) Be held accountable for civil rights violations.
- 4) Administrative or agency action
  - a) Be subject to disciplinary actions including dismissal.
- 5) Moral impact
  - a) Suffer the consequences of guilt and embarrassment.
6. California statutes regarding officer behavior
  - a. In the Penal Code Section 149, there are additional statutes that regulate the behavior of peace officers.
  - b. The following lists these statutes:
    - 1) Every officer who is guilty of willful inhumanity or oppression toward any prisoner under his care is punishable by a fine not exceeding four thousand dollars (\$4,000) and by removal from office – 147 PC
    - 2) Every public officer who, under color of authority and without lawful necessity, assaults or beats any person, is punishable by a fine not exceeding ten thousand dollars (\$10,000) or by an imprisonment in the State prison or in a county jail not exceeding one year or by both fine and imprisonment – 149 PC
    - 3) A public officer's removal for neglect or violation of official duty; discretion of the court – 661 PC
    - 4) It shall be unlawful to aid, abet, attempt, or apply cruel, corporal, or unusual punishments in reformatories, institutions, jails, state hospitals, or any other state, county, or city institution – 673 PC

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7. Federal law regarding officer behavior
  - a. There are two sections of the United States Code that address an officer's unlawful action:
    - 1) Peace officers are prohibited from depriving citizens of their rights under the color of the law; if death results, officers may be punished by life imprisonment – Section 242 U.S. Code Section (Criminal)
    - 2) Peace officers are prohibited from depriving citizens of their rights under the color of authority – Title 42, Section 1983 U.S. Code Section (Civil)
8. Vicarious liability
  - a. The unreasonable use of force by an officer can discredit and result in loss of public support to an officer's agency.
  - b. Vicarious liability holds an agency responsible for the conduct of its officers while acting within their authority. The agency can be:
    - 1) Liable under Federal civil rights laws
    - 2) Sued for negligent or inadequate training or failure to supervise adequately.
  - c. Example
    - 1) An officer uses unreasonable force by applying a Carotid Restraint Control Hold and has not been trained in this type of control hold.

### D. Failure to Intervene [20.06.E06]

1. The community expects that its peace officers will use reasonable force, and intervene if reasonable force is exceeded. For the community and the officer's protection, the officer must know the laws pertaining to intervention.
2. The intervention may take the form of one or more of the following actions
  - a. Strongly caution the other officer
  - b. Physically restrain the other officer

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- c. Immediately report the incident.
- 3. Definition
  - a. Intervention is the act of attempting to prevent or attempting to stop the inappropriate or unlawful behavior of another.
  - b. An officer may face both criminal or civil liability and disciplinary action if they fail to intervene and prevent other officers from violating anyone's constitutional rights if they had reason to know and an opportunity to act. US v Koon, 34F. 3d 1416 at 1447 (9<sup>th</sup> cir., 1994; (Cunningham v gates, 229F.3d 1271 at 1289 – 1290 (9<sup>th</sup> cir., 2000)
- 4. Necessity for intervention
  - a. Intervention is necessary because:
    - 1) It is required by law
    - 2) It is morally and ethically correct
    - 3) Personal integrity demands it
    - 4) It enhances officer safety
    - 5) It preserves professionalism and supports the law enforcement mission.
    - 6) It strengthens public confidence in the law enforcement profession and the individual agency involved.
    - 7) It reduces personal and agency liability because it results in fewer:
      - a) Physical injuries arising from unreasonable force
      - b) Disciplinary actions and personal complaints
      - c) Criminal complaints filed against officers
      - c) Civil liability suits, including fewer punitive financial judgments against individual officers.

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5. Fourth amendment protections
  - a. The United States Constitution protects individuals from unlawful actions of peace officers.
  - b. The officer who fails to intervene, for whatever reason, is also held accountable by the United States Code.
6. Lawful resistance
  - a. Although Penal Code Section 834a states that the person being arrested must submit to an arrest, if unlawful or unreasonable force is used to effect the arrest, the person being arrested may lawfully resist to overcome that force.
  - b. The following lists the applicable penal code sections:
    - 1) Lawful resistance to the commission of a public offense may be made by the party about to be injured or by other parties – 692 PC
    - 2) Resistance sufficient to prevent the offense may be made by the party about to be injured to prevent an offense against his person, or his family or some member thereof. To prevent an illegal attempt by force to take or injure property in his lawful possession – 693 PC
    - 3) Any other person, in aid or defense of the person about to be injured, may make resistance sufficient to prevent the offense – 694 PC

### E. Intervention Techniques [20.06.E07]

1. Introduction Intervention may involve the application of techniques for restoring or maintaining professional control. In some situations it may be necessary to intervene immediately. In others, it may be desirable to utilize an intervention strategy after the fact.
2. Immediate intervention
  - a. During a high-stress situation such as making an arrest, peace officers may experience emotional reactions towards the subject. As a result, they may use unreasonable force without realizing what they are doing. At this point it is imperative that a fellow officer intervene immediately to diffuse the situation.

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- b. There are three common immediate intervention techniques listed in the following:
  - 1) Verbal
    - a) Peace officer is becoming agitated, angry, or appears to be losing professional objectivity during a contact.
    - b) Fellow officer offers to assist by saying, "Let me take care of this one, okay?"
  - 2) Physical/touch
    - a) Peace officer is engaged in a heated verbal confrontation with a subject and is starting to become increasingly agitated.
    - b) Fellow officer lightly touches the peace officer on the shoulder and offers a tactful reminder to calm down or offers to take over.
  - 3) Restraint
    - a) Peace officer is using unlawful or unreasonable physical force.
    - b) Fellow officer physically takes hold of the other officer in order to separate the peace officer from the subject – Intervention must include immediate reporting.
- 3. Delayed intervention
  - a. In situations that have already taken place, it may be necessary to implement a delayed intervention technique. This can be valuable in improving the professional quality of future contacts.
  - b. There are three common delayed intervention techniques, listed in the following:
    - 1) Discussion
      - a) Peace officer is verbally condescending to someone.

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- b) Fellow officer discusses the improprieties of such behavior; this is professionally beneficial.
  - 2) Admonishment
    - a) Peace officer uses inappropriate or demeaning language in contacts with the public.
    - b) Fellow officer informs peace officer that this type of behavior is not acceptable, and could likely provoke or escalate the conflict.
  - 3) Training
    - a) Peace officer is having consistent difficulty during contacts with a certain group.
    - b) Fellow officer suggests that additional training be pursued. Effective training occurs when an officer consistently demonstrates desirable behaviors.
- 4. Duty to report
  - a. When unreasonable force is used on a person justifiably or unjustifiably arrested, it is a constitutional violation by the officer who had reasonable opportunity to intervene and did not.
- 5. Examples
  - a. Situation #1
    - 1) Officers Jones and Smith worked a two-person DUI unit. They stopped a driver for suspicion of DUI.
    - 2) The driver failed the FST's and was told he would be arrested. The driver was compliant but did not wish to be cuffed.
    - 3) Immediate intervention
      - a) Officer Jones saw that Officer Smith was moving into position to apply a carotid restraint. Officer Jones felt a control hold was safer and more reasonable. Officer Jones applied a front wrist lock on the driver and received immediate compliance.

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Officer Jones moved into a cuffing maneuver and quickly cuffed the driver.

4 Delayed intervention:

- a) Officer Smith immediately struck the driver with her impact weapon. The driver was later booked without incident. Officer Jones later discussed with Officer Smith the entire incident. Officer Jones asked Officer Smith why she hit the driver with her impact weapon instead of using a control hold. Officer Smith stated that other options were overlooked. Officer Jones reported the incident to the supervisor

b. Situation #2

- 1. Officers respond to a call about a suspected burglary at a residence
- 2. While investigating the burglary report call, the victim begins to verbally chastise the officers for taking too much time to respond. While listening to this, the officers see a man run out of the back of the house; the officers give chase.
- 3. Immediate intervention
  - a. Upon catching the subject, Officer Wong began to kick the subject; the subject went limp and was lying in a fetal position. Officer Kwan arrived and stepped between Officer Wong and the subject in order to handcuff the subject.
- 4. Delayed intervention
  - a. Upon catching the subject, Officer Wong began to kick the subject; the subject went limp and was lying in a fetal position. As Officer Kwan arrived, she saw Officer Wong kick the prisoner two more times then assisted with handcuffing. Later Officer Kwan reported the incident to the supervisor

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### F. Factors Affecting Intervention [20.06.EO8]

1. Although peace officers are legally and ethically required to intervene when they observe inappropriate behavior by a fellow officer, personal and psychological reasons may prevent them from intervening.
2. Factors to intervening
  - a. Peace officers may fail to take action when a fellow officer is behaving inappropriately because of several factors. The following lists both the personal and psychological factors that may prevent intervention; however, these are not the only factors.
  - b. Officers might not intervene because of... They might think...
    - 1) Transfer of responsibility.
      - a. "Somebody else will step in any minute now."
    - 2) Rationalization
      - a. "Nobody else is doing anything so maybe I am just misunderstanding the situation and nothing is really wrong."
    - 3) Self doubt
      - a. "What if I'm wrong? What will everyone think of me if I step in and do something?"
3. Personal/ Psychological Factors
  - a. Personal factors
    - 1) Unfamiliar with fellow officer
    - 2) Inexperience with proper action to remedy the situation
    - 3) Feeling that intervention is someone else's responsibility
    - 4) Peer pressure
    - 5) Personal problems
    - 6) Fearing consequences, such as being ostracized

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- 7) Fear of reaction from senior officers, field training officers, or supervisors
- b. Psychological factors
  - 1) Erroneous notion of how peace officers should behave (perhaps from movies and television)
  - 2) Fear may play a significant part in the behavior of the observing officer
4. Consequence of not intervening
  - a. Peace officers are encouraged to use their own judgment and to trust their "gut" instinct (i.e., common sense). If one's instinct indicates that a situation is wrong, then it is important not to second guess themselves based upon the behavior of others in the area. Officers could suffer one of the following if they don't intervene:
    - 1) Increased stress
    - 2) Embarrassment
    - 3) Civil/criminal action
    - 4) Disciplinary action
    - 5) Loss of career

### VII. Required tests

- A. The POST – Constructed Knowledge Test on the learning objectives in Domain #20
- B. The POST – Constructed Comprehensive Mid – Course Proficiency Test
- C. The POST – Constructed Comprehensive End – of – Course Proficiency Test
- D. The POST – Constructed Comprehensive Module III End – of – Proficiency Test
- E. The POST – Constructed Comprehensive Module II End – of – Proficiency Test.
- F. The POST – Constructed PC 832 Arrest Written Test
- G. The POST – Constructed Comprehensive Test for the Requalification Course

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- H. A scenario test that requires the student to demonstrate proficiency in the use of force. The test must result in the student making a deadly force option decision
  - 1. The student is required to demonstrate proficiency in the following competencies
    - a. Use of force
    - b. Problem solving
    - c. Legal authority
    - d. Officer safety
    - e. Communication
    - f. Ethics
    - g. Stress tolerance
- I. A scenario test that requires the student to demonstrate presenter approved impact weapon techniques in a force on force simulation against an instructor who is dressed in a protective suit
  - 1. The test must simulate the physical and mental stress that would be imposed by an actual street encounter where the student would be required to use an impact weapon to control a suspect and effect an arrest.
  - 2. The student is required to demonstrate proficiency in the following competencies
    - a. Use of force
    - b. Problem solving
    - c. Legal authority
    - d. Officer safety
    - e. Communication
    - f. Ethics
    - g. Stress tolerance

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### VIII. Required learning activity

- A. The students will participate in one or more learning activities from the POST – developed Instructor’s Guide to Learning Activities for Leadership, Ethics and Community Policing (December 2005) or other comparable sources regarding use of force. At a minimum, each activity, or combination of activities must address the following topics:
  - 1. Exercise of leadership in the application of reason able force
  - 2. Impact of ethical decision – making on the selection of appropriate force options
  - 3. Evaluation of the effectiveness of force options choices
  - 4. Consequences for the use of unreasonable force on the officer, community perception and public trust

### IX. POST Instructors Guide to Learning Activities (IGLA)

- A. Prerequisites
  - 1. Prior to these learning activities, the students shall either have been instructed in or had the opportunity to study the student workbooks and noted materials for:
    - a. LD 1: Leadership, Professionalism and Ethics
    - b. LD 20: Use of Force
    - c. LD 20: Use of Force DVD in the POST Basic Training DVD Series
    - d. Have read their agency’s policies regarding the use of force or an exemplar policy on the same topic.
- B. Introduction
  - 1. A learning activity is required as a component of instructional delivery in this Domain. This Learning Domain has significant implication with regard the applied skills of peace officers, the community’s perceptions and confidence in their policing agencies and the manner in which the law allows police practitioners to use coercion to enforce the law and maintain public order. It is a content area where it is critical to teaching the “why and when” of the use of force in addition to the acquisition of necessary

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psychomotor skills for students to successfully demonstrate proficiency in its use.

### C. Learning Outcomes

1. At the conclusion of this training segment, the student will be able to:
  - a. Understand and apply force options as taught in conformance with best practice and department policies and procedures.
  - b. Analyze and respond to ambiguous situations where force may or may not be an appropriate option, then evaluate the effectiveness of their choice.
  - c. Compare and contrast uses of force in the context of the community's perceptions and beliefs by applying knowledge gained in training.

### D. Activities

1. Activity One
  - a. This activity is a homework assignment that is used as a foundation for class discussion and refining of the issues regarding perceptions of the use of force by the police.
  - b. Students will be assigned to locate a news article recounting a recent use of force by the police. The article may be from a local newspaper, a magazine or from an Internet search. Students will take turns reading their articles to the class (this activity is also suited as a transitional activity at the beginning or end of training blocks or when returning from lunch or similar break period. In those instances, the instructor may elect to have only a small number of students present their findings at one time, allowing for more thorough discussion of each story). Students should seek to identify ethical issues and also assess the community's perception of the propriety of the use of force in the described incident.
  - c. The instructor will facilitate the process of student presentations. Other students will be asked to comment, ask questions or render opinions concerning the article and its implications for policing. The student presenting should be critiqued regarding their clarity of presentation, effectiveness of analysis and the public speaking skills used to make the presentation.

## d. Time estimate:

- 1) Time per student will be about 2-3 minutes. If conducted as a class segment, the time will expand according to the number of students present. The instructor may elect to have students work in groups, presenting their topics to one another. The groups would then report findings and compare/contrast issues with other groups.

## e. Comprehensive Questions

- 1) The choice of article is not as important as the student's efforts to analyze its contents and discuss its relevance with others. The instructor should work to facilitate the student's work to dig deeply and assess how they might feel if they were the subject of force, a family member of the person against which force was applied, or a community member witnessing the incident. This is not done to hinder their learning, but to enhance their success when they are asked to perform these duties once in the field as a peace officer.

## f. Application

- 1) Student discussions of their current event should be related to how they might have acted in a similar situation, what policy and law might say with regard to the incident, and how their community might react to reading the same article.

## h. Resources

- 1) Students will perform research to locate articles independently. The instructor will advise them at the time of giving the assignment of the likely places to locate articles of relevance to their work.

## 2. Activity Two

- a. This activity will present a role-play scenario witnessed by the class, and to which they will then have to break into groups to discuss and evaluate the conduct of the officers involved. This activity will allow students to synthesize training on the appropriate use of force, and how to apply the concept of intervening with another officer when they are engaged in inappropriate actions.

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- b. The instructor will select a student to be their “partner” officer as they will take action to arrest someone for an outstanding warrant. Other students in the classroom will be community members who happen to be in the area where this arrest will take place. The person playing the arrestee will have to be advised of the nature of their role, and also the actions they will take within the scenario. The instructor will be the primary officer, with the student acting as secondary officer. The instructor will make contact, and subsequently advise the suspect he or she is under arrest. The student will be told to handcuff the subject, which will be met with mild resistance. The instructor will, a) slap the suspect (simulated), b) grab them at the throat, or c) grab their clothing roughly and call the suspect an “asshole.” If the student does nothing, the suspect will cease any resistance and allow the student to handcuff them,
- c. Students will be broken into groups of 6-8 members, and be required to select a recorder and spokesperson. The groups will:
  - 1) Identify the appropriate and inappropriate actions taken by the officers.
  - 2) Identify the intervention technique/s used by the student, and also identify any options for intervention that would have been appropriate in this circumstance.
  - 3) Evaluate the ethical dimensions of this incident.
  - 4) Assess and analyze the community’s possible reactions to witnessing such conduct on behalf of the police.
- d. Time estimate:
  - 1) The role-play will take about five minutes. It will take 3-5 minutes to break the class into groups with their instructions. Group presentations will take about five minutes each, including appropriate discussion and facilitator’s comments. The instructor should consider having each group answer only one question on the list to avoid a duplication of comments.
- e. Comprehensive Questions
  - 1) Instructor questions of students should be aimed at enhancing their understanding of the application of force options, limits on the use of force as judged by reasonability and necessity and the legal implications of

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using force inappropriately and witnessing such use by others without taking action. Open-ended questions work best in this, and many other learning situations. Instructors may also consider revising the scenario incrementally during class discussion to allow students to evaluate at what point/s action is necessary on their behalf. Consider using questions such as:

- a) What if...(modify scenario).
  - b) OK, now consider this from the perspective of...(the public, a jury deciding this in court, the community, community activists, etc.).
  - c) All right, now you're the Patrol Captain. How do you justify this to...(media, the Chief, the city council, etc.).
- 2) The instructor should also consider broaching the topic of fear and its impact on action, both in the need to use force against another and fear brought about due to action anxiety over whether or not to intervene when another officer or deputy has gone too far (or will if not stopped).

### f. Application

- 1) Application of force options is a complex learning topic, requiring reinforcement to allow students to gain appropriate physical skills to complete the use of force as intended and also requiring the instructor to ensure students understand the moral dimension in using coercion against another person to carry out the intent of the law. Students should be motivated to learn skills they perceive will enhance their chances of surviving a violent encounter in the streets. It may be more difficult to motivate them to understand the need to be disciplined and restrained in their application of force to situations where it is absolutely necessary.

### g. Resources

- 1) The training environment should provide the student adequate time to analyze actions and their consequences. The combination of large and small group activities will allow for individual reflection by students as well as opportunities for the student to articulate and defend their

choices. Resources for this activity are minimal, and would include only items already in the classroom. Primary instructors in this domain are required to complete added instructor development training prior to leading this block of instruction, and added resources should be found in the domain-specific training.

3. Activity Three

- a. This activity allows the student to gain knowledge regarding community perspectives of the use of force, and will also provide a forum for students to practice public speaking skills in an environment of conflict.
- b. The activity is a role-play by students with the instructor facilitating the process of setting the stage and providing a safe environment for students to speak to others. Each student will be given an assigned topic (the topic may be given to them with a one minute preparation period before taking their place at the front of the class) and be told they are speaking to a community meeting about a recent use of force in the city. Other students will play the role of community members, and be encouraged to ask appropriate questions as the scenario unfolds.
- c. Depending on class size, it may not be possible to have each student take a turn as the peace officer. In those instances, ensure there is added emphasis on the debriefing portion of each scenario to allow others to learn application techniques from the experiences of others.
- d. In each instance, officers will be required to:
  - 1) Demonstrate the ability to speak clearly.
  - 2) Respond in an appropriate manner to questions posed, even if asked in a rude or accusatory manner.
  - 3) Apply their understanding of the relevant department policies and law.
  - 4) Present their position in a manner that would not be seen as hostile or defensive by others.
  - 5) Evaluate and synthesize questions asked to form appropriate follow-up answers.

e. Possible topics to choose may be:

- 1) Following the pursuit and apprehension of auto theft suspects where officers were seen on video striking one or more of the suspects with their batons (why did they do it? Why didn't they just grab the suspect and handcuff him?).
- 2) Following an officer-involved shooting involving five officers who fired more than 40 rounds at the suspect (Why so many rounds fired?).
- 3) In the aftermath of an incident where officers used a Taser and beanbag round to subdue a distraught mental patient who was threatening passers-by (Why couldn't the officers have talked to her longer before using force?).
- 4) After an officer-involved shooting of a knife-wielding subject who was threatening the officer (Why couldn't the officer have just shot the knife out of his hand instead of shooting at his heart?).
- 5) Following a foot pursuit where officers were seen kicking the unarmed suspect while they were taking him into custody (How come the officers treated that guy like a dog?).
- 6) On the heels of an officer-involved shooting where the officer shot a man who was waving a length of iron pipe at him (Why didn't the officer just keep backing up until enough other officers got there?).
- 7) Subsequent to an incident where an officer used a carotid restraint to subdue a local teen who had been drinking and who was resisting being taken into custody for being drunk in public (Isn't there a better way than to choke someone unconscious?).
- 8) A week after an incident where a canine was used to apprehend a burglary suspect inside a local business, and where the canine caused bleeding to the suspect (I thought the cops were supposed to try to prevent someone being injured. Why send in a dog that does just that?).

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- 9) After an incident where an officer shot a driver who was driving her car at the officer, apparently intending to strike him (Can't you just step out of the way? It's only a driving infraction, isn't it?).
- f. The instructor may also wish to use the facts circumstances of some of the articles brought to class by students for activity one completed earlier, or use recent events to create a suitable topic.
- h. Time estimate:
  - 1) The community meeting should take 4-5 minutes per speaker, with 2-3 minutes of debriefing per speaker led by the instructor.
- i. Comprehensive Questions
  - 1) One of the most significant fears of adults is public speaking. At the same time, communicating effectively is a critical skill for peace officers. This activity allows students to experience public speaking in a safe setting, and where their mistakes will allow them to "fail forward" with the facilitated discussion of their strengths and weaknesses subsequent to the speaking.
  - 2) The topics used will enhance the student's understanding of the consequences of using force, and also allow them to apply speaking skills in a directed environment. Questions following individual speakers may be similar to:
    - a) Who are the stakeholders in this incident (who is affected)?
    - b) Does the use of force in this instance create any ethical or moral dilemmas for the speaker or department?
    - c) How does the officer's demeanor while answering questions impact the views of the audience?
    - d) What process could you use to determine how to answer this type of questioning?
    - e) What does your department's policy say about.....?

## j. Application

- 1) Students may misperceive that they would not be asked to speak to community groups as line employees, and that this type of environment would only be faced by supervisors and managers. They should be made aware that these skills will be applied in a variety of circumstances, and that questions from the community on police affairs are common while answering calls for service, during informal contacts with the public, and in settings ranging from one-on-one contacts to neighborhood meetings on an unrelated topic. Speaking effectively is a necessary skill, and their knowledge of department policy, relevant law and force options are the tools they will use to answer public concerns in a manner that represents the department well.

## E. Resources

1. Laws concerning the police use of force, including applicable case law; force option policies and practices. The class environment can be used to stage this activity with little or no modification, and with no added resources necessary. Added Resources are:
  - a. Training and Testing Specifications for Peace Officer Basic Courses, LD20; Learning Activities for LECP
  - b. POST LEOKA Report (available at [www.lp.post.ca.gov](http://www.lp.post.ca.gov))
2. Additional Information for Instructors
  - a. While the use of force may be taught in a physically interactive environment to allow students to acquire and reinforce methods by which they may defend themselves, subdue combative subjects and protect the innocent, training them to analyze, revise and evaluate their actions in a social framework that will assess their actions in the context of being both lawful and necessary. Although peace officers may see an application of force through trained eyes, the vast majority of our constituents do not have a similar viewpoint. Officers must be mindful of the overarching requirement that all force used to effect arrests or to quell resistance must at all times be judged according to the "reasonable person" standard.

## USE OF FORCE

Learning Domain #20, Version 3.1

P.O.S.T. COURSE OUTLINE

- b. Beyond legal standards that limit a peace officers ability to use force except as necessary to perform their duties is the moral standard that mandates a reverence for life that dictates force as the last option to be considered, and deadly force be considered only to save the life of that officer or another person. The community expects its peace officers to understand the need to be self-disciplined in their use of the authority granted to them to use force. The training of students to understand their role as the representative of the law and their department is perhaps the most important part of force training.
- c. Motivation to complete any task is a function of developing competence in its practice along with the student's perception of the value of doing it. In Use of Force training, the instructor must build competence through the applied skills. Encouraging students to see value in restraint, and to teach them how to use force while at the same time not using it to punish or "get even" with a suspect is inevitably a more difficult task. Learning experiences in this Domain should incorporate context and relevance to real world application, and be mindful of the student's tendency to exclude analysis and evaluation of the use of force options being trained if they focus too specifically on the acquisition of the physical skills necessary to properly follow steps in an option's application.
- d. The activities presented herein, therefore, focus more on the community's perception, the moral issues surrounding the use of force and the context of its use rather than the mechanics of applying force. Your creativity and expertise as an instructor will be a primary means by which the students will gain an understanding of the need for the use of force in specified circumstances, while also developing a respect for the need for restraint and discretion in its use.

**TRAINING AND TESTING  
SPECIFICATIONS FOR LEARNING DOMAIN #20  
USE OF FORCE**

July 1, 2010

RBC	Other Basic Courses					Requal
	832	III	II	I	SIBC	
X	X	X			X	X
X	X	X			X	X
X	X	X			X	X
X	X	X			X	X
X	X	X			X	X
X	X	X			X	X

**I. LEARNING NEED**

Peace officers must recognize that they have the authority to use reasonable force to affect an arrest, to prevent escape, or to overcome resistance as authorized by the California Penal Code. For their safety, and for the safety and well-being of fellow officers, it is critical that peace officers know the laws governing the use of force.

**LEARNING OBJECTIVES**

- A. Discuss reasonable force as stated by law
- B. Discuss the components of the Fourth Amendment standard for determining objective reasonableness as determined by the U.S. Supreme Court
- C. Explain the legal framework establishing a peace officer's authority during a legal arrest, including:
  1. A subject's requirement to submit to arrest without resistance
  2. Peace officer's authority to use reasonable force during a detention or arrest
- D. Identify the circumstances set forth in the California Penal Code when a peace officer has the authority use force
- E. Discuss the level of authority agency policies have regarding the use of force by a peace officer

**II. LEARNING NEED**

Peace officers must recognize that they have a range of force options available to them. However, in all cases the use of force must be reasonable compared to the threat, resistance, and other circumstances known to the officer at the time the force was used.

RBC	Other Basic Courses					Requal
	832	III	II	I	SIBC	
X	X	X	X		X	X
X	X	X	X		X	X
X	X	X	X		X	X
X		X	X		X	X
X		X	X		X	X
X	X	X	X	X	X	X
X	X	X	X	X	X	X
X	X	X	X	X	X	X
X	X	X	X	X	X	X

#### LEARNING OBJECTIVES

- A. Define the term "force option"
- B. Identify that the objective of using force is to overcome resistance to gain control of an individual and the situation
- C. Recognize force options and the amount of force peace officers may use based on the subject's resistance
- D. Explain the importance of training and ongoing practice when responding to potentially dangerous situations that may require the use of force
- E. Discuss the importance of effective communication when using force

#### III. LEARNING NEED

Peace officers must fully comprehend their authority, responsibility, and liability regarding the use of deadly force as authorized by law.

#### LEARNING OBJECTIVES

- A. Identify the legal standard for the use of deadly force
- B. Identify the factors required to establish sufficiency of fear for the use of deadly force
- C. Recognize facts an officer should consider when determining whether or not to use deadly force
- D. Discuss the role of agency policies regarding the use of deadly force



RBC	Other Basic Courses					Requal
	832	III	II	I	SIBC	
X		X	X		X	X
X		X	X		X	X
X	X	X	X		X	X
X	X	X	X		X	X
X		X	X		X	X
X			X		X	
X					X	
X				X	X	
		X				
			X			

## VI.

### LEARNING NEED

Peace officers must recognize the consequences of using unreasonable force, and their legal and ethical responsibilities to intervene if the force being used by another peace officer is inappropriate or unlawful.

### LEARNING OBJECTIVES

- A. Explain the legal and administrative consequences associated with the use of unreasonable force
- B. Explain an agency's potential liability associated with the use of unreasonable force
- C. Explain the consequences of an officer's failure to intervene when unreasonable force is used by another peace officer
- D. Discuss immediate and delayed intervention techniques
- E. Discuss factors that may inhibit peace officer from intervening in a situation where a fellow officer may be applying unreasonable force

## VII.

### REQUIRED TESTS

- A. The POST-Constructed Knowledge Test on the learning objectives in Domain #20.
- B. The POST-Constructed Comprehensive Mid-Course Proficiency Test.
- C. The POST-Constructed Comprehensive End-of-Course Proficiency Test.
- D. The POST-Constructed Comprehensive Module III End-of-Proficiency Test.
- E. The POST-Constructed Comprehensive Module II End-of-Proficiency Test.



RBC	Other Basic Courses					Requal
	832	III	II	I	SIBC	
X		X	X		X	X
X		X	X		X	X
X		X	X		X	X
X		X	X		X	X
12	3	5	5	4	12	4

# VIII. REQUIRED LEARNING ACTIVITIES

- A. The student will participate in one or more learning activities from the POST-developed *Instructor's Guide to Learning Activities for Leadership, Ethics and Community Policing (December 2005)* or other comparable sources regarding use of force. At a minimum, each activity, or combination of activities must address the following topics:
1. Exercise of leadership in the application of reasonable force
  2. Impact of ethical decision-making on the selection of appropriate force options
  3. Evaluation of the effectiveness of force option choices
  4. Consequences for the use of unreasonable force on the officer, community perception and public trust

# IX. HOURLY REQUIREMENTS

Students shall be provided with a minimum number of instructional hours on the use of force.

# X. ORIGINATION DATE

January 1, 2001

# XI. REVISION DATE

January 1, 2002  
January 1, 2004  
September 15, 2004  
July 1, 2005

January 1, 2006  
January 19, 2007  
July 1, 2008  
July 1, 2009

July 1, 2010