

Basic Course Workbook Series Student Materials

Learning Domain 20

Use of Force

Version 3.5

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Student Materials
Learning Domain 20
Use of Force
Version 3.5

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THE ACADEMY TRAINING MISSION

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

FOREWORD

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.
Executive Director

LD 20: Use of Force

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Preface

Introduction

Student workbooks

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

Regular Basic Course training requirement

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

Student workbook elements

The following elements are included in each workbook:

- chapter contents, including a synopsis of key points,
 - supplementary material, and
 - a glossary of terms used in this workbook.
-

How to Use the Student Workbook

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning prior to classroom attendance, for test preparation, and for remedial training.

Workbook format

To use the workbook most effectively, follow the steps listed below.

Step	Action
1	Begin by reading the: Preface and How to Use the Workbook, which provide an overview of how the workbook fits into the POST Instructional System and how it should be used.
2	Refer to the Chapter Synopsis section at the end of each chapter to review the key points that support the chapter objectives.
3	Read the text.
4	Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter.
5	Refer to the Glossary for a definition of important terms. The terms appear throughout the text and are bolded and underlined the first time they appear (e.g., <u>term</u>).

Chapter 1

Introduction to the Use of Force

Overview

Learning need 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.

Learning objectives The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• discuss <i>reasonable force</i> as stated by law.	20.01.1
• discuss the components of the Fourth Amendment standard for determining <i>objective reasonableness</i>, as determined by the U.S. Supreme Court.	20.01.2
• explain the legal framework establishing a peace officer's authority during a legal arrest, including: - subject's requirement to submit to arrest without resistance - peace officer's authority to use reasonable force during a detention or arrest.	20.01.3
	20.01.4
• identify the circumstances set forth in the California Penal Code when a peace officer has the authority to use force.	20.01.5
• discuss the level of authority agency policies have regarding the use of force by a peace officer.	20.01.6

Continued on next page

Overview, Continued

In this chapter

This chapter focuses on the legal aspects regarding a peace officer's authority to use force. Refer to the following chart for specific topics.

Topic	See Page
Reasonable Force	1-3
Authority to Use Force	1-6
Chapter Synopsis	1-8
Workbook Learning Activities	1-10

Reasonable Force

Introduction

Reasonable force is a legal term for how much and what kind of force a peace officer may use in a given circumstance.

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.”

Fourth Amendment “objective reasonableness” standard

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.

The Court noted that determining the objective reasonableness for the use of force must be *fact specific*, and established the following four components for determining reasonableness:

	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.

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Reasonable Force, Continued

The officer's perspective

Peace officers will constantly be faced with decisions of when to use force and to what degree it should be applied.

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.

The amount of force necessary for the situation is determined by the objective reasonableness as judged by a reasonable officer.

Community policing

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.

Continued on next page

Reasonable Force, Continued

The officer's intent

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.

Control, as it relates to defensive tactics, means maintaining composure to make sound judgments and decisions.

Additional gauges for reasonableness

The Court noted that the following facts should also be considered, but not limited to, when gauging reasonableness:

- The severity of the crime
 - The nature and extent of the threat posed by the subject
 - The degree to which the subject resists arrest or detention
 - Any attempts by the subject to evade arrest by flight
-

Authority to Use Force

Introduction

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.

Subject's duty to submit to arrest

Whether a subject is legally detained or arrested, it is the subject's duty to refrain from resisting the officer's authority.

Penal Code Section 834a states:

"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."

Officer authority to use restraint

An arrest can be made by physically restraining a subject or by the subject submitting to the authority of the officer.

Penal Code Section 835 states:

"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."

Continued on next page

Authority to Use Force, Continued

Authority and criteria for the use of force

Penal Code Section 835a states:

“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.

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.”

Agency policies

Although the statutory law and case law have provided a foundation for the use of force by a peace officer, the most detailed considerations and regulations are established by each agency’s policies.

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.

Peace officers are responsible for becoming familiar with and complying with their agency’s policies and guidelines regarding the use of force.

Chapter Synopsis

Learning need	Peace officers must recognize that they have the authority to use reasonable force to effect an arrest, to prevent escape, or to overcome resistance under the circumstances authorized by the California Penal Code. For their safety, and well-being of fellow officers, it is critical that peace officers know the laws governing the use of force.
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Reasonable force [20.01.1]	<i>Penal Code Section 835a</i> 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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The Fourth Amendment [20.01.2]	The U.S. Supreme Court noted that determining the objective reasonableness for the use of force must be <i>fact specific</i> and established four components for determining reasonableness.
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Subject’s requirement to submit to arrest without resistance [20.01.3]	<i>Penal Code Section 834a</i> states: “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.”
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Peace officer’s authority to use restraint during a detention or arrest [20.01.4]	<i>Penal Code Section 835</i> states: “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 their arrest and detention.”
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Chapter Synopsis, Continued

**Penal code
authority
[20.01.05]**

Penal Code Section 835a grants officers authority to use force under specific circumstances.

**Level of
authority of
specific agency
policies
[20.01.6]**

Limitations on the use of force are set by specific agency policy. All such policies are attempts to provide guidelines and to protect the officer and agency from criminal and civil liability.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. During an attempt by peace officers to arrest a subject for rape, the subject pulled an object from his pocket, pointed it at the officers, and in a highly agitated voice said, "Leave me alone or I'll kill you. I've got a gun!" When a bystander came around the corner, the subject aimed the object at her. One of the officers shot the subject, who later died. The object brandished by the subject was discovered to be a toy gun. Do you feel the officer exercised reasonable force? Explain why or why not based on the four components of reasonableness established by the U.S. Supreme Court.
2. When considering what force is reasonable, peace officers must remember that, as officers, they have rights as well. Outline each of these rights and explain how they might apply when dealing with a violent subject who is resisting arrest.

Continued on next page

Workbook Learning Activities, Continued

**Activity
questions**
(continued)

3. Explain why it is important for peace officers to be familiar with their agency's policies on use of force, even though they may thoroughly understand the case law decisions as well as the California Penal Code regarding an officer's authority to use force.

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

4. During a lawful detention based on reasonable suspicion, the suspect tells the officer that he does not want to speak to the officer and begins to walk away.

Explain why or why not an officer could use force to effect the detention and the applicable authorities.

Chapter 2

Force Options

Overview

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.

Learning objectives The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• discuss the term “ <i>force option</i> .”	20.02.1
• identify that the objective of using force is to overcome resistance to gain control of an individual and the situation.	20.02.2
• recognize force options and the amount of force peace officers may use based on the subject’s resistance.	20.02.3
• explain the importance of training and ongoing practice when responding to potentially dangerous situations that may require the use of force.	20.02.4
• discuss the importance of effective communication when using force.	20.02.5

Continued on next page

Overview, Continued

In this chapter This chapter focuses on principles of use of force. Refer to the following chart for specific topics.

Topic	See Page
Force Options	2-3
Resistance	2-6
Communication	2-11
Chapter Synopsis	2-13
Workbook Learning Activities	2-14

Force Options

Introduction

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.

Objective for use of force

The objective for the use of force by peace officers is to gain and maintain control of an individual and the situation.

Peace officers are required to:

- use the type of force which is reasonable under the circumstances
 - use only the amount of force reasonable to overcome resistance and to gain or maintain control of a subject
 - conform to agency policy and federal and state law
-

Officer judgement

The amount of force applied shall 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.

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 or motivation. Based on the knowledge that the officer acted properly under the established law at the time.

Continued on next page

Force Options, Continued

Officer preparation

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 chart identifies some items officers must consider and prepare for:

Item	Considerations	Benefits
Uniforms	- Proper fit - Neat, professional appearance - Does not impair free movement	- More effective - Command presence
Gear	- In good condition - Inspected regularly - Readily accessible	- Increased confidence in the application of physical force
Firearms	- Cleaned and maintained - Serviced by a trained armorer as necessary	- Increased confidence in the application of deadly force
Body armor	- Fits properly - Does not interfere with movement - Is worn by the officer	- Enhanced survivability

Practice and training

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.

Without ongoing practice and training, peace officers place themselves and others in jeopardy of injury or death.

Continued on next page

Force Options, Continued

Factors affecting selection

There are a number of factors that can affect which force option is selected. The following chart identifies but is not limited to some of the most critical:

Factor	Considerations
Public safety	- Immediate action required for self-defense or defense of others
Amount and nature of the resistance which must be overcome	- Passive resistance - Active resistance - Assaultive resistance - Life-threatening resistance
Presence of a weapon and type of weapon	- Other Weapons - Firearms
Seriousness and nature of the offense	- Misdemeanor cite and release - DUI - Armed Robbery
Characteristics of the subject as compared to the characteristics of the officer	- Size - Age - Knowledge of Capabilities - History
Availability of assistance	- Number of officers - Available backup units
Nature and condition of the location and surroundings	- Danger to bystanders - Availability of weapons

Resistance

Introduction

Subjects' resistance/actions to an arrest will determine the type of force used by peace officers.

Subjects actions

The following chart illustrates how a subject's resistance/actions can correlate to the force applied by an officer:

Subject's Actions	Description	Possible Force Option
Cooperative	Subject offers no resistance	- Mere professional appearance - Nonverbal actions - Verbal requests and commands
Passive non-compliance	Does not respond to verbal commands but also offers no physical form of resistance	- Officer's strength to take physical control, including lifting/carrying - Control holds and techniques to direct movement or immobilize a subject
Active resistance	Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, or verbally signaling an intention to avoid or prevent being taken into or retained in custody	- Control holds and techniques to control the subject and situation - Use of personal weapons in self-defense and to gain advantage over the subject - Use of devices to secure compliance and ultimately gain control of the situation

Continued on next page

Resistance, Continued

Subjects actions (continued)

Subject's Actions	Description	Possible Force Option
Assaultive	Aggressive or combative; attempting or threatening to assault the officer or another person	- Use of devices and/or techniques to secure compliance and ultimately gain control of the situation - Use of personal body weapons in self-defense and to gain advantage over the subject
Life-threatening	Any action likely to result in serious injury or possibly the death of the officer or another person	- Utilizing firearms or any other available weapon or action in defense of self and others

NOTE: 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 force options are limited based on any single factor.

NOTE: Officers must be aware of and comply with their specific agency policies regarding appropriate force options.

Constant reevaluation

Peace officers must use the force option appropriate for the situation as conditions may change rapidly. Officers must continually reevaluate the subject's action and must be prepared to transition as needed to the appropriate force options.

Continued on next page

Resistance, Continued

**Constant
reevaluation**
(continued)

The following tools and techniques are not in a particular order nor are they all inclusive.

Tools and Techniques for Force Options
Verbal Commands/Instructions/Command Presence
Control Holds/Takedowns
Impact Weapons
Electronic Weapons (Tasers, Stun Guns, etc.)
Chemical Agents
Firearms
Body Weapons
Impact Projectile
Carotid Restraint Control Hold

Continued on next page

Resistance, Continued

Examples

The following chart presents examples of situations and an reasonable and unreasonable use of force based on the level of resistance/actions that is being offered by the subject:

Situation	Subject's Action(s)	Officer's Response(s)
During a traffic stop an officer discovered that the driver had several outstanding traffic warrants.	The driver offered no resistance, was cooperative, and responded immediately to the verbal commands of the officer.	<i>Reasonable:</i> The officer's presence and verbal commands controlled the situation.
		<i>Unreasonable:</i> 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.
During a traffic stop an officer discovered that the driver had several outstanding traffic warrants.	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.	<i>Reasonable:</i> 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.
		<i>Unreasonable:</i> The officer used an impact weapon to disable the subject before applying a control hold and placing the subject under arrest.

Continued on next page

Resistance, Continued

Examples (continued)

Situation	Subject's Action(s)	Officer's Response(s)
During a traffic stop an officer discovered that the driver had several outstanding traffic warrants.	The driver complied with the officer's verbal command to get out of the car but then pulled away and assumed a fighting stance.	<i>Reasonable:</i> 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 assaultive behavior toward the officer, the use of force by the officer was reasonable.
		<i>Unreasonable:</i> 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.

Communication

Introduction

Effective communication may enable a peace officer to gain cooperation and voluntary compliance in stressful situations (e.g., confronting a hostile subject).

Importance of effective communication

The vast majority of law enforcement responsibilities involve effective communication. Communication involves both command presence and words resulting in improved safety. The following chart highlights some benefits of effective communication:

For...	Effective Communication...
Safety	• provides skills that reduce the likelihood of physical confrontation • can result in a reduction of injuries
Professionalism	• renders more effective public service and improves community relations • decreases public complaints and internal affairs investigations • decreases civil liability • lessens personal and professional stress

Continued on next page

Communication, Continued

The law enforcement profession and communication

Law enforcement is a highly visible profession. When peace officers communicate, they represent:

- themselves/agency
- executive staff(chief or sheriff)
- government (city, county, state, federal)
- public interest
- authority (laws, the Constitution, the Bill of Rights, etc.)
- law enforcement profession as a whole

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.

NOTE: For additional information regarding effective communication refer to LD 1, *Ethics*, LD 3, *Policing in the Community*, LD 4, *Victim Assistance*, LD 18, *Investigative Report Writing*, LD 21 *Pedestrian Stops*, LD 22, *Vehicle Pullovers*, and LD 37, *Persons with Disabilities* in addition to other Learning Domains.

Chapter Synopsis

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.
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Force option [2.02.1]	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.
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Goal of using force to gain control [20.02.2]	The objective of the use of force by peace officers in any situation is to ultimately gain or maintain control of an individual and therefore the situation.
--	--

Officer's use of force vs subject's level of resistance [20.02.3]	An officer's selection of the force option or amount of force should be based on the amount or degree of resistance of the subject as well as other relevant conditions or circumstances of the specific situation.
--	---

Ongoing training and practice for responding to dangerous situations [20.02.4]	It has been established that peace officers, when required to respond quickly in dangerous situations, will revert to trained responses. Officers' tactical performance may depend entirely on how well and effectively they have trained for and practiced their abilities and skills.
---	---

Effective communication [20.02.5]	The vast majority of law enforcement responsibilities involve effective communication. Communication involves both professional demeanor and words resulting in improved safety and professionalism.
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Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. One of the factors that must be considered in selecting a force option is the characteristics of the individual peace officer as compared with those of the subject. Use the charts below to compare your personal characteristics at this time to those of the subjects shown. Why is it important to objectively assess your own characteristics and capabilities?

Officer	Subject - Male
	Size: approximately 6' 3" and 230 pounds
	Age: 24
	Capabilities: gun enthusiast and marksman, possibly armed, muscular and athletic
	History: past record of domestic violence (battery), several speeding tickets, one conviction for DUI

Continued on next page

Workbook Learning Activities, Continued

**Activity
questions
(continued)**

Officer	Subject - Female
	Size: approximately 5' 3" and 110 pounds
	Age: 30
	Capabilities: unknown, athletic build, accompanied by young child
	History: no record on file

2. Using the information in the charts from Activity 1, consider each subject separately and explain how and why you might react differently to each person when encountered in the following scenario:

During a traffic stop, a records check of the driver reveals a current warrant for arrest under suspicion of grand theft. The driver exits the car as directed but passively resists all other commands. The driver's hands remain in his jacket pockets.

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

3. Give an example of a force option at each of the following levels of force:

- cooperative
- resistive
- assaultive
- life-threatening

Next, outline a scenario for each option in which you think that force option might be acceptable.

Chapter 3

Use of Deadly Force

Overview

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

Learning objectives The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• identify the legal standard for the use of deadly force.	20.03.1
• identify the factors required to establish <i>sufficiency of fear</i> for the use of deadly force.	20.03.2
• recognize facts an officer should consider when determining whether or not to use deadly force.	20.03.3
• discuss the role of agency policies regarding the use of deadly force.	20.03.4
• recognize the law regarding justifiable homicide by a public officer and the circumstances under which the homicide is considered justifiable.	20.03.5

Continued on next page

Overview, Continued

In this chapter

This chapter focuses on the use of deadly force. Refer to the following chart for specific topics.

Topic	See Page
Considerations Regarding the Use of Deadly Force	3-3
Justifiable Homicide by Public Officer	3-11
Chapter Synopsis	3-18
Workbook Learning Activities	3-20

Considerations Regarding the Use of Deadly Force

Introduction	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 all human life (including the officer's life and others that may be in imminent danger) and, used only when other means of control are unreasonable or have been exhausted.
Definition	<u>Deadly force</u> applied by a peace officer is force that creates a substantial risk of causing death or serious bodily injury.
Leadership	Reverence for all life is the foundation on which the use of deadly force rests. 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.
To protect self or life	An officer may use deadly force to protect oneself or others when the officer has the objective and reasonable belief that his/her 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.

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Considerations Regarding the Use of Deadly Force, Continued

Use of deadly force on fleeing subject

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 non-violent 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 in the Fourth Amendment (*Tennessee v. Garner*).

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 interests against the importance of the governmental interests alleged to justify the intrusion.

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 circumstances (i.e. using a firearm to stop a fleeing suspect escaping on foot).

	Components of the Garner decision...
1	"...if the subject threatens the officer with a weapon or there is <i>probable cause</i> to believe that he has committed a crime involving the infliction of serious bodily harm [or death]..."

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Considerations Regarding the Use of Deadly Force, Continued

Use of deadly
force
on fleeing
subject
(continued)

	Components of the Garner decision...
2	"... <i>probable cause</i> to believe that the subject poses a threat of death or serious physical harm, either to the officer or others..."
3	"... <i>probable cause</i> to believe that the use of deadly force is <i>reasonably necessary</i> ..."[to prevent escape]
4	"... <i>some warning</i> be given prior to the use of deadly force <i>where feasible</i> ..."

NOTE: 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.

Related
terms

In order to understand the aspects of the use of deadly force, peace officers need to become familiar with the following terms.

Serious bodily harm or injury means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness, concussion, 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)*)

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Considerations Regarding the Use of Deadly Force, Continued

Related terms (continued)

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.

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.

Sufficiency of fear

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*)

There are three elements needed to establish sufficiency of fear.

- The circumstances must be sufficient to excite the fears of a *reasonable person* in like circumstances.
 - 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.
 - The decision to use deadly force must be made *to save one’s self or another* from great bodily injury or death.
-

Considerations when deciding to use deadly force

The decision of whether or not to use deadly force may be influenced by the officer’s:

- training and experience
 - judgment
 - mental alertness
 - emotional maturity
-

Continued on next page

Considerations Regarding the Use of Deadly Force, Continued

Considerations when deciding to use deadly force (continued)

- existing facts and circumstances
 - understanding of the law as it relates to
 - agency policies concerning the use
 - amount of force that is objectively reasonable to achieve the law enforcement mission
-

Agency policies

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.*

Some issues regarding the use of deadly force addressed by agency policies include, but are not limited to:

- defense of self and others against great bodily harm or death
 - use of warning shots
 - shooting at:
 - nonviolent fleeing felons
 - juveniles
 - moving vehicles
 - shooting from a moving vehicle
 - intentional strikes to the head or neck with an impact weapon
-

Continued on next page

Considerations Regarding the Use of Deadly Force, Continued

Examples

The following chart presents examples that illustrate the selection of deadly force based on the details of the situations given:

Situation	Subject's Action(s)	Officer's Response(s)
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.	A burglar, surprised by a peace officer entering the room, shot at the officer and missed.	Since the burglar used deadly force against the officer, the officer had the authority to use deadly force to shoot back in self-defense.
	After missing the officer, the burglar threw his weapon down and surrendered to the officer.	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.

Continued on next page

Considerations Regarding the Use of Deadly Force, Continued

Examples (continued)

Situation	Subject's Action(s)	Officer's Response(s)
A peace officer got out of the patrol car to question a man loitering on a street corner.	The subject, using only his fists, attacked the officer.	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.
	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.	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.

Continued on next page

Considerations Regarding the Use of Deadly Force, Continued

Examples (continued)

Situation	Subject's Action(s)	Officer's Response(s)
Two officers were dispatched to a convenience store where a silent alarm was tripped.	An armed male subject saw the official patrol vehicle and fled.	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.
		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.

Justifiable Homicide by Public Officer

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

Definition *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:

- in obedience to any judgement of a competent court,
- when necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty, or
- 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.”

Continued on next page

Justifiable Homicide by Public Officer, Continued

Justifiable homicide by a public officer

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 chart further identifies these conditions:

Homicide by a public officer may be justified when...	Explanation
ordered by a court to carry out a death sentence.	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.
acting in the course of duty.	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.
retaking escaping felons.	Homicide is justifiable when necessarily committed in retaking felons who have been rescued or have escaped. (<i>Penal Code Section 196</i>) NOTE: <i>Fleeing felon</i> alone is no longer adequate justification.
arresting a felon who resists to the point where deadly force is reasonable.	This applies to arrest situations where: • a threat to life exists • the subject could not have been taken by using other than deadly means

NOTE: These conditions must be read in light of the legal standard established by the U.S. Supreme Court in *Tennessee v. Garner* and *Scott v. Harris*.

Continued on next page

Justifiable Homicide by Public Officer, Continued

Unjustifiable homicide by a public officer

The following chart illustrates the circumstances under which homicide by a public officer may not be justified (based on mitigating factors):

Homicide by a public officer may NOT be justified when...	Explanation
pursuing nonviolent felons.	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.
arresting or pursuing a felon who does not present a threat to life.	If it is not a violent felony, then the use of deadly force against the fleeing subject would be improper. A violent felony is one which threatens death or serious bodily harm.
when arresting or pursuing a misdemeanor who does not pose imminent danger of death or serious bodily injury to people.	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.

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Justifiable Homicide by Public Officer, Continued

Considerations before using deadly force

In some instances, peace officers may have time to evaluate and assess all aspects of a situation. In most situations, split-second decisions must be made.

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 chart suggests, but is not limited to, a few of the circumstances that should be considered.

Circumstances	Considerations
Threat to life	Does the subject present a credible threat to the officer or others? NOTE: Peace officers may use force reasonable to defend their lives or the lives of others.
Imminent threat	- Does the subject present an imminent threat to life? - Is the subject threatening the officer or others with a weapon? - Subject's access to weapons or potential weapons - Proximity of subject to the officer.
Type of crime/subjects	- Is the nature of the crime violent or non-violent? - Is there a large number of subjects to be confronted?
Type of weapon	Can it cause serious bodily injury or death?
Subject's capabilities	Does the subject demonstrate superior physical skill over the officer?

Continued on next page

Justifiable Homicide by Public Officer, Continued

**Considerations
before using
deadly force
(continued)**

Circumstances	Considerations
Location and background	• Is there a crowd of innocent people behind the subject?
The officer's present capabilities	• What sort of weapon or other capabilities are at the officer's disposal?

NOTE: 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.

Continued on next page

Justifiable Homicide by Public Officer, Continued

Examples

The following chart illustrates examples of the use of deadly force by an officer:

Situation	Subject's Action(s)	Officer's Response(s)
An officer in a patrol vehicle witnessed a drug transaction taking place on a sidewalk near a group of juveniles.	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.	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.
	While fleeing the scene, the dealer pulled a handgun from his waistband and began firing randomly toward the officer.	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.

Continued on next page

Justifiable Homicide by Public Officer, Continued

Examples (continued)

Situation	Subject's Action(s)	Officer's Response(s)
During a riot, an officer witnessed two men shoplifting from a store in the area.	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.	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.
	When the men fled the scene, the officer drew his firearm and ordered the men to stop. They ignored the officer's commands.	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.

Chapter Synopsis

Learning need	Peace officers must fully comprehend their authority, responsibility, and liability regarding the use of deadly force as authorized by law.
Legal standard for the use of deadly force [20.03.1]	The Court established four components for using deadly force on a fleeing subject in the line of duty. • “...if the subject threatens the officer with a weapon or there is <i>probable cause</i> to believe that he has committed a crime involving the infliction of serious bodily harm [or death]...” • “...<i>probable cause</i> to believe that the subject poses a threat of death or serious physical harm, either to the officer or others...” • “...<i>probable cause</i> to believe that the use of deadly force is <i>reasonably necessary</i>...”[to prevent escape] • “...<i>some warning</i> be given prior to the use of deadly force <i>where feasible</i>...”
Factors required to establish a sufficiency of fear [20.03.2]	There are three elements needed to establish sufficiency of fear. • The circumstances must be sufficient to excite the fears of a <i>reasonable person</i> in like circumstances. • The person must not act <i>under the influence of fear alone</i>. There has to be some circumstance or overt act apart from the officer’s fear. • The decision to use deadly force must be made <i>to save one’s self or another</i> from great bodily injury or death.

Continued on next page

Chapter Synopsis, Continued

Considerations when to use deadly force [20.03.3]

The decision of whether or not to use deadly force may be influenced by the officer's:

- training and experience
 - judgment
 - mental alertness
 - emotional maturity
 - existing facts and circumstances
 - understanding of the law as it relates to:
 - agency policies concerning the use, and
 - the amount of force that is objectively reasonable to achieve the law enforcement mission
-

Role of agency policies [20.03.4]

Although the law and courts have presented a baseline for the use of deadly force, the conditions under which deadly force may be used are strictly controlled by department policy. **Officers must conform to agency policy, federal and state law.**

Justifiable homicide by a public officer [20.03.EO5]

Penal Code Section 196 defines justifiable homicide by a public officer. Homicide by a public officer may be justified when:

- the officer is under orders to carry out a death sentence
 - acting in the course of duty
 - retaking escaping felons
 - arresting a felon who resists to the point deadly force becomes reasonable
-

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. After an exhausting foot chase, a subject stops and threatens the pursuing officer with a knife. Though the officer is well trained in self-defense and takedown techniques after five years on patrol, the officer is outsized by the subject by at least 75 pounds. The officer's equipment currently includes her service firearm, a baton, and handcuffs. The foot chase has ended on a busy urban sidewalk with the officer's partner is far behind. Is the officer justified in using deadly force to protect herself? What are some of the determining circumstances influencing your decision?

2. In your own words explain the concept of "sufficiency of fear" required to justify the use of deadly force.

Continued on next page

Activity questions (continued)

- LD 20: Chapter 3 –Use of Deadly Force

Workbook Corrections

Suggested corrections to this workbook can be made by going to the POST website at: www.post.ca.gov

Continued on next page

Chapter 4

Documenting the Use of Force

Overview

Learning need 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.

Learning objectives The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
- describe why complete documentation of the use of force is critical to the peace officer and the peace officer's agency, to include: - justification for using force - relevant factors and detail	20.04.1

In this chapter This chapter focuses on documenting the use of force. Refer to the following chart for specific topics.

Topic	See Page
Documenting the Use of Force	4-2
Report Writing Tip	4-7
Chapter Synopsis	4-10
Workbook Learning Activities	4-11

Documenting the Use of Force

Introduction

A peace officer's 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.

Facts and circumstances are not limited to the written report. Other factors to be considered include:

- crime scene processing
 - evidence collections
 - photographs
 - witness and subject statements
 - medical records
-

“Objective reasonableness” standard

The U.S. Supreme Court has determined that the objective reasonableness for the use of force must be *fact specific*.

The reasonableness of an officer's use of force in the line of duty must be...

- | |
|---|
| <ul style="list-style-type: none">• judged from the <i>perspective of a reasonable officer</i>.• examined through the eyes of a reasonable officer on the scene <i>at the time the force was applied</i>. Not 20/20 hindsight.• based on the facts and circumstances confronting the officer <i>without regard to the officer's underlying intent or motivation</i>.• based on the knowledge that the officer <i>acted properly under the established law at the time</i>. |
|---|

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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Documenting the Use of Force, Continued

Inadequate documentation

Peace officers may not clearly or adequately remember the specific details of an event. The most frequent reasons given for not including information include, but are not limited to:

- exhaustion/injury
- lack of time
- brevity is mandated
- trying to shorten the process by not including every application of force

It is imperative that *each* report be thorough and comprehensive, documenting all aspects of the use of force based on the officer's recollection.

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:

- an officer's memory may fade
- evidence may be destroyed
- a witness may be unavailable or cannot be located

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Documenting the Use of Force, Continued

Level of detail	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.
------------------------	---

Precursory acts	<u>Precursory acts</u> 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.
------------------------	--

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:

- establishing that the officer was acting in an official capacity
 - the wearing of an approved uniform that clearly identifies the officer as a peace officer
 - the mode of travel and whether or not the vehicle was clearly identifiable as a law enforcement vehicle
 - identification as a peace officer
 - the reason for the officer's presence
-

Subject behavior	Officers should describe the specific orders, commands, or requests that they gave to the subject. <i>Both</i> the officer's and the subject's responses and reactions to those commands should be documented, including direct quotes if possible.
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Documenting the Use of Force, Continued

Factors

Officers need to describe the factors between the subject and themselves that justify the use of force, including but not limited to:

- number of officers/subjects
- height and weight of each subject
- gender and age of each subject
- strength and fighting skills of each subject
- physical condition of each subject
- clothing (i.e., uniform with equipment vs. casual attire)
- stance of each subject (describe)

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:

- prior contact
 - obvious prison or gang tattoos
 - specific gang attire
 - access to potential weapons such as knives, boots, rings, or guns
-

Environment

Officers should observe and record details regarding the environment where the confrontation took place. This information includes, but is not limited to:

- physical environment where the contact took place (e.g., high crime area, etc.)
 - subject's potential to gain assistance or aid from friends or associates
-

Continued on next page

Documenting the Use of Force, Continued

Describing the type of force used

Officers need to be very clear regarding the type of force applied in given situations. This includes, but is not limited to:

- identifying techniques by their proper names and providing a written description
 - the effect or non-effect of the force technique used upon the subject
 - the rationale for adjusting and transitioning the level of force
 - communication before, during or after the use of force
-

Post-custody actions

After the subject has been taken into custody, peace officers should describe other actions such as, but not limited to:

- safe and effective adjustment of handcuffs
 - double locking the handcuffs (reduces the possibility of inflicting injury from handcuffs over-tightening)
 - obtaining first-aid or medical treatment for the subject and/or themselves when reasonably safe to do so
 - damage to their clothing (i.e., uniforms) and equipment
 - collection of evidence (what, where, and by whom)
-

Witness statements

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.

Use of a tape recorder or videotaping the statements of witnesses and subjects may be beneficial to the reporting officer.

NOTE: It is important to collect all statements including those persons who claim they did not see any part of the incident.

Report Writing Tip

Use of force

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 this workbook (Learning Domain 20, *Use of Force*) student workbook or related DVD materials.

Specific fact patterns

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?

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.

Set the stage

..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...

Continued on next page

Report Writing Tip, Continued

Involved person(s)

...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 and ordered him 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!"

Step by step account

...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!"...

Thinking questions

1. What additional and specific fact patterns should be expected in a use of force report?
 2. 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?
-

Continued on next page

Report Writing Tip, Continued

The link

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.

NOTE: 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.

Chapter Synopsis

Learning need

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

Complete documentation [20.04.1]

It is imperative that *each* report be thorough and comprehensive, documenting all aspects of the use of force.

Workbook Learning Activities

Introduction

In order to help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by reviewing the different sections, you should be able to decide on an appropriate response.

Activity questions

1. A peace officer on foot patrol notices commotion on a busy street corner. Walking over, he finds that a large woman (approximately 5' 10" and 250 pounds) sitting in the street, obstructing traffic. As the officer approaches, he notices that the woman smells strongly of alcohol. When the officer states, "Please move out of the street, Miss," the woman becomes belligerent, shouting obscenities at the officer. As he is about to exercise a control hold, she strikes the 180 pound officer and begins to flail her arms and strike him repeatedly, calling him Jim and asking, "How could you do this to me?" (This later turns out to be her husband's name.) After enduring several strikes, the officer hits the woman in the legs once with his baton, throwing her off balance and subduing her. She is handcuffed and transported to an approved medical facility. Toxicology reports later show that the woman was under the influence of alcohol and PCP. The medical exam showed that the baton strike caused a hairline fracture in the woman's right tibia (lower leg). She is now suing the officer and the department for excessive use of force.

How could a well documented report help the officer in this civil case?
What advantage could witness statements offer?

Continued on next page

Workbook Learning Activities, Continued

**Activity
questions
(continued)**

2. Next to each report element in the chart below, list the features of the scenario that you feel the officer should include in his report. Consider how each might support his choice of force option.

Precursory acts	
Subject behavior	
Physical characteristics	
Additional details about the subject	
Environment	
Type of force used	
Post-custody action	
Witness statements	

Chapter 5

Fear and Anger Management in the Use of Force

Overview

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

Learning objectives The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• discuss factors that can affect a peace officer's response when threatened with danger, to include: - fear - reasonable - unreasonable - anger - indecision and hesitation	20.05.1
• give examples of acceptable techniques for managing anger	20.05.4
• describe the benefits of ongoing physical and mental training for peace officers involving the use of force	20.05.5

Continued on next page

Overview, Continued

In this chapter This chapter focuses on the emotional aspects of the use of force. Refer to the chart below for specific topics.

Topic	See Page
Fear and Anger Management in the Use of Force	5-3
Self Control	5-7
Role of Initial and Ongoing Training	5-14
Chapter Synopsis	5-17
Workbook Learning Activities	5-18

Fear and Anger Management in the Use of Force

Introduction

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.

Authority to use force (reemphasis)

Any peace officer who has reasonable cause to believe the person to be arrested has committed a public offense may use reasonable force to affect the arrest, to prevent escape, or to overcome resistance. (*Penal Code Section 835a*)

Ethics

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.

Factors affecting the peace officer's response

When peace officers use force, there are several factors that can influence their actions and the outcome of the event. These include the officer's:

- attitude or prejudices toward any involved party (e.g., self, partner, bystander, subject, etc.)
 - insensitivity or arrogance, creating a negative emotional response
 - sincere and courteous behavior, reducing problems and danger associated with an arrest
 - life experience, past performance, training, etc.
-

Continued on next page

Fear and Anger Management in the Use of Force, Continued

Officer's use of force

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.

What constitutes reasonable force is dependent on the subject's actions. The subject's actions can be:

- cooperative
 - resistive
 - assaultive
 - life-threatening
 - passive non-compliance
-

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Fear and Anger Management in the Use of Force, Continued

Self-control

Self-control is one of a peace officer's greatest assets in dealing with a person or a situation.

Self-control:

- is a result of the development of confidence in one's skills
- also comes through training, practice, and experience
- improves decision making/reaction time

Self-control is maintaining composure to make sound judgments and decisions.

Some subjects can be controlled by the *peace officer's command presence*.

- Professional demeanor can have a positive influence on calming a subject, making it easier to take the subject safely into custody.
 - 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.
-

Self Control

Introduction

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.

Emotional responses

Two major emotional factors that officers need to focus on to maintain self control are:

- fear, an emotional response to a perceived threat
- anger, a feeling of displeasure from perceived opposition

It is important to understand fear and anger, since both can affect officers' reactions during a dangerous situation.

- Uncontrolled fear and anger tend to decrease the officers' ability to make sound judgments and decisions.
 - Uncontrolled fear and anger tend to increase hesitation, verbal abuse and unreasonable force.
-

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Self Control, Continued

Definition of fear

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.

Experiencing fear

Everyone has experienced the sensation of fear. It is unpleasant but normal, natural, and often necessary.

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.

Physiological reactions to fear

When a person experiences fear, the body reacts, often by an increase in adrenaline, heart rate, and breathing. In addition, some common body and mind responses to fear may include:

- blood clotting enzymes flow into the system to minimize damage from wounds
 - vision and hearing become more acute and focused (e.g., tunnel vision and tunnel hearing)
 - increased muscle tension and perspiration
 - raised pain thresholds
 - time distortion
 - color distortion
 - impaired fine motor skills
-

Continued on next page

Self Control, Continued

Types of fear

There are two types of fear: reasonable and unreasonable. The following chart explains the differences between the two.

Reasonable Fear	Unreasonable Fear
• A controlled and legitimate fear • A mechanism that is necessary for officer safety based on perceived circumstances	• Generated in the officer's mind with no direct correlation to facts and situations

Situations that may generate reasonable fear

Reasonable fear may result when an officer experiences increased tension in response to a potential threat.

The officer may experience **reasonable fear** as a result of:

- a sudden or erratic movement by a subject
 - the sight of a weapon in a subject's possession
 - the knowledge that a person is in danger of bodily harm
 - a sudden sound produced outside of the officer's field of vision
 - unresponsive, unexpected response to the officer's action
-

Situations that may generate unreasonable fear

Unreasonable fear includes overreactions to true potential threats as well as reactions to unreal threats based on prejudice or poor application of past experience.

Continued on next page

Self Control, Continued

Situations that may generate unreasonable fear (continued)

The officer may experience **unreasonable fear** as a result of:

- an emotional response to a traumatic event
 - generalization of past trauma (such as being bitten by a dog as a child or suffering a painful gunshot wound)
 - personal prejudice against people of a particular race, religion, ethnic group, etc.
 - overall anxiety as a result of uncertainty about one's own skills and expertise
-

Sources of unreasonable fear

Unreasonable fear can be responsible for inappropriate responses such as a failure to respond, or responding inappropriately (using unreasonable force).

There are several factors that can lead to unreasonable fear, some physical and some social. The following chart lists some types of fear.

Physical Source of Unreasonable Fear	Social Source of Unreasonable Fear
• Personal physical harm • Phobias (e.g., claustrophobia) • Psychological (i.e., paranoia)	• Racial, cultural, or religious-based • Responsibility for making critical decisions • Peer disapproval

Continued on next page

Self Control, Continued

Managing fear

It is normal for peace officers to experience fear whenever they encounter a potentially dangerous situation.

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.

Other methods for managing fear include focusing on:

- what must be done and not solely on the danger itself
 - evaluating the situation and determining what must be done to achieve the goal
 - the survival phase in order to control the feeling of vulnerability
-

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Self Control, Continued

Definition of anger

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.

Recognizing anger

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.

Acceptable anger

To a certain extent, anger allows officers to be assertive. It even plays a small role in command presence.

Peace officers have reported that anger appropriately channeled has enabled them to keep fighting, or at least keep trying, during a crisis situation.

The emotional response of anger can either aid or hinder an officer's performance.

Identifying situations causing anger

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 chart.

Types	Anger-Provoking Situation
Universal	Being attacked or shot at
Personal	- Individual sensitivities that may prompt a reaction (e.g., history, personality, etc.) - Emotional bruises and other sources of personal vulnerability

Continued on next page

Self Control, Continued

Managing anger

Few people can exercise effective emotional control when they are extremely angry. 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 chart.

Managing anger by...	The peace officer needs to...
depersonalizing what people say or do.	recognize that the subject is reacting to the uniform and not to the person in the uniform.
identifying anger inducing scenarios.	visualize anger inducing situations (e.g., a child taking drugs, subject beating up partner, etc.).
developing problem-solving solutions.	practice mental rehearsals of different scenarios, do some role-playing, seek advice from more experienced officers, etc.
recognizing the onset.	control breathing, if appropriate take a step back from the situation.

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Self Control, Continued

Example

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.

Role of Initial and Ongoing Training

Introduction

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.

Response vs. reaction

Through continual training, officers can learn to discipline the mind to remain calm, flexible, and alert at all times and, to reduce reaction time.

<i>Trained responses...</i>	<i>Reactions may be...</i>
• are less predictable to the subject than instinctual reaction. • are correctable. • are flexible (can be adjusted and customized). • can lead to increased self-control.	• more predictable to the subject. • limited. • improper. • dangerous to the officer or others.

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Role of Initial and Ongoing Training, Continued

Training and practice

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.

The following chart highlights what an officer gains from training and what may happen without it:

Training and practice can help attain...	Lack of and inadequate practice may result in...
confidence in an officer's abilities. Officers gain essential confidence in themselves to respond appropriately and apply the use of force effectively to gain control of subjects and situations.	lack of confidence. Lack of confidence can seriously affect officers ability to control their own physical and emotional instinctive reactions.
correct responses. 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.	incorrect reactions. 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.

Continued on next page

Role of Initial and Ongoing Training, Continued

Training and practice (continued)

Training and practice can help attain...	Lack of and inadequate practice may result in...
mental alertness and concentration. 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.	panic. <u>Panic</u> 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.
control over body and emotions. 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.	loss of control over body and emotions. When officers lose control of themselves they may lose control of the situation.

NOTE: Without proper, adequate, and continual training, physical skills deteriorate.

Officer responsibility

Training and ongoing practice are a personal and agency responsibility. Officers must seek training and maintain their level of skill throughout their entire career.

Chapter Synopsis

Learning need	Peace officers must be ready to and capable of safely taking control of a dangerous situation.
Factors that affect an officer's responses [20.05.1]	Two major emotional factors that officers need to focus on during their training: • fear, an emotional response to a perceived threat - reasonable - unreasonable • anger, a feeling of displeasure from perceived opposition - indecision - hesitation
Techniques for managing anger [20.05.4]	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-inducing events.
Ongoing training in preparation to use force [20.05.5]	Training and practice in both physical and emotional skills provides the understanding and manipulative ability needed by a peace officer in the use of force in dangerous situations.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. List three ways in which an officer's uncertainty could actually endanger that officer or others? Give an example of each.
2. Describe two ways that the body's natural physiological reactions to fear could help an officer in a dangerous situation, when the fear is managed and under control. Conversely, in what ways could unmanaged fear cause an officer to act inappropriately?

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

3. Do a personal assessment. Honestly consider what your biggest fear is about your role as a law enforcement professional. Then, do a mental rehearsal about what you will do in a situation where this fear may be triggered.

4. Officers are dispatched to a domestic violence scene where a man is beating his wife in front of his 5-year-old son. As officers enter the room, the boy is grabbing at his father to try to help his mother. The father shoves him aside with such force that he hits his head on a table and falls unconscious. Shocked, the father stops hitting his wife and starts to go to his son. What actions should peace officers take in controlling the father at this time? Do you feel that there is a danger here for unreasonable use of force by the officers? Why or why not? What could officers do to help manage anger they feel in response to domestic violence situations? As a peace officer, what would your honest first emotional reaction to this scene be?

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

5. From an emotional and mental standpoint, why is it important for officers to engage in ongoing training and practice of their skills? How could lack of training affect fear and anger responses in a peace officer?

Chapter 6

Consequences of Unreasonable Force

Overview

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 objective The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• explain the legal and administrative consequences associated with the use of unreasonable force	20.06.4
• explain an <i>agency's</i> potential liability associated with the use of unreasonable force	20.06.5
• explain the consequences of an officer's failure to intervene when unreasonable force is used by another peace officer	20.06.6
• discuss immediate and delayed intervention techniques.	20.06.7
• discuss factors that may inhibit a peace officer from intervening in a situation where a fellow officer may be applying unreasonable force	20.06.8

Continued on next page

Overview, Continued

In this chapter

This chapter focuses on the consequences of unreasonable force. Refer to the chart below for specific topics.

Topic	See Page
Peace Officer and Agency Liability	6-3
Basis for Intervention	6-7
Intervention Techniques	6-10
Factors Affecting Intervention	6-14
Chapter Synopsis	6-16
Workbook Learning Activities	6-17

Peace Officer and Agency Liability

Introduction

Society imposes a tremendous burden upon peace officers when it grants, by statute, permission to use deadly force.

Reasonable force

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:

- effect an arrest
- prevent escape
- overcome resistance

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.

Objective of force application

The objective for the use of force by peace officers in any situation is to gain or maintain **control of an individual and the situation**. As conditions change, officers must constantly reevaluate force options.

Peace officers are required to:

- use force only when authorized to do so (e.g., to overcome resistance to a lawful process)
 - use the type of force which is reasonable under the circumstances
 - use reasonable force to overcome resistance and to gain or maintain control
 - use the amount and type of force which is permitted by agency policy
-

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Peace Officer and Agency Liability, Continued

Unreasonable force

Unreasonable force occurs when the type, degree, and duration of force employed was not necessary or appropriate.

Consequences of unreasonable force

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.

The following chart highlights a number of these consequences:

Consequence	Officers may...
Criminal action	face criminal charges for unreasonable use of authority or force.
Civil lawsuits	face compensatory and punitive damages.
Civil rights violation	be held accountable for civil rights violations.
Administrative or agency action	be subject to disciplinary actions including dismissal.
Moral impact	suffer the consequences of guilt and embarrassment.

Continued on next page

Peace Officer and Agency Liability, Continued

California statutes regarding officer behavior

In the *Penal Code Section 149*, there are a number of statutes that regulate the behavior of peace officers.

The following chart lists some of these statutes:

Description	<i>Penal Code Section</i>
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
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
A public officer's removal for neglect or violation of official duty; discretion of the court.	661
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

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Peace Officer and Agency Liability, Continued

Federal law regarding officer behavior

There are two sections of the United States Code that address an officer's unlawful action:

Description	<i>U.S. Code Section</i>
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.	<i>Title 18, Section 242 (Criminal)</i>
Peace officers are prohibited from depriving citizens of their rights under the color of authority.	<i>Title 42, Section 1983 (Civil)</i>

Vicarious liability

The unreasonable use of force by an officer can discredit and result in loss of public support to an officer's agency.

Vicarious liability holds an agency responsible for the conduct of its officers while acting within the scope of their authority. The agency can be:

- liable under Federal civil rights laws
- sued for negligent or inadequate training or failure to supervise adequately

Example: An officer uses unreasonable force by applying a Carotid Restraint Control Hold and has not been trained in this type of control hold.

Failure to Intervene

Introduction

The community expects that its peace officers will use reasonable force, and peace officers will intervene if reasonable force is exceeded. For the community and the officer's protection, the officer must know the laws pertaining to intervention.

This intervention may take the form of one or more of the following actions:

- strongly caution the other officer
 - physically restrain the other officer
 - immediately report the incident
-

Definition

Intervention is the act of attempting to prevent or attempting to stop the inappropriate or unlawful behavior of another.

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 (9th Cir., 1994); *Cunningham v Gates*, 229F.3d 1271 at 1289-1290 (9th Cir., 2000)

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Failure to Intervene, Continued

Necessity for intervention

Intervention is necessary because:

- it is required by law
 - it is morally and ethically correct
 - personal integrity demands it
 - it enhances officer safety
 - it preserves professionalism and supports the law enforcement mission
 - it strengthens public confidence in the law enforcement profession and the individual agency involved
 - it reduces personal and agency liability because it results in fewer:
 - physical injuries arising from unreasonable force
 - disciplinary actions and personal complaints
 - criminal complaints filed against officers
 - civil liability suits, including fewer punitive financial judgments against individual officers
-

Fourth amendment protections

The United States Constitution protects individuals from unlawful actions of peace officers.

NOTE: The officer who fails to intervene, for whatever reason, is also held accountable by the United States Code.

Intervention Techniques

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.

Immediate intervention

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.

There are three common immediate intervention techniques listed in the following chart:

Intervention Technique	Example	
	Situation	Solution
Verbal	Peace officer is becoming agitated, angry, or appears to be losing professional objectivity during a contact.	Fellow officer offers to assist by saying, "Let me take care of this one, okay?"
Physical/touch	Peace officer is engaged in a heated verbal confrontation with a subject and is starting to become increasingly agitated.	Fellow officer lightly touches the peace officer on the shoulder and offers a tactful reminder to calm down or offers to take over.
Restraint	Peace officer is using unlawful or unreasonable physical force.	Fellow officer physically takes hold of the other officer in order to separate the peace officer from the subject. Intervention must include immediate reporting.

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Intervention Techniques, Continued

Delayed intervention

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.

There are three common delayed intervention techniques, listed in the following chart:

Intervention Technique	Example	
	Situation	Solution
Discussion	Peace officer is verbally condescending to someone.	Fellow officer discusses the improprieties of such behavior; this is professionally beneficial.
Admonishment	Peace officer uses inappropriate or demeaning language in contacts with the public.	Fellow officer informs peace officer that this type of behavior is not acceptable, and could likely provoke or escalate the conflict.
Training	Peace officer is having consistent difficulty during contacts with a certain group.	Fellow officer suggests that additional training be pursued. Effective training occurs when an officer consistently demonstrates desirable behaviors.

Duty to report

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.

Continued on next page

Intervention Techniques, Continued

Examples

Situation	Subject's/Victim's Action(s)	Type of Intervention
Officers Jones and Smith worked a two-person DUI unit. They stopped a driver for suspicion of DUI.	The driver failed the FST's and was told he would be arrested. The driver was compliant but did not wish to be cuffed.	Immediate intervention: 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. Officer Jones moved into a cuffing maneuver and quickly cuffed the driver.
		Delayed intervention: 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 then reported the incident to the supervisor.

Continued on next page

Intervention Techniques, Continued

Examples (continued)

Situation	Subject's/Victim's Action(s)	Type of Intervention
Officers respond to a call about a suspected burglary at a residence.	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.	Immediate intervention: Upon catching the subject, Officer Wong knocks the subject to the ground; the subject went limp and was lying in a fetal position. Officer Kwan arrived as Officer Wong was about to kick the subject. Officer Kwan stepped between Officer Wong and the subject preventing Wong from kicking the subject.
		Delayed intervention: Upon catching the subject, Officer Wong knocks the subject to the ground; the subject went limp and was lying in a fetal position. As Officer Kwan arrived, she saw Officer Wong kick the prisoner two times then assisted with handcuffing. Later Officer Kwan reported the incident to the supervisor.

Factors Affecting Intervention

Introduction

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.

Factors to intervening

Peace officers may fail to take action when a fellow officer is behaving inappropriately because of several factors. The following chart lists both the personal and psychological factors that may prevent intervention; however, these are not the only factors.

Officers might not intervene because of...	They might think...
transfer of responsibility.	“Somebody else will step in any minute now.”
rationalization.	“Nobody else is doing anything so maybe I am just misunderstanding the situation and nothing is really wrong.”
self doubt.	“What if I’m wrong? What will everyone think of me if I step in and do something?”

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Factors Affecting Intervention, Continued

Personal/ psychological factors

Personal Factors	Psychological Factors
• Unfamiliar with fellow officer • Inexperience with proper action to remedy the situation • Feeling that intervention is someone else's responsibility • Peer pressure • Personal problems • Fearing consequences, such as being ostracized • Fear of reaction from senior officers, field training officers, or supervisors	• Erroneous notion of how peace officers should behave (perhaps from movies and television) • Fear may play a significant part in the behavior of the observing officer

Consequence of not intervening

Peace officers are encouraged to use their own judgement 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:

- increased stress
 - embarrassment
 - civil/criminal action
 - disciplinary action
 - loss of career
-

Chapter Synopsis

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.
Peace officer liability [20.06.4]	Justification for the use of force is limited to what is known or perceived by the officer <i>at the time</i> . Facts discovered after the event, no matter how compelling, cannot be considered in determining whether the force was justified or not.
Agency liability [20.06.5]	The vicarious liability holds an agency responsible for the conduct of its officers while acting within the scope of their authority.
Failure to intervene [20.06.6]	Peace officers are required by their position to intervene in any force situation they perceive as excessive. This intervention may take the form of one or more actions.
Intervention techniques [20.06.7]	The three common immediate intervention techniques are: verbal, physical/touch and restraint. The three common delayed intervention techniques are: discussion, admonishment and training.
Inhibitions to intervene [20.06.8]	Peace officers may fail to take action when an officer is behaving inappropriately. There are personal and psychological factors that may prevent an officer from intervening in inappropriate behavior.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Consider your current best friend and then picture that person as a fellow peace officer and partner. Assume you and your partner make a series of routine traffic stops over the course of the day in a largely Hispanic area of town. After several stops you've noticed your partner's demeanor when dealing with Hispanics is less professional than when dealing with other cultures. In fact, your partner is making many derogatory comments about Hispanic subjects, generally directed to you and out of their earshot. At this point you have made no attempt to intervene to address his inappropriate remarks. As the day continues, your partner has now become directly verbally abusive of any Hispanic subject, and still, you have not intervened. When the next person stopped is a Hispanic woman, what intervention might you attempt? What sort of delayed intervention might help your partner retain professionalism and respect? Given your personal relationship, what difficulties or advantages might be involved with intervening?

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

2. In effecting an arrest for possession with intent to sell methamphetamine, the experienced officer is acting as the contact officer and the newer officer as cover. The subject passively resists the contact officer's command by looking away and actively resists the officer's attempts to remove his hands from his pockets by locking his elbows. Aggravated, the contact officer uses a Carotid Restraint Control Hold. The cover officer takes no action. The contact officer incorrectly applies the hold and the subject dies. How could the cover officer have intervened to prevent this situation? What might have prevented her from making this intervention? At this point, who may be considered legally liable for the death of the subject?

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

3. Peace officers arrive on the scene where a group of protestors are blocking the entrance to a local business. When the female officer directs the group to move away from the entrance to allow patrons to enter, a male protestor replies, “Yea, what you going to do about it, honey?” At this remark, the officer strikes the man in the abdomen with her baton, knocking him back against the building. Has the officer used unreasonable force at this point? Explain your answer.

If the force used is deemed unreasonable by the officer’s agency, what consequences could she suffer? If the man who was struck chooses to pursue legal action, what impact might this have on the officer and the agency? If you were a witness to this scene, how might it affect your views of peace officers as public servants and resources?

4. If, after recovering from the baton blow, the man in the previous scenario pulled out a knife and threatened the officer, how would it affect the officer’s original liability? Explain your response.

Continued on next page

Glossary

Introduction	The following glossary terms apply only to Learning Domain 20: Use of Force.
anger	A feeling of displeasure from perceived injury, mistreatment, or opposition, to ones self or to another person
control	As it relates to defensive tactics, means maintaining composure to make sound judgments and decisions
deadly force	A force likely to cause death or serious bodily injury
fear	A normal emotional response to a perceived threat (real or unreal)
force options	Choices available to a peace officer in each agency's policy to overcome resistance, effect arrest, prevent escape, or gain control of the situation
imminent danger	A significant threat which persons reasonably believe will result in death or serious bodily injury to themselves or to other persons
intervention	The act of preventing or stopping the inappropriate or unlawful behavior of another <i>US v Koon</i> , 34F.3d 1416 at 1447 (9 th Cir., 1994)
objectively reasonable	The court noted that determining the objective reasonableness for the use of force must be fact specific (<i>Graham v Connor</i> , 490 us. 386, 109 S ct. 1865) (1989)

Continued on next page

Glossary, Continued

panic	The total loss of emotional and physical self-control. A sudden, unreasoning, hysterical fear of events that led up to the encounter with the subject
precursory acts	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
reasonable force	Is a term for how much and what kind of force a peace officer may use in a given circumstance
reasonable necessity	Delay in apprehension would create substantial and unreasonable risk to officers or others possibly resulting in serious physical injury or death
self-control	Maintaining composure to make sound judgments and decisions
serious bodily harm or injury	A serious impairment of physical condition, including, but not limited to, the following: loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement (<i>Penal Code Section 243(f)(4)</i>)
unreasonable force	The type, degree, and duration of force employed was not necessary or appropriate
