CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Basic Course Workbook Series

Student Materials

Learning Domain 20
Use of Force/Deescalation
Version 5.3

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Use of Force/Deescalation
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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/Deescalation

Table of Contents

Topic	See Page
Preface	**iii**
Table of Contents	i
Introduction	iii
How to Use the Student Workbook	iv
Chapter 1: Introduction to the Use of Force	**1-1**
Overview	1-1
Objectively Reasonable Force	1-3
Authority to Use Force	1-7
Workbook Learning Activities	1-9
Chapter 2: Deescalation	**2-1**
Overview	2-1
Deescalation	2-3
Critical Decision-Making Model	2-6
Strategic Communication	2-10
Workbook Learning Activities	2-14
Chapter 3: Force Options	**3-1**
Overview	3-1
Force Options	3-3
Resistance	3-6
Communication	3-13
Workbook Learning Activities	3-15

Continued on next page

Table of Contents, Continued

Topic	See Page
Chapter 4: Use of Force	**4-1**
Overview	4-1
Considerations Regarding the Use of Deadly Force	4-3
Justifiable Homicide by Peace Officer	4-10
Workbook Learning Activities	4-15
Chapter 5: Documenting the Use of Force	**5-1**
Overview	5-1
Documenting the Use of Force	5-2
Report Writing Tips	5-6
Workbook Learning Activities	5-9
Chapter 6: Consequences of Unreasonable Force	**6-1**
Overview	6-1
Fear and Anger Management in the Use of Force	6-3
Self-Control	6-4
Role and Initial Ongoing Training	6-13
Workbook Learning Activities	6-16
Chapter 7: Peace Officer and Agency Liability	**7-1**
Overview	7-1
Peace Officer and Agency Liability	7-3
Failure to Intervene	7-8
Intervention Techniques	7-10
Factors Affecting Intervention	7-12
Workbook Learning Activities	7-14
Glossary	**G-1**

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
- supplementary material, and
- a glossary of terms used in this workbook.

Peace officers are often forced to make split – second judgments about the correct course of action to take in a given circumstance in conditions that are tense, uncertain and rapidly evolving. The actions described herein should not be considered as the only reasonable options available to an officer to effectively handle a given situation. Unless it is specifically stated as such, actions do not necessarily need to occur in the order that they are written. It is incumbent on the officer to select and use a response that is objectively reasonable under the totality of the facts and circumstances confronting the officer at the time.

How to Use the Student Workbook

Introduction

This workbook introduces 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	Read the text.
3	Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter.
4	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. **term**).

Chapter 1

Introduction to the Use of Force

Overview

Learning need

Peace officers must recognize that they have the authority to use **objectively 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 *objectively reasonable force* as stated by law.	20.01.01
• discuss the components of the Fourth Amendment standard for determining objective reasonableness, as determined by the U.S. Supreme Court.	20.01.02
• 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 objectively reasonable force during a detention or arrest.	 20.01.03 20.01.04
• identify the circumstances set forth in the California Penal Code when a peace officer has the authority to use force.	20.01.05
• discuss the level of authority agency policies have regarding the use of force by a peace officer.	20.01.06

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
Objectively Reasonable Force	1-3
Authority to Use Force	1-7
Workbook Learning Activities	1-9

Objectively Reasonable Force

Introduction

The goal for the use of force by a peace officer in any enforcement situation is to gain **control** of the situation or individual(s) encountered, when reasonable.

Peace officers should understand the laws and agency policies governing use of force. The U.S. Constitution and the laws of the State of California allow peace officers to use objectively reasonable force to effect an arrest, to prevent escape, to overcome resistance, in self-defense, or in defense of others while acting in the lawful performance of their duties.

Peace officers should remember that even when they have the authority to use force, they should consider the least intrusive force option.

Whenever possible, peace officers should attempt to generate voluntary compliance without resorting to physical force. Some communication techniques and skills for obtaining voluntary compliance that can be utilized are ask, set context, present options, and act. The tenets of Procedural Justice, including voice, neutrality, respect, and trustworthiness, add to effective communication, may lead to greater police legitimacy, and may deescalate a situation.

This chapter outlines legal authority for peace officers to use force when voluntary compliance cannot be obtained.

Fourth Amendment *"objective reasonableness"* standard

In 1989, the United States Supreme Court decided the case of *Graham v. Connor*, 490 U.S. 386, (1989), which established that a peace officer's use of force, under the Fourth Amendment, would be judged using the "objective reasonableness" standard.

The Court's analysis began by balancing 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.

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Fourth Amendment *"objective reasonableness"* standard (continued)

The Court noted that determining the objective reasonableness for the use of force must be fact specific, based on the totality of the circumstances confronting the officer at the time that the force is used. The determination of reasonableness must allow for the fact that peace officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. The reasonableness of a particular use of force must be judged from the perspective of a **reasonable officer** on the scene, rather than with the 20/20 vision of hindsight. The evaluation should be based on the facts and circumstances confronting the officer without regard to the officer's underlying intent or motivation.

When balanced against the type and amount of force used, the Graham factors used to determine whether an officer's use of force is **objectively reasonable** are:

- whether the suspect posed an immediate threat to the safety of the officers or others
- the severity of the crime at issue
- whether the suspect was actively resisting arrest
- whether the suspect was attempting to evade arrest by flight
- split-second judgments during circumstances that are tense, uncertain, and rapidly evolving

Of these factors, the most important is whether the individual poses an immediate threat to the officer or public.

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Other factors to be considered

The reasonableness inquiry is not limited to the consideration of those factors alone. Other factors which may determine reasonableness in a use of force incident include:

- whether there was an opportunity to warn about the use of force prior to force being used and, if so, was such a warning given
- whether there was any assessment by the officer of the subject's ability to cease resistance and/or comply with the officer's commands
- availability of other objectively reasonable **force options**
- number of officers/subjects
- age, size, and relative strength of officers/subjects
- specialized knowledge, skills, or abilities of subjects
- prior contact
- injury or exhaustion of officers
- access to potential weapons
- environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic, and other hazards
- whether the officer has reason to believe that the subject is mentally ill, emotionally disturbed, or under the influence of alcohol or drugs

Continued on next page

Objectively Reasonable Force, Continued

Related terms

The reasonable officer standard is:

- would another officer
- facing like or similar circumstance,
- act in the same way or use similar judgment?

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. The facts and circumstances known to the peace officer at the time the force was used will be the basis for the determination of reasonableness.

Community expectations

Community members want to be treated with respect and dignity. The public expects peace officers to exercise their authority in order to maintain social order, manage conflicts, and solve problems. They expect peace officers to listen to them, treat them fairly, and be trustworthy.

Community members want their officers to possess the skills to subdue violent and dangerous subjects. They also want officers to use these skills to apply only the amount of force that is reasonable.

Peace officers should always be promoting the trust of the community and should act in a way to maintain that trust. Trust is vital for building long-lasting, innovative community partnerships capable of solving problems and improving the community's quality of life.

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 objectively reasonable force when faced with a threat or resistance.

Subject's duty to submit to arrest

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."

Additionally, in *People v Curtis (1969 70 Cal 2d 347)*, the California Supreme Court held that "a person may use reasonable force to defend life and limb against excessive force."

Officer authority to use restraint

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."

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Authority and criteria for the use of force

Penal Code Section 835a(b) states:

"Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance."

Penal Code Section 835a(d) states:

"A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or to prevent escape or to overcome resistance. For the purposes of this subdivision, 'retreat' does not mean tactical repositioning or other deescalation tactics."

Agency policies

Constitutional, statutory, and case law establish the baseline requirements regarding the authority for peace officers to use force in the performance of their duties. The elements of Principled Policing should also be considered by local agencies, which are free to establish policies and procedures regarding the use of force by their employees that are more restrictive than those established in the baseline authorities.

Peace officers are responsible for becoming familiar with and complying with their agency's policies regarding the use of force including agency legal updates**.**

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 objectively reasonable force? Explain why or why not based on the factors of reasonableness.

2. When considering what force is objectively reasonable, peace officers must remember 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

Activity questions (continued)

3. Explain why it is important for peace officers to be familiar with their agency's policies on use of force.

Continued on next page

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. What actions are available to the officer, if any?

5. Explain how the officer can utilize the principles of procedural justice to control the situation.

Continued on next page

Activity questions (continued)

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

7. Explain if your response would be different if the detention is for an infraction.

Chapter 2

Deescalation

Overview

Learning need

Peace officers must understand how the principles of deescalation can enhance contacts with the public and may result in improved decision-making, reduction in situational intensity, and opportunities for outcomes with greater voluntary compliance.

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**
• define *deescalation.*	20.02.06
• recognize the four core concepts of deescalation - Self-control - Effective communication - Scene assessment and management - Force options	20.02.07
• understand the components of a Critical Decision-Making Model. - Collect Information - Assess situation, threats, and risks - Law and policy - Plan - Act, review, and reassess	20.02.08
• recognize how tactical methods that use time, distance, cover, and concealment assist in deescalation.	20.02.09
• recognize how strategic communication may enhance deescalation.	20.02.10

Continued on next page

Overview, Continued

In this chapter

This chapter focuses on principles of deescalation. Refer to the following chart for specific topics.

Topic	See Page
Deescalation	2-3
Critical Decision-Making Model	2-6
Strategic Communication	2-10
Workbook Learning Activities	2-14

Deescalation

Introduction

Peace officers must understand that the principles of deescalation can provide effective tools during contacts with the public and may result in improved decision-making, reduction in situational intensity, and providing outcomes with greater voluntary compliance.

Definition

Deescalation is the process of using strategies and techniques intended to decrease the intensity of the situation.

Common misconceptions of deescalation

Common misconceptions of deescalation include, but are not limited to:

- If an officer uses force, that means they failed to de-escalate
- It is a soft form of policing
- Officers are losing control at scenes
- Officers are being required to walk away or retreat
- Officers are letting their guard down
- De-escalation is too difficult to apply in rapidly changing situations

Benefits of deescalation

Benefits of the practice of deescalation include, but are not limited to:

- Positive impact on public trust
- Reduced danger to officer and the public
- Improved community cooperation
- Positive impact on officer wellness

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Deescalation, Continued

The history of deescalation: Senate Bill 230 (2019-2020)

The highest priority of California law is safeguarding the life, dignity, and liberty of all persons, without prejudice to anyone. Law enforcement officers shall be guided by the principle of reverence for human life in all investigative, enforcement, and other contacts between officers and members of the public. When officers are called upon to detain or arrest a suspect who is uncooperative or actively resisting, may attempt to flee, poses a danger to others, or poses a danger to themselves, they should consider tactics and techniques that may persuade the suspect to voluntarily comply or may mitigate the needs to use a higher level of force to resolve the situation safely.

Vesting officers with the authority to use necessary force as determined by an objectively reasonable officer and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests. The authority to use force is a serious responsibility given to peace officers by the people who expect them to exercise that authority judiciously and with respect for human rights, dignity, and life.

The intent of Senate Bill 230 (2019-2020) is to establish the minimum standard for policies and reporting procedures regarding California law enforcement agencies' use of force. The purpose of these use of force policies is to provide law enforcement agencies with guidance regarding the use and application of force to ensure such applications are used only to effect arrests or lawful detentions, overcome resistance, or bring a situation under legitimate control.

No policy can anticipate every conceivable situation or exceptional circumstance which officers may face. In all circumstances, officers are expected to exercise sound judgment and critical decision making when using force options.

A law enforcement agency's use of force policies and training may be introduced as evidence in proceedings involving an officer's use of force. The policies and training may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably but shall not be considered as imposing a legal duty on the officer to act in accordance with such policing and training. Every instance in which a firearm is discharged, including exceptional circumstances, shall be reviewed by the department on a case-by-case basis to evaluate all facts and to determine if the incident is within policy and in accordance with training.

Continued on next page

Deescalation, Continued

Core concepts

Peace officers should attempt to recognize the public's physical and psychological reactions to situations. Peace officers should also try to recognize their own physical and psychological reactions to situations. Tactics and techniques may assist in decreasing the situational intensity of a situation and gain voluntary compliance.

- **Self-control** – understanding of physical and psychological reactions of the public and law enforcement officers may assist in maintaining self-control.
- **Effective communication** – clear commands and questions, good observation and listening skills, and appropriate terminology will enhance the likelihood of success.
- **Scene assessment and management** – when possible, provides officers with an accurate picture of what is occurring and assists in the management of force options.
- **Force options** – reasonable use of force techniques may reduce situational intensity for the safety of all parties.

Areas of performance where deescalation concepts may assist

Voluntary compliance requires clearly communicated instructions using deescalation techniques.

When possible, officers should consider mitigating unintended consequences. Doing so may assist in the overall deescalation of an event and aids in public trust.

There can be many officers and public safety issues when attempting to use deescalation techniques. Police legitimacy is greatly affected by the use or non-use of deescalation techniques. Remember the importance of voice, neutrality, trustworthiness, and respect.

Critical Decision-Making Model

Introduction

Critical Decision-Making Model (CDM) is loosely derived from the United Kingdom's model and is one process that may be valuable in helping peace officers assess and respond to critical incidents. CDM is one of many models that enhance critical decision-making.

Respect for human life and dignity

When forming a plan to address a law enforcement event, officers should keep in mind the universal respect for human life and dignity.

Components of critical decision-making model

The components of a Critical Decision-Making Model include:

- Collecting information
- Assessing the situation, threats, and risks
- Law and policy
- Plan
- Act, review, and reassess

Collect information

The collection of information prior to and during the use of deescalation and a threat risk assessment may be considered while using deescalation techniques.

Deescalation techniques that are attempted or actually utilized should be documented in the appropriate reports related to an incident.

Deescalation techniques that can be documented include, but are not limited to:

- Information gathered prior to arriving at the scent
- Use of distance
- Use of additional officers
- Communication and verbalization techniques utilized
- The level of success or failure of each deescalation technique

Continued on next page

Critical Decision-Making Model, Continued

Assessing the situation, threats, and risks

Assessing the situation includes, but is not limited to:

- Determining if the situation poses a threat or risk to others
- Determining if the threat requires an immediate response
- Determining if there is an imminent threat that requires action

Assessing the threats includes, but is not limited to:

- Awareness of the situation
- Assessing and requesting appropriate resources
- Cover and concealment
- Distance between officers and subjects

Assessing the risks includes, but is not limited to:

- The subject's behavior
- The subject's condition
- Possible communication issues
- The subject's access to weapons
- The subject's special skills or knowledge

Law and policy

Peace officers need to consider:

- Is there a legal reason or obligation to act?
- What legal powers does the officer have based on federal, state, and local ordinances?
- Are the officer's actions within agency policy?

Plan

Peace officers should:

- Identify roles and responsibilities
- Contingencies
- Options and resources
- Utilization of time

Continued on next page

Critical Decision-Making Model, Continued

Act, review, and reassess

Deescalation is dynamic and officers should:

- Implement a plan and prepare to adjust, if needed
- Assess whether the action has the desired effect
- If the action has the desired effect, is there anything more that can be done?
- Review what lessons can be learned following the conclusion of the contact

The effect of time on peace officer planning and tactics

Although rapidly evolving and/or violent incidents may not allow officers to try and "slow things down," using the time when safe and practical to do so, may aid in reducing the intensity of the situation. Although there are situations where officers cannot delay in acting, many can be handled safely and effectively by allowing more time to transpire.

These strategies and techniques to deescalate a situation may affect officer safety, situational awareness, and tactical repositioning:

Creating distance may calm an irate individual and help reduce the person's intensity. But if doing so poses a loss of situational control, or officer or public safety are further jeopardized, then adding distance may be counterproductive to achieving a positive outcome.

Situational awareness is a critical consideration in deescalation. Recognizing what may be an immediate threat, seeing people or items causing agitation to a violent suspect, or understanding how some stimuli are altering behavior aid an officer in responding well to an incident.

Continued on next page

Critical Decision-Making Model, Continued

The effect of time on peace officer planning and tactics, continued

Tactical repositioning is often utilized for officer safety and it can also be considered as a deescalation technique. An officer being less, or more, visible can affect the actions of others. The vantage points from which officers observe must provide for officer safety. Different positions may also direct someone's attention elsewhere, draw them away from threats, and/or help deescalate a situation.

Gaining useful information prior to arriving at an incident and continuing to update it during the call may assist officers with a better understanding, while possibly providing additional solutions not recognized without the information. For example:

- Knowing a despondent person's child recently died would be helpful to an officer trying to assist them.
- Information on past law enforcement contacts with the individual.
- Gathering information on medications or medical issues of the individual
- Contacting family member
- Assess whether the action has the desired affect
- If the action has the desired effect, is there anything more that can be done?
- Review what lessons can be learned following the conclusion of the contacting family members for additional information on the individual.

When documenting incidents where deescalation techniques are utilized, officers should include specific words spoken and suspect actions taken and not taken. The documentation should provide a clear understanding of what the officer was facing, the actions taken, the observations made, and other important facts related to the officer's and other's actions.

Strategic Communication

Introduction

Peace officers are contact professionals, which means that they represent more than themselves. Officers should realize that using good verbal skills may increase the likelihood of successful deescalation and/or voluntary compliance. Officers should understand that words do not always work, or they may not have the opportunity to use them.

Definition

Strategic communication is the use of verbal and non-verbal techniques to aid in controlling a situation and enhancing officer and community safety.

Officer and public safety in strategic communication

While strategic communication is one approach that may assist officers in effectively communicating with members of the public and gaining voluntary compliance, officers should never sacrifice their safety, the safety of other officers, or the safety of the public. With this in mind, officers need to focus on maintaining situational awareness and a tactical advantage.

Benefits of strategic communication

Some of the benefits of strategic communication may be, but are not limited to:

- Deescalation
- Maintaining officer and community safety
- Gaining voluntary compliance
- Building rapport
- Decreasing citizen complaints

The importance of how to communicate your message

Remember – two way to communicate a message

Professional

- Be flexible enough to look beyond your perspective and be empathetic
- Always use your language as if you had an audience

Unprofessional

- The unprofessional use of language designed to escalate the situation
- Not knowing your audience
- Antagonistic/sarcastic reactions

Remember there is an expectation by the public and the courts that law enforcement officers should act professionally.

Continued on next page

Strategic Communication, Continued

How to handle verbal abuse-deflection and redirection

Officers may need to deal with persons who are angry or upset or verbally lash out at officers. Instead of responding in kind, officers may be able to deflect or redirect the conversation in a more positive direction.

This can be done with the use of verbal deflectors

Some examples of verbal deflectors are:

- "Appreciate that, but…"
- "I understand that, but…"
- "I got that, however…"
- "Maybe so, but…"
- "I hear that, however…"

Verbal deflectors allow the officer to focus on the issue and not the attitude. The phrase also acknowledges the other person's concerns.

The key to using verbal deflectors is to deflect the comment then to immediately add "but" or "however"

For example:

- Subject: "You're an asshole!"

Officer: "I hear that; however, I need you to sign the citation."

Examples of strategic communication models

There are various strategic communication models. Two examples are LEAPS and the 5-step technique.

LEAPS

LEAPS can provide officers with an approach to communication that may assist in deescalating a situation and gathering important information. While some situations may lend themselves to using LEAPS in chronological order (i.e. L-E-A-P-S). In other situations, officers may find it more effective to proceed in a different order (e.g. A-L-P-S-E) or just use some of LEAPS (e.g. L-A-S-E).

Continued on next page

Strategic Communication, Continued

	Skill	Example
L	- Listen	- Project a "listening face" - Active listening consists of being open, hearing the other person, interpreting what is being said, and acting appropriately.
E	- Empathize	- Project an "empathetic face" - Develop a sense of "otherness" - Citizens have a point of view, right or wrong. Officers do not have to agree but should try to understand their perspective.
A	- Ask	- Use fact-finding questions - Set context - Vary the questions to lessen resistance.
P	- Paraphrase	- Put the other person's meaning into your words.
S	- Summarize	- Explain how the problem will be resolved.

Continued on next page

Strategic Communication, Continued

Uncooperative and difficult persons – 5-step technique

Officers sometimes interact with persons who do not appear to present a physical threat to the safety of officers or others, but who are nonetheless uncooperative or difficult (e.g. a motorist who does not want to sign a ticket). In these situations, officers may find it useful to use a five-step approach in an effort to deescalate the situation and gain voluntary compliance (i.e. getting the motorist to sign the ticket and be on their way). The five steps are intended to be followed in chronological order; however, circumstances may dictate a different order, different response, or immediate action.

1. Ask – ethical appeal ("I need you to…")
2. Set context – reasonable appeal (tell them why)
3. Present Options – personal appeal (always present the positive option first)
4. Confirmation stage – practical appeal ("Is there anything else I can say to gain your cooperation? I'd like to think you'd work with me.")
5. ACT – disengage to wait for further assistance or immediately move to a force option

Note: 8 step is elaborated in LD 22 – Vehicle Pullovers

Documentation

It is important for officers to thoroughly document their strategic communication attempts in a well-written report. Remember that the officer's report is a critical part of the review process and helps others assess the reasonableness of their actions.

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. You are dispatched to the scene of a non-injury traffic collision. Both drivers are irate and argumentative, but no physical altercation has occurred. One of the drivers is the reporting party and requests a report. The other driver does not want a report to be filed and is becoming annoyed with your presence at the scene. How do the core concepts of deescalation apply?

2. Given the above scenario, utilize the Critical Decision-Making model to develop a solution.

Continued on next page

Activity questions

3. You are dispatched to the scene of a non-injury traffic collision. Both drivers are irate and argumentative, but no physical altercation has occurred. One of the drivers is the reporting party and requests a report. The other driver does not want a report to be filed and is becoming annoyed with your presence at the scene. How would the 5-Step technique be applied to resolve the situation?

4. Given the above scenario, what considerations should be made to maintain scene safety?

Continued on next page

Activity questions (continued)

5. You make a lawful detention of a driver after observing a moving violation. The driver is visibly upset and rambling about personal issues. How would LEAPS be applied to this situation?

6. After obtaining the driver's license, vehicle registration, and proof of insurance from the driver in the previous scenario, you complete a citation for the moving violation and return to the vehicle. The driver is appalled and is refusing to sign the citation. How would the 5-Step technique be applied to resolve the situation?

Chapter 3

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 objectively 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**
• define the term "*force option*."	20.03.06
• identify that the objective of using force is to overcome resistance to gain control of an individual and the situation.	20.03.07
• recognize force options and the amount of force peace officers may use based on the subject's resistance.	20.03.08
• explain the importance of training and ongoing practice when responding to potentially dangerous situations that may require the use of force.	20.03.09
• discuss the importance of effective communication when using force.	20.03.10

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	3-3
Resistance	3-6
Communication	3-13
Workbook Learning Activities	3-15

Force Options

Introduction

Force options are choices available to a peace officer in any given situation to overcome resistance, to effect an arrest, to prevent escape, in the defense of self and others, and to 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 objectively reasonable under the totality of the circumstances
- use only the amount of force objectively reasonable to overcome resistance and to gain or maintain control of a subject
- conform to agency policy, federal and state law

Officer judgment

Officers must rely upon their own judgment to ensure that the amount of force used to gain and/or maintain control of a subject or situation does not exceed what is objectively reasonable under the totality of the circumstances confronting them.

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Officer preparation

In law enforcement, preparation is an important factor in determining the effectiveness of the use of force by a peace officer, as well as generating a professional image for peace officers. The following chart identifies some items officers must consider in their preparation:

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 on how well and effectively they have trained and practiced required skills and abilities.

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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 and officer safety	- Immediate action required for self-defense or defense of others
Amount and nature of the resistance which must be overcome, or flight or attempted flight	- Passive noncompliant - 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 - Distance of responding units
Nature and condition of the location and surroundings	- Danger to bystanders - Availability of weapons - Environmental conditions

Resistance

Introduction

The propriety of an officer's use of force depends upon whether that force is found to have been objectively reasonable under the totality of the circumstances of the particular situation confronting the officer. The immediate threat to the safety of the officer or others is the most significant factor in determining reasonableness.

The subject's actions and the practical considerations involved in a situation are major factors in determining the type of force the officer may lawfully use in order to gain or maintain control of the subject or the situation.

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
Compliant	Subject offers no resistance	- Mere professional appearance - Nonverbal actions - Verbal requests and commands - Handcuffing and control holds
Passive non-compliant	Does not respond to verbal commands but also offers no physical form of resistance	- Officer's strength to take physical control, including lifting/carrying - Pain compliance control holds, takedowns and techniques to direct movement or immobilize a subject
Actively resistant	Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, or verbally or physically 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 body weapons to gain advantage over the subject

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Subjects actions (continued)

Subject's Actions	Description	Possible Force Option
Assaultive	Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention 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 bodily injury or death of the officer or others	- Utilizing firearms or any other available weapon or action in defense of self and others to stop the threat

NOTE: Officers must consider the *totality of the circumstances* when selecting a 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. A key principle in maintaining public trust and respect is ensuring that any use of force is reasonable.

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(s) appropriate for the situation as conditions may change rapidly. Officers must continually reevaluate the subject's actions and the practical considerations involved in the situation and must be prepared to transition as needed to the appropriate force options (deescalate or escalate), so as to always remain within the bounds of conduct which is objectively reasonable under the circumstances.

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Key considerations

Practical considerations are a key factor in a peace officer's choice of force options. It is important for peace officers to recognize the advantages and disadvantages of the various force options. Some of the factors to consider are:

- **Distance**: Would a force option be effective at the distance involved?
- **Number of subjects**: Can the force option effectively be used to engage multiple subjects or only a single subject?
- **Subject's mental state or state of intoxication:** Which force options would be effective regarding a subject's apparent mental illness or state of intoxication, possibly resulting in increased pain tolerance, accelerated strength, or inability to communicate with the subject?
- **Subject's physical strength and skill:** Does the peace officer have the physical strength and skill to effectively use a force option, compared to the subject's apparent physical strength and skill?
- **Affecting or endangering other people:** What potential effect does a force option have on other peace officers or bystanders at the scene?
- **Time**: Does the peace officer have time to effectively use a force option?

In use of force incidents involving multiple peace officers, it is important for peace officers to use teamwork. Peace officers should communicate with each other, and coordinate their actions, during a use of force incident so they are not working against each other. A peace officer should consider having a different force option ready in case the force option being used by another peace officer is ineffective.

Continued on next page

Key considerations (continued)

Peace officers should recognize that making transitions between force options can be difficult during stressful and rapidly changing conditions. It is useful for peace officers to practice making such transitions during training. Peace officers must be prepared to transition to another force option if the one being used appears to be ineffective in controlling the subject or situation.

The various force options are placed into three general categories:

Force Option	**Foreseeable Injury**
Non-Deadly Force	Force which creates a minimal risk of injury
Intermediate Force	Force which has a significant risk of injury
Deadly Force	Force which has a substantial risk of serious bodily injury or death

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Force options tools and techniques

The following list includes tools and techniques which are the most common force options available to peace officers, but it is not all inclusive. Peace officers should recognize that the risk of injury created by a particular force option may vary depending upon how the force option is applied.

Professional/command presence
Interpersonal communication techniques/warnings
Control Holds/Takedowns/Handcuffing
Handcuffing and Temporary Restraints
Chemical agents
Electronic Control Weapons
Impact Weapons
Impact Projectile Weapons
Canine
Personal Body Weapons
Improvised weapons or techniques
Firearms

NOTE: Officers need not apply force options and techniques chronologically. Officers should select the force option most objectively reasonable given the "totality of the circumstances" once the decision to use force has been made.

Continued on next page

Examples

The following chart presents examples of situations involving an objectively 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.	*Reasonable:* The officer's presence and verbal commands controlled the situation.
		Unreasonable: 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.	*Reasonable:* 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.
		Unreasonable: The officer used an impact weapon to disable the subject before applying a control hold and placing the subject under arrest.

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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.	*Reasonable:* The officer used a 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.
		Unreasonable: 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 objectively reasonable force, the officer may have placed himself in greater danger of losing control and placed himself at risk of serious bodily 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). This is an important factor in gaining the respect and trust of the communities you serve.

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

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The law enforcement profession and communication

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

- themselves/agency
- executive staff (i.e. 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. The use of deescalation communication can aid in diffusing a potentially volatile incident and avoid the need to use force against an individual.

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

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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

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.

Student Notes

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Chapter 4

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.	20.04.02
• identify the factors required to establish *sufficiency of fear* for the use of deadly force.	20.04.03
• recognize facts an officer should consider when determining whether or not to use deadly force.	20.04.04
• discuss the role of agency policies regarding the use of deadly force.	20.04.05
• recognize the law regarding justifiable homicide by a peace officer and the circumstances under which the homicide is considered justifiable.	20.04.06

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	4-3
Justifiable Homicide by Peace Officer	4-10
Workbook Learning Activities	4-15

Considerations Regarding the Use of Deadly Force

Introduction

The use of deadly force is one of the most serious decisions a peace officer has to make.

Definition

Deadly force applied by a peace officer is force that creates a substantial risk of causing death or serious bodily injury.

Leadership

The authority to use deadly force is a tremendous 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 and accountable, which helps build community trust and respect.

In defense of human life

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

A peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary. *(Penal Code Section 835a(c))*

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Use of deadly force in defense of human life

The decision to use deadly force to defend against an imminent threat of death or serious bodily injury to the officer or to another person is guided by federal case law and California state law.

Federal Case Law

In 1989, the United States Supreme Court decided the case of *Graham v. Connor*, 490 U.S. 386, (1989), which established that a peace officer's use of force, under the Fourth Amendment, would be judged using the "objective reasonableness" standard.

The Court noted that determining the objective reasonableness for the use of force must be fact specific, based on the totality of the circumstances confronting the officer at the time that the force is used. The determination of reasonableness must allow for the fact that peace officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving.

Established Graham factors to guide officers in determining if a use of force is objectively reasonable:

- whether the suspect posed an immediate threat to the safety of the officers or others
- the severity of the crime at issue
- whether the suspect was actively resisting arrest
- whether the suspect was attempting to evade arrest by flight split-second judgments during circumstances that are tense, uncertain, and rapidly evolving.

California State Law

California Penal Code Section 835a states in part:
Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. (*Penal Code Section 835a(b))*

A peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary… to defend against an imminent threat of death or serious bodily injury to the officer or to another person. (*Penal Code Section 835a(c)(1)(A)*)

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Use of deadly force on a fleeing person

The decision to use deadly force in the apprehension of a fleeing person is guided by federal case law and California State law:

In 1985, the United States Supreme Court decided the case of *Tennessee v. Garner*, 471 U.S. 1, (1985), which established that a peace officer may use deadly force to prevent the escape of a fleeing suspect only if the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

The Court applied the following points regarding when it would be objectively reasonable for an officer to use deadly force against a fleeing subject in this particular set of circumstances (e.g. 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 *probable cause* to believe that he has committed a crime involving the infliction or threatened infliction 1of serious physical injury [or death]."
2	"...*probable cause* to believe that the subject poses a threat of death or serious physical harm, either to the officer or others..."
3	"...*probable cause* to believe that the use of deadly force is *reasonably necessary*." [to prevent escape]
4	"...*some warning* be given prior to the use of deadly force *where feasible*..."

NOTE: This US Supreme Court decision of Tennessee v. Garner is only the baseline for use of deadly force in this particular set of circumstances. Peace officers must know the applicable law and agency policies. Officers should comply with agency policy and federal and state law.

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Use of deadly force on a fleeing person *(continued)*

***Penal Code Section 835a* states in part:**	***Penal Code Section***
Notwithstanding subdivision (b), a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:	*(c)(1)*
To defend against an imminent threat of death or serious bodily injury to the officer or to another person.	*(A)*
To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.	*(B)*
A peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person.	*(c)(2)*

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Related 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))*

Deadly force means any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm. *(Penal Code Section 835a(e)(1))*

Imminent means: a threat of death or serious injury is "imminent" when, based upon the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. *(Penal Code Section 835a(e)(2))*

Totality of the Circumstances means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force. *(Penal Code Section 835a(e)(3))*

NOTE: It is the intent of the California State Legislature that peace officers use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer. *(Penal Code Section 835a(a)(2)).*

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Sufficiency of fear

According to *Penal Code Section* 835a, **fear** alone does not justify the use of deadly force. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that from appearances, must be instantly confronted and addressed.

The courts have held that:

- A simple statement of fear for your safety is not enough; there must be objective factors to justify your concern
- It must be objectively reasonable
- It must be based on the facts and circumstances known to the officer at the time

Considerations when deciding to use deadly force

A peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person.

A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or to prevent escape or to overcome resistance. For the purpose of this subdivision, "retreat" does not mean tactical repositioning or other de-escalation tactics.

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

- training and experience
- judgment
- mental alertness
- existing facts and circumstances
- understanding of state law, case law, and agency policy

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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.*

Penal Code Section 7286(b) provides minimum guidelines that agencies are required to include in their use of force policies.

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

- defense of self and others against serious bodily harm or death
- use of warning shots
- shooting at or from a moving vehicle
- shooting from air asset platform
- intentional strikes to the head or neck with an impact weapon

Justifiable Homicide by Peace Officer

Introduction

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

Definition

Penal Code Section 196 states: "Homicide is justifiable when committed by peace officers and those acting by their command in their aid and assistance, either:

(a) In obedience to any judgement of a competent court,

(b) when the homicide results from a peace officer's use of force that is in compliance with Section 835a.

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*.

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Justifiable homicide by a peace officer

There are conditions that must be met in order for a homicide by peace officer to be deemed justifiable, and therefore lawful. The following chart further identifies these conditions.

Homicide by a peace 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.
the homicide results from a peace officer's use of force that is in compliance with Section 835a. *(Penal Code Section 196)*	To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. *(Penal Code Section 835a(c)(1)(B))* NOTE: Fleeing felon 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.

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Unjustifiable homicide by a peace officer

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

Homicide by a peace 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 misdemeanant 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 misdemeanant to escape than to apply deadly force against the individual.

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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
Pre-incident	• emotional control • route/type of approach to the scene/subject • use of other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer
Threat to human life	• Does the subject present a threat to human life? NOTE: Peace officer may use objectively reasonable force to defend human life.
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?

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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 force options, strategies, resources and techniques are available to the officer?

NOTE: Officers must always consider 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.

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.

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Activity questions (continued)

3. Give two examples in which use of deadly force would probably not be justified against a fleeing subject.

4. Peace officers execute a traffic stop. Though a quick license/records check reveals no warrants, as one of the officers approaches the car to return the license and deliver the citation, the subject abandons his vehicle and flees on foot. The subject ignores all commands to stop. Use the four components of the U.S. Supreme Court's standard on the use of deadly force to explain why deadly force is unlikely to be justified to stop this subject.

Chapter 5

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 - de-escalation strategies and techniques utilized	20.05.06
• Supervisor responsibilities - use of force review and analysis	20.05.07
• State required reporting	20.05.08

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	5-2
Report Writing Tips	5-6
Workbook Learning Activities	5-9

Documenting the Use of Force

Introduction

When force has been used by a peace officer, the officer must provide the justification for the type of force used in a written report or in a statement for a post-incident investigator. Officers must understand that the content of their reports or statements are the basis for prosecutorial decisions, civil action, and agency review.

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 collection
- photographs
- audio and video recordings (e.g. in-car camera, body camera)
- witness and subject statements as well as videos recorded
- medical records

Objective reasonableness

The U.S. Supreme Court has determined that the objective reasonableness for the use of force must be determined by balancing the type of force used against the totality of the facts and circumstances confronting the officer at the time the decision was made to use force. The only facts and circumstances relevant to that determination are those which were known to the officer at the moment of decision. It is crucial that the officer:

- Report/statement adequately
- Document those facts and circumstances

In order for the officer's actions to be properly evaluated, the courts rely on the documentation of all relevant factors.

Continued on next page

Inadequate documentation

Inadequate documentation of the factors which established justification for a use of force exposes the officer and the agency to potential civil liability arising from the incident.

Level of detail

To ensure that 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

Precursory acts are those events that led up to the encounter with the subject, including how the officer arrived at the scene as well as what observations helped the officer assess the situation.

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 (e.g. self-initiated activity, call for service)

Subject behavior

Officers should describe the specific orders, commands, or requests that they gave to the subject. *Both* the officer's and the subject's responses and reactions to those commands should be documented, including direct quotes if possible.

Continued on next page

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 (e.g., 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

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 (e.g. uniforms) and equipment (obtain photographic evidence as well)
- 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 an electronic recording device, in car camera, or body camera to capture 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. This will limit their ability from coming back at a later time claiming they witnesses the incident.

Report Writing Tips

Use of force

Use of force incidents are measured against a standard called "objective reasonableness" (*Graham vs. Connor*, 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.

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 and/or gaining compliance. 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 regarding 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 Tips, 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.

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 Tips, 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. You will also receive instruction from your field training officer on how your department formats their use-of-force reports.

NOTE: With the availability of in car cameras footage and body camera footage to assist with writing an accurate us of force report, consult your department policy regarding the acceptable use of such footage while writing your report.

State-required reporting

Peace officers should follow State law and their agency policy related to the documentation of use of force.

Supervisory responsibilities

Peace officers should have a basic understanding of their agency supervisor responsibilities and make proper notifications in accordance with their agency policy.

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

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 6

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
	20.06.09

• give examples of acceptable techniques for managing anger	20.06.10
• describe the benefits of ongoing physical and mental training for peace officers involving the use of force	20.06.11

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	6-3
Self Control	6-4
Role of Initial and Ongoing Training	6-13
Workbook Learning Activities	6-16

Fear and Anger Management in the Use of Force

Introduction

The objective of using force is to gain control of a person (compliance) 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 peace offense may use objectively reasonable force to affect the arrest, to prevent escape, or to overcome resistance. *(Penal Code Section 835a)*

Ethics

The use of objectively 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 peace 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
- emotional state
- 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.

Self-Control

Introduction

The use of objectively 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.

Self-control

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

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

Self-control reflects one's confidence in their skills and abilities which can be improved through training, practice, and experience; thereby enhancing decision-making and reaction time.

Some situations can be controlled by the peace officer's command presence and the employment of procedural justice tenets.

- Professional demeanor can have a positive influence on calming a subject, making it easier to take the subject safely into custody.
- Nonprofessional demeanor and offensive language can easily lead to increased conflict, encouraging dangerous behavior by the subject and resulting in poor behavior on the part of the officer.

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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**.

Continued on next page

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 auditory exclusion/auditory suppression)
- increased muscle tension and perspiration
- raised pain thresholds
- time distortion
- color distortion
- impaired fine motor skills

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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

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, explicit/implicit bias, 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 (e.g. paranoia)	• Racial, cultural, historical context, or religious-based • Responsibility for making critical decisions • Peer disapproval

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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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Definition of anger

Anger is a feeling of displeasure from perceived injury, mistreatment, or opposition, to one's self or to another person.

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 may allow officers to be assertive. It may even play a small role in command presence provided it is done in a respectful manner.

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.

When anger is inappropriate or out of control (e.g. rage), it becomes a liability and may result in poor decision making. Law enforcement decisions should not be influenced by anger.

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

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...**
not internalizing 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.	recognize 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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Example

Two peace officers made a vehicle stop on a busy street in a business district after the driver ran a stop sign. As Officer Kwan made the initial contact with the driver, his partner, Officer Williams noticed Officer Kwan seemed unusually tense, yet still courteous with the driver. As Officer Kwan returned to the patrol vehicle with the man's drivers license to perform the record check, he confided to his partner that this man had made a racially disparaging comment toward him. Officer Williams reminded Officer Kwan that despite his personal feelings, he had a duty to remain neutral, impartial, and treat the driver with respect. After his brief conversation, Officer Kwan delivered the citation in a professional manner, with no spare commentary and no evidence of anger towards the driver. Talking it out for even a few minutes while the record check was being done allowed the officer to take a step back from the situation and control his breathing, thus controlling his personal anger.

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.

Trained and untrained responses

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

Trained *responses*...	**Untrained *responses*...**
• are less predictable to the subject than instinctual reaction. • are correctable. • are flexible (can be adjusted and customized). • can lead to increased self-control. • can promote trustworthiness. • will reduce lag time.	• are more predictable to the subject. • are limited. • may be improper. • may be dangerous to the officer, the subject, or others.

Continued on next page

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 training 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 which can diminish public trust.
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

Training and Practice (continued)

Training and practice can help attain...	Lack of training 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.** **Panic** is the total and absolute loss of control. Panic in crisis situations will render an officer 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.

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

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.

Continued on next page

Activity questions (continued)

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

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?

Student Notes

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Chapter 7

Peace Officer and Agency Liability

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	20.07.01
• explain an *agency's* potential liability associated with the use of unreasonable force	20.07.02
• explain the consequences of an officer's failure to intervene when unreasonable force is used by another peace officer	20.07.03
• discuss immediate and delayed intervention techniques.	20.07.04
• discuss factors that may inhibit a peace officer from intervening in a situation where a fellow officer may be applying unreasonable force	20.07.05

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	7-3
Failure to Intervene	7-8
Intervention Techniques	7-10
Factors Affecting Intervention	7-12
Workbook Learning Activities	7-14

Peace Officer and Agency Liability

Introduction

Peace officers are entrusted with extraordinary authority over their fellow citizens in order to enable them to effectively enforce the law. Peace officers must exercise this authority in a fair, impartial and respectful manner. Under our system of government, peace officers are accountable for their conduct in exercising the powers given to them.

The civil and criminal justice systems and agency internal administrative reviews are the mechanisms by which peace officers are held accountable for their official conduct, and officers who are found to have exceeded the bounds of their authority can face adverse consequences for each violation.

Objectively reasonable force

Peace officers who make or attempt to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or to prevent escape or to overcome resistance. For the purposes of this subdivision, "retreat" does not mean tactical repositioning or other de-escalation tactics. *(Penal Code Section 835a(d)).*

- effect an arrest
- prevent escape
- overcome resistance
- defend self
- defend others

Justification for the use of force is limited to what is known or reasonably 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.

Continued on next page

Use of force objective

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
- use the type of force which is objectively reasonable under the totality of the circumstances
- use the amount and type of force which is permitted by agency policy

Continued on next page

Unreasonable force

An officer will be found to have used unreasonable force when the type, degree, or duration of the force which was used is found to have been greater than that which was objectively reasonable under the totality of the circumstances confronting the officer at the time that the force was used. The objective reasonableness analytical process was explained in previous chapters.

There is no legal requirement that an officer choose the "best" or "most" reasonable force, but one that is objectively reasonable under the totality of the circumstances, and conforms to agency policy, federal and state law.

Peace officers should remember their chosen force option will be scrutinized by the public which may enhance or decrease their agency's trustworthiness within the community.

Consequences of unreasonable force

An officer who uses more force than is objectively reasonable faces the possibility of criminal prosecution, civil liability, and/or agency administrative sanctions.

The following chart highlights a number of these consequences:

Consequence	**Officers may...**
Administrative or agency action	be subject to disciplinary actions including dismissal.
Civil lawsuits	face compensatory and punitive damages.
Civil rights violation	be held accountable for civil rights violations.
Community distrust	lose community respect and trust for the officer, their organization, and law enforcement in general.
Criminal action	face criminal charges for unreasonable use of authority or force.
Moral impact	suffer the consequences of guilt and embarrassment.

Continued on next page

California statutes regarding officer behavior

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

The following chart lists some of these statutes:

Description	*Penal Code Section*
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 peace 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 imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.	*149*
A peace 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*
That the authority to use physical force, conferred on peace officers by this section, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The Legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law.	*835a(a)(1)*

Continued on next page

Federal law regarding officer behavior

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

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

Agency Liability

The unreasonable use of force by an officer can discredit and result in loss of public support to an officer's agency and the law enforcement profession as a whole.

State and federal law 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 and state laws
- sued for negligent or inadequate training or failure to supervise adequately

Failure to Intervene

Introduction

The community expects that peace officers will not use unreasonable force and will intervene to stop any excessive force by another officer. For the community and the officer's protection, the officer must know the laws and agency policies pertaining to intervention. Failure to intervene can also harm partnerships with the community, erode trust, and diminish police legitimacy.

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 to a supervisor or superior officer

Definition

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

Bystander liability: An officer may face criminal and/or civil liability, as well as 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. *U.S. v Koon*, 34 F.3d 1416 at 1447 (9th Cir., 1994); *Cunningham v Gates*, 229 F.3d 1271 at 1289-1290 (9th Cir., 2000)

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Necessity for intervention

Intervention is necessary because:

- it is required by law
- it is morally and ethically correct
- personal integrity demands it
- the community expects it
- procedural justice tenets are fulfilled
- it enhances officer safety
- it preserves professionalism and supports the law enforcement mission
- it strengthens public confidence and trust 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.

Duty to report

If a peace officer observes or becomes aware of a violation of someone's civil rights, including the use of unreasonable force, that officer has the duty and legal responsibility to report that information in accordance with agency policy.

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. Reporting requirements based on agency policy and law.

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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. In each of the provided solutions, the fellow officer should additionally include the tenets of Principled Policing:

Intervention Technique	Example	
	Situation	**Solution**
Discussion	Peace officer is verbally condescending to someone.	Fellow officer explains this behavior can be perceived as a lack of respect.
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 communicating during contacts with a certain group.	Fellow officer suggests that additional training be pursued.

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 act 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?"
normalization	"Everyone else is doing this."
fear	"They are going to retaliate against me."

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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

Officers could suffer one or more of the following if they do not intervene:

- increased stress
- embarrassment
- civil/criminal action
- disciplinary action
- loss of career
- loss of public trust and respect
- loss of trust and respect from fellow officers

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?

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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 then uses an unauthorized control hold. The cover officer takes no action and the subject dies. How could the cover officer have intervened to prevent this situation? What might have prevented the cover officer from making this intervention? At this point, who may be considered legally liable for the death of the subject?

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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.

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Glossary

Introduction	**The following glossary terms apply only to Learning Domain 20: Use of Force/Deescalation.**
anger	A feeling of displeasure from perceived injury, mistreatment, or opposition, to one's self or to another person
control	As it relates to defensive tactics, means maintaining composure to make sound judgments and decisions
deadly force	Any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm
fear	A normal emotional response to a perceived threat (real or unreal)
force options	Choices available to a peace officer in any given situation to overcome resistance, to effect an arrest, to prevent escape, in the defense of self or others, and to gain control of the situation
imminent threat	A threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is on that, from appearances, must be instantly confronted and addressed
intervention	The act of preventing or stopping the inappropriate or unlawful behavior of another [*US v Koon*, 34F.3d 1416 at 1447 (9th Cir., 1994)]
objectively reasonable	A determination of objective reasonableness for the use of force will be fact specific and based on the totality of the circumstances confronting the officer at the time that the force is used.

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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
objectively reasonable force	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
reasonable officer	Would another officer facing like or similar circumstances act in the same way or use similar judgement?
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 *(Penal Code Section 243(f)(4))*
totality of the circumstances	All facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force
unreasonable force	An officer will be found to have used unreasonable force when the type, degree or duration of the force which was used is found to have been greater than that which was objectively reasonable under the totality of the circumstances confronting the officer at the time that the force was used