

THE MILITARIZATION OF POLICE ACROSS THE UNITED  
STATES AS A RESULT OF THE EVENTS OCCURRING  
DURING THE 1990s IN LOS ANGELES

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by

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## PREFACE

While I have enjoyed the challenge of writing this thesis, it was by no means an easy feat. After finishing about twenty pages, many months passed before I would write another word. Then, several more months went by before I forced myself to start writing again and finish this paper. In total, I spent more days procrastinating and rationalizing than I did working on this document. Sometimes, this was a chore, other times a joy. As much as writing can be tedious and laborious, by the end, I was acutely aware of and enormously grateful for the awakening writing this thesis had afforded me. Studying the history of the nonstop oppression of people who look like me—and the awful conditions my great-grandparents must have experienced as they left Louisiana at the turn of the twentieth century—has forever changed my life. Furthermore, watching Ava DuVernay's *13th* and Jordan Peele's *Get Out*, reading Michelle Alexander's *The New Jim Crow* and Ta-Nehisi Coates' *We Were Eight Years in Power*, devouring the timeless words of Dr. Martin Luther King Jr. and Malcom X, and attending lectures by James Clyburn and Shaun King has given me the tools to more critically see the world and climb out of the sunken place.

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## ABSTRACT

This thesis explores how the relationship between the violence occurring during the 1990s in Los Angeles, California; historical and modern police training; the California penal code; and legal decisions and precedent resulted in the militarization of the Los Angeles Police Department, which led to the subsequent militarization of police throughout the United States. Through the review and synthesis of nonfiction printed works spanning various academic disciplines, reports from government commissions, historical and more current news media, and rulings from courts both within and outside California, historians can better understand the transition of civilian law enforcement in America from Officer Barney Fife to the paramilitary combatants with rifles, fatigues, and armored vehicles of today.

## CHAPTER 1

### INTRODUCTION

In light of the continually and perpetually deteriorating relationship between the institution of American civilian law enforcement and the society they are sworn to protect, a phenomenon that has been popularized by the media's focus on multiple high-profile civilian deaths at the hands of the police, many have begun to question modern police tactics and training; their access to and use of military-grade weapons, explosive devices, and armored vehicles; and an apparent lack of transparency and oversight in police operations, criminal investigations, and personnel matters. This increased scrutiny has led to both a closer examination of the challenges faced by modern civilian law enforcement, as well as greater public skepticism of their ability and willingness to effectively police themselves. Taking a page from modern popular culture, Americans want to know, "Who watches the Watchmen?"

With a general mistrust and suspicion of police integrity and values now woven tightly into public perception, many people have begun to ask if it is either necessary or appropriate for police to train with and deploy automatic rifles, high explosives, and blast-resistant armored vehicles to disperse large crowds, serve search and arrest warrants, and generally provide for the public welfare. Moreover, this mistrust and suspicion has also manifested as a heightened awareness of larger societal ills, such as institutionalized racism, prejudice in

policing, and police brutality. Consequently, groups such as Black Lives Matter, itself, arguably, a successor of the Black Panther Party and the current face of the Black Power movement, have begun to gain ever-larger followings and exert pressure on government institutions to change public policy and take responsibility for bad policing (Chancellor; Coleman; Ryce). As protestors march in the streets and public figures, both elected and unelected, loudly and frequently voice their concerns—and stoke fear—over the often fatal combination of police brutality and militarized civilian law enforcement, Americans of all walks of life are asking themselves a simple question that has a complex answer: how did things get so bad? To begin to answer such a question, one must examine the historical relationship between the public and the police, the prevalence of gun-related violence, the nature of police training in light of the pervasiveness of that gun-related violence, and the law.

Despite their status as one of the foundational institutions of American society, police have a reputation—both historical and modern—largely marred by seemingly never-ending incidents of officious behavior, professional misconduct, and criminal acts. One of the most infamous instances of crimes committed by police, which was also the catalyst for later widespread rioting that led to the death of more than fifty civilians, was the beating of Rodney King on March 3, 1991. Filmed by George Holliday with then-modern video recording technology, several White officers from the Los Angeles Police Department participated in a brutal and prolonged attack on a Black man (Crogan). Less than two weeks after

this incident occurred, four of the officers seen in the eponymous *Holliday Video* were charged with assault for the nature of the force they used during King's arrest. On April 29, 1992, more than a year after charges were filed against those officers by the Los Angeles District Attorney's Office, a jury of ten White people, one Latino, and one Asian person acquitted all four officers. Sadly, just one hour after the jury's verdict was rendered, five Black children proclaimed "This is for Rodney King!" as they vandalized a Korean-owned convenience store, marking the first documented incident of race-based criminal activity as a result of the jury's decision to acquit the officers who beat King (Edgar; Linder).

The rioting that followed the acquittal of the officers seen in the *Holliday Video* was the most deadly and destructive in Los Angeles' history and, arguably, the second most violent riot of the twentieth century, nationwide, following the Tulsa Race Riot of 1921 ("Legacy of the Riots"). Lasting five days, the 1992 Los Angeles Riots caused property damage totaling roughly one billion dollars and resulted in the deployment of roughly ten thousand National Guard troops ("1992 Civil Unrest"; "Los Angeles Riots Fast Facts"). The military response to the rioting would later prove to be an eerie foreshadowing of the future of urban policing in urban, civilian environments during times of unrest and civil disobedience.

In addition to looting, vandalism, and arson, crimes more often associated during periods of civil unrest, Los Angeles has seen decades of violent crime that include the widespread and frequent use of firearms. In the early- to mid-1990s, gun-related violence in Los Angeles, specifically homicides, was among the

highest in the nation (“Statistics”; “Fact Sheet”). This staggering level of violence led to a community in crisis, one in which people felt helpless and police felt powerless. From such hellish circumstances, one can easily begin to understand the peril, plight, and frustration many Black Angelenos felt when the people who had sworn to protect them were set free after violating that oath. Understanding the mindset of the officers who beat King is the only avenue by which we can begin to comprehend those officers’ actions and, moving forward, the actions of police in society today.

Minimum standards for police training and the initial qualifications to be hired as a police officer in California were formalized when, in 1959, the state legislature created the California Commission on Peace Officer Standards and Training (POST) (“Peace Officer Standards”). As expected, in nearly six decades of existence, POST has made several changes to both its hiring standards guidelines and training standards requirements. Concerning an officer’s use of force against a noncompliant person, officially recognized models of a *force continuum* were not introduced until the late 1970s or early 1980s, roughly twenty years after the formation of minimum training standards in California (“Training Bulletin X”; Desmedt). Importantly, these two decades mark only the passing of time between the establishment of statewide training standards and the development of a recognized force continuum model, not when that force continuum model was adopted or implemented statewide or by individual police agencies in California.

With so many years passing between the formation of the commission that oversees police officer training in California, and the development and codification of a prescribed application of different levels of force, one is left to wonder by what standard police were taught and held to account before such standards were enforced, let alone existed. Unsurprisingly, the application of force against noncompliant people was a zero-sum game in which the officer's goal was to use "guerrilla warfare" tactics to survive the "violent game" of the streets in which there "are no rules" ("This Is How the NYPD Once Handled Violent Criminals"). Maintaining order and keeping the peace was achieved by overcoming the adversary's resistance by whatever means necessary and however the officer saw fit. After the creation and adoption of the force continuum, however, officers were taught instead to analyze people's behavior and match differing levels of noncompliance and aggressiveness with increasing levels of force. For instance, passive resistance, such as noncompliance with verbal commands, might be met with the application of a joint-lock-type control hold, while assaultive behavior, such as punching, kicking, or biting, might be met with the use of an impact weapon, such as a baton or metal flashlight, or an electronic control weapon. In addition to these more professionalized standards, which regulated the use of force and that force's justification via legal precedent, several landmark court cases have also shaped how officers now apply force when confronting noncompliance.

Two of the most important legal decisions affecting the use of force are *Tennessee v. Garner* and *Graham v. Connor*. The former prohibited an officer from using deadly force against a fleeing felon absent “a significant threat of death or serious physical injury to the officer or others,” requiring officers to weigh the “totality of circumstances” (*Tennessee v. Garner*). The latter established the standard of “objective reasonableness” when evaluating a claim of excessive force during “arrest, investigatory stop, or other ‘seizure’ of [a] person” (*Graham v. Connor*). These decisions, albeit addressing different circumstances in which force by an officer may be used, are the cornerstone for assessing whether an officer’s use of force was legal or illegal, just or unjust, reasonable or unreasonable. However, the legal finding of such an assessment may fall on deaf ears when, to the untrained person who has never experienced the dangers inherent to policing, the use of force appears overly violent or disproportionate to the initial noncompliance or assault. Moreover, officers are trained to recognize *furtive movements*—movements typically associated with a guilty nervousness—which are often connected to an attempt to conceal or destroy evidence, conceal or dispose of a weapon, or produce a weapon with which to assault the officer. To that end, a person without any police training who is reviewing a video of alleged police brutality may see only the subject of the enforcement action as fidgeting, but an officer would alert to that behavior and prepare for an imminent attack or attempt to escape.

Eight people's deaths at the hands of police between July 2014 and July 2016 received near-nonstop national news coverage. Without question, thousands more people were extrajudicially killed by police during that period of time, but the national news media focused most intently on these cases (Bier; "Fatal Force 2015"; "Fatal Force 2016"). From the boroughs of New York and metropolitan Chicago to suburban St. Louis and rural California, the police were accused repeatedly of singling out Black men and children, sometimes unarmed, and killing them extrajudicially. Some of these incidents involved civilians with guns, some without; some of these incidents involved police shooting civilians, some did not. Moreover, in some of these cases, specifically those concerning the deaths of Eric Garner, Michael Brown, Jr., and Tamir Rice, neither local district attorneys, state attorneys general, nor the United States Department of Justice indicted officers for their involvement or responsibility in these deaths. For example, the officers responsible for causing the death of Freddie Gray, despite being indicted and tried, were ultimately set free when the court determined the officers acted within the scope of their defined duties and responsibilities (Sanchez et al.; Sung and Shoichet).

The lack of indictments and convictions surrounding some of these officers' actions, when examined through a lens of disproportionately strict laws and sentencing guidelines for selling loose cigarettes, jaywalking, and possession of an allegedly unlawful knife, respectively, exacerbated already tense and troubled relations between communities and their police forces. It was

this frustration, buoyed by the death of Trayvon Martin, a Black child killed in 2012 by an armed private person in suburban Florida, that catalyzed the birth of the Black Lives Matter movement (Day; Luibbrand). Ironically, the large protests by supporters of Black Lives Matter have drawn equally large groups of police who often times wear riot gear, wield tear gas and smoke grenades, and arrive in armored vehicles, all under the auspices of keeping the peace. As one would expect, these circumstances have seen a worsening in relations between the public and the police, which both then use to substantiate and justify their behavior toward the other: the protesting public decries more militarized civilian law enforcement, while police argue their military-style weapons and armor are necessary for their protection from the violence that often goes hand in hand with protesting.

This back and forth over the armament and armor used by police as a defense against both violent and nonviolent protests about police activity and behavior is the result of years of ill-equipped police being put in a position of compromised safety, increasingly violent acts of civil disobedience, deteriorating race relations, the proliferation of firearms throughout the entire country, and the availability of surplus military equipment to police. While the aforementioned describes the evolution of the problem, it does nothing to explain the root of it.

## Definition of Terms

The term *peace officer* is used by the State of California to describe any duly sworn person employed in an enforcement capacity (California Penal Code, Part 2, Title 3, Chapter 4.5: *Peace Officers*). That term is used throughout this thesis, especially when it appears in a quote as part of a government document or law. Additionally, while there are many types of peace officers, such as police officers, deputy sheriffs, highway patrol officers, welfare fraud investigators, county probation officers, fire marshals, to name but a few, any use in this thesis of the word *police* is meant as wholly and totally inclusive of every type of peace officer. Last, the terms *peace officer* and *police (officer)* within this thesis are interchangeable.

Furthermore, while there exists a discussion about writing style and the capitalization of generic ethnic terms, that is, *black* or *Black*, and *white* or *White*, to clearly distinguish between the adjectival and nominal usage, generic ethnicities are capitalized in this thesis. Beyond issues of grammar, to demonstrate respect toward a group of people, whether generically defined by their phenotypical appearance or specifically defined by ethnicity or geographic origin, all words of ethnic identification are capitalized in this thesis. The only exception to this is quoted text from an external source.

## CHAPTER 2

## LITERATURE REVIEW

A cursory examination of the current relationship between the public and the police might cause one to believe the United States is a country devoid of the rule of law. With the *War on Drugs*, mandatory minimums and *three-strikes* laws, mass incarceration, and the school to prison pipeline, the United States currently has more than 2.3 million people locked in cages (Wagner and Rabuy). In absolute numbers, the United States has the largest incarcerated population on the planet, surpassing far more populous countries, such as China and India. As of 2017, both China and India's populations are more than four times larger than the population of the United States ("The World Factbook"). Moreover, the United States has the highest rate of incarceration worldwide, meaning its prison population will continue to grow at breakneck speed (Sanders; "United States of America"; Wagner and Walsh).

The uniquely American phenomenon of imprisoning so many people relative to our total population is the direct result of several generations of White supremacy couched in police state public policy. First, slavery was never truly abolished, only outlawed in its most recognizable form. Second, the War on Drugs was disguised as a national policy by which to disrupt the unfettered flood of drugs into America while actually being the vehicle by which the government targeted and disenfranchised large segments of several ethnic groups, the

working poor, and the impoverished so as to ensure those groups' continued status as second-class people. Third, mandatory minimums and three-strikes laws serve as a means for the state to keep people locked away for significant portions of their lives, eliminating decades of productivity that would have otherwise been spent acquiring resources, building wealth, and contributing to society. Last, the school-to-prison pipeline is the superhighway that funnels children from those aforementioned groups into the criminal justice system and snuffs out the flames of potential and opportunity in thousands of children's lives.

An extension of the oppressive and undemocratic American criminal justice apparatus is the probation and parole system, which all but guarantees recidivism by imposing upon so-called rehabilitated people a years-long, byzantine system of authoritarian personal monitoring, astronomically high fees, endless chemical tests, and arbitrary restrictions upon individual liberty. By trapping people of color and the poor—and, increasingly, the mentally and physically disabled—in a Möbius strip of crime and punishment, our society has effectively created a never-ending system of oppression that begets intentional and unintentional criminal acts as a means of survival. As of 2016, it is estimated that more than six million people in America have committed a felony and are disenfranchised voters (“Number of People by State Who Cannot Vote Due to a Felony Conviction”). Through the methodical and comprehensive stripping away of hope, opportunity, and franchise, America long ago began the not-so-slow march towards a less free, less just, less equal society.

*Governing Through Crime*  
by Jonathan Simon

The central theme of Simon's book centers on the creation of a perpetual state of fear and the government leveraging people's emotional reaction thereto. Experienced by various generations as the One-Drop Rule and Anti-Miscegenation Laws, the Red Scare, Reefer Madness, and Terrorist Threat Levels, the government has become well practiced in disseminating propaganda and furthering the agenda of the controlling administration. Examining the consequences of an increasingly criminalized society, Simon explores how our government slowly diminished and eroded people's liberties, sense of community, and belief in a naturally free and just modern society. Through this shift toward a more regulated democracy, the government, Simon argues, has substantiated and provided rationale for its claim of needing greater law enforcement capacity through ever-increasing crime rates and the exploding prison population (24-25, 277). This capacity, which includes greater demand for and access to tactical military gear, enforcement personnel, and surveillance, has, to no one's surprise, served to itself perpetuate a greater demand for more laws, as new ways to victimize people are devised by technologically savvy and resourceful criminals. The positive feedback loop that is governing through crime serves the enforcers at the profound and measurable expense of everyday people.

Whether it is mass incarceration and the prison industrial complex, disenfranchisement via felony convictions, or premature death via extrajudicial homicide by police, or execution via judgement and sentencing, there exists myriad examples of the complete failure of the multigenerational social policy of regulating free will (23-24, 141, 143). Indeed, *Governing Through Crime* is illuminating in its careful construction of the historical background behind an extremely prejudiced and easily manipulated responsibility to provide for the public welfare and secure people for those who would do them harm. Ironically, the rapid evolution of this officious posture has made the criminal justice system no longer the protector but the thing to be protected from.

*City of Inmates: Conquest, Rebellion,  
and the Rise of Human Caging in  
Los Angeles, 1771–1965* by  
Kelly Lytle Hernández

Kelly Lytle Hernández's work on incarceration in Los Angeles lays out significant and compelling arguments about America's law and order society and its later evolution into the criminalization of *others* and those people's subsequent state-sponsored victimization. This domestic policy, argues Hernández, results in the physical exclusion of entire ethnic groups from society. Her opening words, "Mass incarceration is mass elimination ... [and it] operates as a means of purging, removing, caging, containing, erasing, disappearing, and eliminating targeted populations from land, life, and society in the United States," immediately set the tone for what is a damning history of alienation, othering, and

exclusion (Hernández). After establishing early in her book that the War on Drugs and *Broken Windows Theory*-style policing were the primary catalysts for the mass incarceration of people of color, Hernández makes the case that these phenomena led to the criminalization of non-White culture and conditioned civilian law enforcement to alienate all non-White people by default.

Hernández also explores the role of settler colonialism and how, by design, such a policy seeks to “invade in order to stay and reproduce while working in order to remove, dominate, and, ultimately, replace the Indigenous populations.” Through this lens, historians can better understand the structural and institutional violence, racism, and bigotry that created the foundation for the mass incarceration and elimination of Indigenous Americans and enslaved Africans forcibly brought to the United States. This compulsion to dominate other groups was so strong that, in spite of the brief successes of Reconstruction, Black Americans experienced nearly one hundred years of oppression under the Jim Crow policies that followed the supposed-abolition of slavery. As a result of nearly four hundred years of state-sanctioned involuntary servitude, American society has today broadly become structured around and predicated upon White supremacy and the unequivocal rejection of non-White people (Hannah-Jones).

One of the consequences of criminalizing entire ethnic groups' mere existence is rapid and systematic dehumanization. Beyond diminished agency and crushing outcomes in the criminal justice system, people of color are historically disadvantaged in other areas of everyday life. For instance, mortality

rates in the United States for Black women during childbirth are more than three times that of White women (Martin and Montagne). Furthermore, in professional spaces, people of color who alter their names to sound more Western European in original are twice as likely to be called back for interviews than those who are more transparent about their ethnicity (Kang et al.).

Hernández's work successfully posits a national preference for whiteness, beginning with Spanish colonization and extending through modern times. As a current extension of its colonial past, the conquest and policing of non-White people has resulted in a horribly racist criminal justice system. Hernández' thesis poignantly connects the latest examples of nationally publicized police violence to what the Black community has been shouting for generations: "[A] stunning lethality remains bound to the caging of Black America."

*The Contested Murder of Latasha  
Harlins: Justice, Gender, and  
the Origins of the LA Riots*  
by Brenda Stevenson

As one of the most populous and diverse cities in America, Los Angeles has a long history of social conflict and civil disorder. From the Zoot Suit Riots in the 1940s to the Watts Riots in the 1960s to the Los Angeles Riots in the 1990s to the MacArthur Park rallies in the 2000s, Los Angeles routinely experiences generational upheaval and strife related to police brutality and racial struggle. Specifically, the 1992 Los Angeles Riots resulted from yet another occurrence of institutionalized racism and the othering of an entire ethnic group, which resulted

from two distinct and separate incidents exploding simultaneously within the Black community.

Not even two weeks after the brutal police beating of Rodney King, Latasha Harlins, a 15-year-old girl, was murdered in a convenience store in Southern Los Angeles (Stevenson). Eight months later, a jury found Harlins's murderer, Soon Ja Du, a Korean woman, guilty of voluntary manslaughter. The jury recommended Soon receive the maximum penalty of sixteen years' imprisonment. Judge Joyce Karlin, however, a Jewish woman from a wealthy Hollywood family who had, at that time, been appointed to the bench for less than a year, sentenced Soon to time served, fines, and community service (Stevenson, Tobar). Feeling outraged with Soon's sentence, scores of people—Black and White, poor and wealthy, and everyone in between—rebelled against the striking injustice meted out by Judge Karlin for the death of a young girl who would never see adulthood (Stevenson).

As a direct result of the total failure of the criminal justice system in punishing a child's killer, the entire Black community was incensed and made to reckon with the reality that their lives mattered less. The leniency that Judge Karlin afforded Soon cut to the core of the Black psyche, legitimizing the Black community's belief that their existence was seen as less valuable and that they were disposable. This realization of systematic inequality and subjugation is reinforced by the mass incarceration of Black and Latino people in America.

*The New Jim Crow: Mass Incarceration  
in the Age of Colorblindness*  
by Michelle Alexander

Michelle Alexander's powerful book paints a dark picture concerning the status of non-White people in present-day America. Describing "slavery, Jim Crow, [and] mass incarceration" not as separate and disconnected epochs but rather linked pieces of the same *settler colonialism* chain, Alexander makes clear the conscious and unconscious acts White America has undertaken to assert its supremacy over and domination of people of color. Following the Emancipation Proclamation and the Civil Rights Movement, mass incarceration, she argues, has become the latest iteration of the calculated and deliberate campaign to ensure the United States remains a country "founded as a [White] Christian nation" (Haselby).

Less than ten years after the signing of the Civil Rights Act and the end of Jim Crow, Richard Nixon launched his War on Drugs (Stevenson). Between 1925 and 1972, the federal and state prison population had only exceeded 200,000 people once during a brief period in the early 1960s. After this phenomenon corrected itself and the prison population fell below 200,000 people, the War on Drugs, begun in 1971, caused the federal and state prison population to sharply and immediately increase. By the early 1980s, just a decade after Nixon's War was declared, the prison population in the United States had doubled to more than 400,000 people. Another decade later, in the early 1990s, that number had doubled again, with more than 800,000 people imprisoned in the self-proclaimed

land of the free (The Sentencing Project). For the fifty years the federal government tracked the data, beginning in 1925, the number of incarcerated people in the United States of America had only topped 200,000 once. Today, having lived with forty years of the War on Drugs, America has more than ten times as many people locked behind bars (Stevenson; Wagner and Rabuy).

In addition to the War on Drugs, the Sentencing Reform Act, part of the larger Comprehensive Crime Control Act of 1984, created the United States Sentencing Commission. The Comprehensive Crime Control Act also led to a federal government crackdown on marijuana-related crimes, strengthened legislation regarding the seizure of property via civil forfeiture, and brought back capital punishment as a sentencing option for federal crimes (“Comprehensive Crime Control Act of 1984”). Whatever measure of White supremacy wasn’t accomplished by the creation of the War on Drugs was certainly achieved in 1984.

The institutionalized and normalized oppression created by the Comprehensive Crime Control Act caused Black people, Latinos, and the poor to experience a new type of Orwellian misery that was only imagined just a generation before. Through the United States Sentencing Commission’s Federal Sentencing Guidelines, ostensibly innocuous crimes, such as driving a car across state lines while in possession of marijuana, were paired with lengthy mandatory sentences (United States Sentencing Commission). Furthermore, marijuana was classified as a Schedule I narcotic, identified as having no

“accepted medical use in treatment in the United States” and “a lack of accepted safety for use of the drug or other substance under medical supervision” (“Controlled Substances Act”). In the eyes of the federal government, marijuana was as addictive and useless as heroin, methaqualone, LSD, and ecstasy (DEA / Drug Scheduling).

While these criminal justice policies are overzealous and outwardly racist, the significance of the federal government’s revival of the death penalty cannot be overlooked. By restoring officially sanctioned murder—that is the intentional taking of a life—the federal government again acknowledged the “influence of race in the death penalty” (Stevenson).

### Conclusion

As the second largest city in America and an incredibly diverse region steeped in history and rich with culture, Los Angeles has been the seat of countless uprisings and quashed rebellions. One of the last frontiers of the continental United States, Los Angeles’ history as a twice-colonized place has resulted in White supremacy and disenfranchisement being baked into its DNA. Keeping pace with increasingly complex societal norms and structures, those tools of oppression were transformed into institutionalized racism, systematic othering, and government-orchestrated alienation.

Despite our cultural achievements and advancements, America is far from declaring itself a post-racial society. It is true that entire towns no longer celebrate

lynchings and families no longer take smiling photographs beneath strange fruit, but men and women with stars and shields pinned over their hearts still daily execute people of color out of fear and indoctrinated dehumanization of *others*. Those who avoid an early death can spend years—sometimes decades—rotting away in small cages, and those who escape the criminal justice system altogether spend their entire lives hoping neither they nor their loved ones find themselves staring down the barrel of a gun.

## CHAPTER 3

### A DECADE OF VIOLENCE

1990s Los Angeles saw some of the most lasting and brutal incidents of violent crime in the modern history of the United States. First came the death of Latasha Harlins, which occurred less than two weeks after the beating of Rodney King. A year later were the Los Angeles Riots, which followed the not guilty verdict in the Rodney King trial. Several years later, Los Angeles experienced the North Hollywood Shootout and Rampart Division C.R.A.S.H. scandal. Together, these incidents precipitated an atmosphere of endless fear and sustained suffering. Throughout these turbulent years, violence in Los Angeles was exacerbated by the death and destruction caused by the proliferation of firearms and the tail end and emerging repercussions of the crack epidemic (“1985–1990”; “Fact Sheet”; Murch 169-172; “Statistics”).

Latasha Harlins died on March 16, 1991, at the age of 15, the victim of a gunshot wound to the head. The shooter, Soon Ja Du, a Korean-American convenience store owner, thought Harlins was stealing a bottle of orange juice priced at \$1.79. Soon confronted Harlins and grabbed her backpack, prompting Harlins to punch Soon several times. Soon retreated and threw a stool at Harlins, later saying she feared for her life. As Harlins abandoned the orange juice near the counter and began to leave the store, Soon reached behind the counter area

and retrieved a firearm. At a distance of about three feet, Soon fired the gun at Harlins, hitting Harlins in the back of the head and killing her (People; Stevenson xv-xvi).

Eight months later, on November 15, 1991, Soon was found guilty of voluntary manslaughter but found not guilty of the more serious charge of second-degree murder. The jury, county probation office, and prosecutor recommended Soon serve the maximum punishment, sixteen years in prison, but the presiding judge instead ordered Soon to serve five years probation, complete four hundred hours of community service, and pay a five hundred dollar fine (People; Stevenson xvii). The leniency of Soon's sentence enraged the Black community, further straining racial tension and substantiating fears over worsening gun violence and a criminal justice system incapable of doing anything about it. In early 1992, the festering resentment and simmering rage of the Black community would bubble to the surface and create one of the darkest periods of Los Angeles' history.

Immediately following the verdict to acquit the officers who beat Rodney King, Los Angeles descended into a state of chaos. What at first appeared to be heavy handed cops beating a drunk driver who refused to stop soon turned in to a racially charged incident of willful police brutality after it was discovered Laurence Powell, one of the officers involved in the beating, had earlier that night referred to a "group of Blacks involved in a dispute" being reminiscent of scenes from the 1988 movie *Gorillas In The Mist* (Linder). Powell's dehumanization of

“Blacks,” admittedly intentional baton strikes to King’s face and head, and indifference to human dignity and personal integrity became painfully apparent when he was overheard at the hospital where King was being treated comparing his baton strikes to home runs while talking with other officers (Alpert, et al. 469-470). The outrage and consternation felt by many Black Angelenos upon hearing the King verdict, eerily reminiscent of the Jim Crow era where justice nearly always eluded the Black community, combined with the killing of Latasha Harlins and the lack of justice the Black community felt in Soon Ja Du’s sentencing, were the perfect storm that resulted in mass rioting and violence. Indeed, on the day the riot began, *no justice no peace met by any means necessary*.

At the height of the 1992 Los Angeles Riots, in apparent retaliation for Harlins’s death and Soon’s light sentence, thousands of Korean-owned businesses were vandalized. One of those businesses was Soon’s Empire Liquor Market, which, after being lit on fire and subsequently shuttered, was never reopened (Castro; McMillan). Additionally, shortly after the King verdict was delivered, a news helicopter captured the beating of a truck driver named Reginald Denny, who had unintentionally driven into the active riot. Denny was pulled from his truck by a mob of Black men, beaten with a claw hammer, and hit in the head with a cinderblock, which rendered him unconscious. His injuries included ninety-one skull fractures, some of which put pressure on his brain; a dislocated eyeball, due to an obliterated eye socket and sinus cavity; and uncorrectable brain

damage, permanently affecting his speech and movement (Gray; “1992 Civil Unrest”).

One of the participants in the Denny incident, Lance Parker, rode a motorcycle into the riot area and stopped at Denny’s driverless truck as it sat idly in the road. In an unsuccessful attempt to cause further mayhem, Parker fired a shotgun at the gas tank of Denny’s truck, hoping to cause the tank to explode. When the gas tank remained intact, Parker mounted his motorcycle and rode away, leaving Denny lying on the ground a few feet away in a state of near death (Newton). While Parker neither aided nor harmed Denny, his attempt to proliferate chaos and disorder by firing a shotgun at the gas tank of Denny’s truck, as well as at gasoline pumps at nearby gas stations, was just one more example of the mayhem and senseless violence intensified by firearms (“Man Gets Probation”).

In a sluggish response to the breakneck speed of the rioters’ escalation of violence, then-Governor Pete Wilson activated the California National Guard, ordering two thousand troops into Los Angeles. Less than twenty-four hours later, troops had secured various parts of the city most devastated by rioters. With the cities of Inglewood, Long Beach, and Pomona declaring a state of emergency soon after, each experiencing rioting, looting, and violence as the riot spilled over from Los Angeles, a total of six thousand national guard troops were activated. Additionally, President George H. W. Bush ordered into Los Angeles between three and four thousand federal troops from the regular Army and Marine Corps,

as well as another thousand federal law enforcement personnel. In the end, roughly ten thousand soldiers and federal civilian police officers were activated to restore the peace and quell the violence that shook a deeply divided, racially charged Los Angeles (“LEGACY”; “The L.A. Riots”).

Almost five years after one of the most violent disturbances in Los Angeles’ history, two gunmen, using fully automatic and semi-automatic rifles, semi-automatic pistols, and homemade ballistic armor, robbed the North Hollywood branch of Bank of America. Both the police and the crooks fired thousands of rounds of ammunition in the ensuing firefight, leaving both gunmen dead and injuring eight civilians and twelve officers. In the aftermath, the Los Angeles Police Department (LAPD) conducted an exhaustive review of their policies and tactics to prevent a future incident in which they were so profoundly outgunned and outmatched (Parker). This process included identifying manpower deficiencies, weaponry selection and availability, use and availability of body armor and ballistic shields, and tactical maneuvers.

In 1968, after the Watts Riot a few years earlier, the modern version of LAPD’s Special Weapons And Tactics team was established as a platoon of officers within Metro Division. Growing then from 70 to 200 officers, Metro Division organized fifteen four-person teams to handle SWAT incidents in an effort to meet its new responsibilities. Several years later, LAPD’s SWAT team became a full-time assignment, ending a brief period when SWAT was a collateral assignment for officers working in a full-time patrol capacity or in an

investigative or administrative role (“S.W.A.T.”; “History”; “Metro Division Organization”). Despite that significant increase and specialization in personnel, responding officers were still at a disadvantage in overcoming Emil Mătășăreanu and Larry Phillips, Jr.’s assault.

On the day of the shootout, February 28, 1997, patrol officers saw Mătășăreanu and Phillips entering a bank carrying rifles and wearing ballistic armor; however, neither Mătășăreanu nor Phillips saw the officers (Coffin 38). Using a standard strategy in responding to bank robberies, those officers contacted their dispatcher, called for more officers, and established a perimeter around the building. As Mătășăreanu and Phillips left the bank, emerging with a duffel bag full of money, officers confronted them. The robbers began shooting their automatic rifles and other semi-automatic firearms, pinning the officers down with more than one thousand rounds of armor-piercing ammunition from their superior weapons (Coffin 38-39; Orlov). Several officers were injured after the first few minutes of what would become a nearly hour-long battle when one of the robbers deployed an automatic rifle with a hundred-round drum of ammunition (Coffin 38; Hickman; Robinson 13). The officers took cover but had only pistols, revolvers, and shotguns with which to return fire, all woefully ineffective at penetrating the robbers’ body armor or forcing them into a defensive position in response to suppressive fire (“1997”; Coffin 38; Hickman; Nally; Parker; Robinson; Verklan).

At the time of the North Hollywood Shootout, no LAPD patrol officers were issued rifles. In an act of desperation, patrol officers commandeered the cache of rifles and ammunition from B&B Sales, a nearby gun store, as they waited for SWAT officers to arrive (Malinowski 19; Robinson 13). When the robbery had finally ended, twenty officers and civilians had severe injuries (“1997”; Hickman; Malinowski 19; Nally; Robinson 18; Parker; Verklan).

The SWAT officers, who had at their disposal AR-15 rifles—more accurate and more effective variants of the military-grade M16 rifle, vastly superior to the patrol officers’ handguns and shotguns—were able to more successfully engage Mătăsăreanu and Phillips by making precise shots in areas not covered by armor, such as their hands and feet (Coffin 39; Hickman; Nally; Robinson 17; Verklan). SWAT officers also commandeered an armored truck and used it to transport injured officers and civilians away from the area, since the robbers’ bullets would have ripped through an ambulances’ side panels and potentially wounded paramedics or other first responders (Blevins; Malinowski 19; Orlov). As a result of this deadly firefight, which many officers, themselves military veterans, argued might have ended much sooner with access to better weaponry, LAPD patrol officers were given access to surplus M16 rifles from the Army. Initially, those rifles were kept by sergeants and handed out to officers on an as-needed basis, but as more officers completed a rifle marksmanship training program, the rifles were issued to individual officers for patrol tours (Coffin 40; “LAPD Gets”; “LAPD museum”; LaMotte; Malinowski 19).

The last major event that brought extreme violence to the streets of 1990s Los Angeles was the Rampart Division's C.R.A.S.H. unit; however, this time, the crooks with guns were police officers. What started as a deadly road rage incident on March 18, 1997, a result of Rampart C.R.A.S.H. Officer Kevin Gaines brandishing a gun at an off-duty LAPD officer, precipitated the unraveling of a vast conspiracy to run a de facto criminal street gang comprised of officers of the Los Angeles Police Department. Using taxpayer-funded weapons, equipment, and cars, these corrupt officers leveraged their special access and police powers to falsify reports and prey on other, weaker criminals, ultimately inflicting even greater harm on the community they were charged with protecting than their criminal victims could have (Boyer; Cannon; Lait; "Rampart Scandal").

Some eight months after the death of Gaines, a suspicious bank robbery led to the arrest of the bank manager's boyfriend, Rampart C.R.A.S.H. Officer David Mack. Investigators quickly zeroed in on C.R.A.S.H. Officer Rafael Perez, one of Mack's old partners, after learning Perez and Mack had spent the weekend following the bank heist in Las Vegas, gambling away thousands of dollars (Boyer; Cannon; "Rampart Scandal"). Remarkably, just several months after the bank robbery, even more scrutiny would come to the C.R.A.S.H. unit and their criminal activities.

On February 26, 1998, Rampart C.R.A.S.H. Officer Brian Hewitt beat and choked a handcuffed gang member so viciously that the gang member needed acute medical care at a hospital. Medical staff would later report the gang

member's injuries to LAPD detectives, intensifying investigators' scrutiny of the Rampart C.R.A.S.H. squad (Boyer; Cannon; "Rampart Scandal"). Ultimately, almost eighteen months after Gaines' death, Perez was arrested and charged with grand theft and forgery for his taking of cocaine seized as police evidence, as well as possessing that cocaine for sale. As part of Perez' plea agreement, he detailed the extent of the misdeeds committed by Rampart C.R.A.S.H., implicating scores of officers as corrupt (Boyer; Cannon; "Rampart Scandal").

The aforementioned events of 1990s Los Angeles were unprecedented in scale, magnitude, and frequency. Encompassing periods of scandal, corruption, police brutality, racial tension, rampant drug use, and unchecked gun violence, 1990s Los Angeles saw an astronomically high number of murders. As a result, Angelenos had seen both the deployment of the California National Guard and paramilitary SWAT officers onto their streets. Many Angelenos were grateful to see these official and unofficial soldiers used to regain order and take back the city; however, they could not have known or predicted how these incidents would later lead to a rapid militarization of police, in their hometown and across the entire country (Malinowski 18-19).

## CHAPTER 4

## POLICE TRAINING: THEN AND NOW

As late as the 1960s, some law enforcement agencies, particularly in smaller jurisdictions with proportionately smaller budgets, had abysmally inadequate training standards for prospective peace officers, some requiring only ten hours of instruction (Encyclopedia 358). Now, fifty years later, the California Commission on Peace Officer Standards and Training requires each prospective peace officer receive no less than 664 hours of training across forty-two different learning domains before becoming duly sworn law enforcement officials. Those learning domains cover topics ranging from cultural diversity to the use of force and everything in between (“Student Workbooks”). Most peace officer training academies, however, expand upon the commission’s core curriculum and add further instruction in various topics in policing, with the average being an additional two hundred hours (“Peace Officer”). These extra hours allow for more training in certain core competencies, such as marksmanship and firearms maintenance, emergency and nonemergency driving, and arrest and control techniques. Furthermore, some academies also teach specialized job skills for agencies with unique duties, such as developing a functional command of the Spanish language, advanced first aid techniques, and wilderness survival.

To test police recruits and ensure they have absorbed the required foundational knowledge needed to keep the peace and maintain order,

academies administer both written and scenario-based practical exams (Encyclopedia 359). After completing their coursework and passing any required exams, recruits graduate with an academy certificate of completion, making them eligible for employment as police trainees in any California law enforcement agency. To prevent individuals from being hired as police officers after a long break between finishing an academy and subsequent employment, presumably to preempt bad policing as a result of stale knowledge or skills deficiencies, academy certificates of completion expire three years from the date of issuance. If the holder of an academy certificate of completion does not become employed as a police officer within that three-year period, they may renew their eligibility by taking the POST Requalification Course anytime between the three-year and six-year anniversaries of original certificate issuance (“POST Requalification”). Failure to gain employment as a peace officer after completing a requalification course requires that person to start the process anew if they still wish to work as an officer.

Those who find employment after graduation—or those conditionally hired as police officers pending successful completion of an academy—are required to complete a new-officer training program with their new employers. The amount of time required to complete a *field training* or *police training program* varies between agencies, but POST mandates new officers spend no less than ten weeks in a field training program and fifteen weeks in a police training program before being assigned to independent uniformed patrol functions without direct

and immediate supervision (California, “Field Training”; California, “Police Training”; “Regulation 1005”). Unique to LAPD is a one-year training program, immediately following graduation from their academy (“JoinLAPD”; “Police Officer”). All other POST-accredited California law enforcement agencies use a shorter training program model, which lasts between fourteen and twenty-two weeks (Gaines 130; “Field Training Officer”; “Law Enforcement Trainee”; Santa Rosa Police). While many police officers now begin their careers having between ten and eighteen months of formal training, no professional standard for field training existed before the early 1970s (Encyclopedia 359-360; Gaines 129-134).

The first field training program was officially launched by the San Jose Police Department in 1972 (Encyclopedia 359, Gaines 129). SJPD’s field training and evaluation program was created in an attempt “to bridge the gap between the academy and the practitioner” (Gaines 129). Borne out of the inability to terminate a rookie officer who showed “a lack of responsible attitude” and was later involved in a fatal incident, SJPD’s managers sought a standardized, methodology-driven rating system to evaluate new employees and determine suitability for police work (Gaines 133). Widely praised throughout the national law enforcement community, San Jose’s model would quickly be adapted by agencies through the country, as well as further refined and enhanced by SJPD over the following years (Gaines 133).

In addition to the lengthy initial training process mandated by POST, new police officers must complete twenty-four hours of continuing professional

training every two years. As of 2002, twelve hours of that training must cover specific topics, known as perishable skills. While the method by which law enforcement agencies or individual officers satisfy the perishable skills training requirement varies, this twelve hours must cover four hours each of arrest and control techniques, driver training, and the use of firearms (“Regulation 1005”; “Perishable Skills”). One way in which POST recognizes satisfactory completion of continuing professional training is through the completion of specialized training courses, such as the POST-certified Basic SWAT Course for initial certification as a special weapons and tactics operator or POST-certified SWAT refresher training (California, “SWAT Operational Guidelines”; “Commission Procedure D-2”).

Signed into law in January 2004 and enacted on July 1, 2005, the California legislature required POST to “develop and disseminate guidelines and standardized training recommendations for all law enforcement officers, supervisors, and managers whose agency assigns them to perform, supervise, or manage Special Weapons and Tactics (SWAT) operations” (Cal. Penal Code §13514.1). This manual defines SWAT teams as a “designated group of law enforcement officers who are selected, trained, and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders...” (California, “SWAT Operational Guidelines”). POST’s SWAT guidelines recommend competency in areas covering a range of tactics and specialized disciplines, such

as deployment from armored vehicles and from aircraft, breaching doors and porting windows, recognizing and defeating booby traps, precision long-range rifle techniques, crisis negotiation, and more (California, "SWAT Operational Guidelines"). Prior to POST certifying a basic and refresher SWAT course, many agencies sought outside instruction from military experts, working with such groups as GSG-9, a special forces branch of Germany's federal police, the *Bundespolizei*; GIGN, a special forces branch of France's national police, the *Gendarmerie Nationale*; and the 22nd Special Air Service, the active-duty regiment of British Army special forces ("S.W.A.T.").

While many law enforcement agencies utilize SWAT teams, few jurisdictions can financially and logistically support their own on a full-time basis. One example of collaborative SWAT operations is the San Luis Obispo Regional SWAT team, which is composed of officers from seven different police agencies ("Regional SWAT"). Having only a fraction of the ten thousand officers that comprise LAPD and its \$1.189 billion annual budget, the seven police agencies participating in the San Luis Obispo Regional SWAT team share employee pay and benefits, training costs, and equipment. Additionally, the regional SWAT team allows for members to provide staffing proportional to their on-duty patrol teams and overall department size during SWAT callouts ("Office of the Chief"). Despite having obvious benefits, part-time SWAT teams have certain inherent limitations.

One of the drawbacks of a regional, part-time SWAT team is greater difficulty in completing mission-specific training for team members, as their

primary job function is generally patrol or investigation. Another obstacle in containing emergencies is delayed deployment, since officers from different jurisdictions need to travel to a rally point before being able to engage in their duties. Last, in a regional team, officers need more time to learn each others' quirks and familiarize themselves with one another. Officers who work together for several years, whether assigned to different duties or as patrol partners, are able to quickly build trust and learn each others' strengths and weaknesses; however, in a regional team of relative strangers, this process takes much longer. Furthermore, one of the major consequences of the proliferation of the SWAT model is a tendency for SWAT skills, tactics, and mindset to trickle into basic patrol situations. The most concerning of these is the SWAT operator's mindset and the subsequent replacement of standard patrol officers with paramilitary tacticians.

There is no logical basis for an argument against the police using tactics, weapons, and equipment that maximize their safety, and in the law enforcement community, the famous axiom about bringing a knife to a gunfight is taken quite literally ("Origin"). As such, no police officer would ever wish to find him or herself in an armed confrontation against an opponent with superior firepower. Nevertheless, officers must continuously train their minds and bodies to react to threats, both perceived and real, and respond accordingly. This psychological preparation for potentially life-threatening battle begins in the academy, with recruits indoctrinated into a perpetual war of us versus them, cops versus

everyone else, good versus bad. The rituals of developing unyielding trust in other officers, persevering through pain, and fighting against a common enemy all work to cement officers' beliefs that they must be ready at any given moment to defend their lives or the lives of another and that evil actors lie in wait behind every corner.

In 1995, Lt. Col. Dave Grossman, a retired Army psychologist, authored a book titled *On Killing: The Psychological Cost of Learning to Kill in War and Society*. In his book, Grossman explores *killology*, "the scholarly study of...the reactions of healthy people in killing circumstances (such as police and military in combat)" ("Killology"). Widely praised by the military establishment and law enforcement worldwide, Grossman's book has been translated into several languages and is required reading at the FBI and DEA academies, West Point, and other military academies (Freeman et al. xxi; Grossman). Despite receiving widespread accolades for authoring what may be the first scholarly work on killing, Grossman's *On Killing* has perpetuated and given credence to the unsubstantiated collective fear throughout the law enforcement community that police are in imminent danger of being violently assault at every turn. When officers' unfounded belief that evil forces waiting to harm or kill them lurk in the shadows is paired with liberally permissive laws concerning the application of force and justifiable homicide, the public is right to be concerned about civil rights, police accountability, and the militarization of police.

## CHAPTER 5

CALIFORNIA PENAL CODE AND  
NATIONAL CASE LAW

In 1872, the California legislature wrote into law the mechanisms used in maintaining order and keeping the peace. These laws defined such criminal acts as resisting, delaying, or obstructing an officer; assault and battery; and acts causing serious and great bodily injury. Additionally, the California Penal Code established individuals' duty to submit to arrest, the right of peace officers to use force in the making arrests, the lack of a requirement for police to retreat from the exercise of their duties, and certain situations in which homicide by peace officers was justifiable. More than a hundred years later, the courts were presented with cases in which individuals sought to rein in police powers, establishing bright-line rules regarding the enforcement of some of these penal codes. Nevertheless, even now, as it did then, the law provides police broad authority and discretion in enforcing the rules of our society.

When an officer makes the determination to arrest or detain an individual, that person must submit to the officer's authority (Cal. Penal Code §834a). Any noncompliance, however slight, could result in that person being charged with the misdemeanor of resisting, delaying, or obstructing that officer (Cal. Penal Code §148(a)(1)). No matter the level of resistance, but especially if a person's resistance is so aggressive or violent as to injure that officer, the officer may use

a reasonable amount of force to overcome that resistance and effect an arrest (Cal. Penal Code §835a). Even more, in overcoming resistance, no officer shall be deemed the aggressor or lose their right to self defense (Cal. Penal Code §835a). Paradoxically, despite overcoming another's resistance, potentially initiating the physical contact, the law specifically protects officers from being deemed the aggressor

Often times, when a person resists arrest and an officer uses force, the amount of force is limited to a pain compliance technique applied through a joint lock or takedown maneuver. However, as resistance escalates from passive noncompliance to active resistance to assaultive actions to life-threatening behavior, the amount of force the courts have determined is reasonably necessary for officers to overcome that resistance or preserve their life or the life of another depends on a myriad of factors. Some of those factors are the officer's physical size and strength relative to the person resisting; confidence in their abilities and effective application of attempted arrest and control techniques; whether the person resisting is armed, with a firearm or other any other weapon, improvised or traditional; the seriousness of the offense; the availability of backup, if any; and the weapons available to the officer, if any ("Basic Course Workbook Series, Student Materials, Learning Domain 20: Use of Force"). If an officer feels their life or the life of another is in imminent danger, or that a dangerous felon would escape, there is a subjectively low threshold for using deadly force.

Serious bodily injury is defined as “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” (Cal. Penal Code §243(f)(4)). This provision of law, coupled with no requirement for officers to retreat, as well as protection from being “deemed an aggressor...by the use of reasonable force,” gives police wide latitude in selecting a force option in encounters with noncompliant individuals (Cal. Penal Code §835a). Furthermore, officers are not required to be assaulted before reacting to an anticipated or suspected threat of noncompliance or violence, meaning an officer may use reasonable force when they can articulate an imminent threat (“Basic Course Workbook Series, Student Materials, Learning Domain 20: Use of Force”).

It is important to note that the terms *imminent threat* and *immediate threat* are neither the same nor always interchangeable. In both standard English dictionaries and legal terms, *imminent* means “impending” and *immediate* means “occurring now” (*Sam v. Commonwealth*; “Immediate”; “Imminent”). An example of an immediate threat is a person pointing a handgun at an officer; an example of an imminent threat is a person holding a handgun by their side, pointing it at the ground. While the first example presents a clear threat to the officer’s safety, the second example is no less dangerous or threatening, as a person can raise their arm and contract their finger’s muscles in only a fraction of a second. Put

another way, with human reaction time to visual stimuli averaging about one-fourth of one second, an officer would just have just processed what was happening—but otherwise not yet reacted—by the time a person raised their arm from their side and squeezed the trigger (Backyard Brains “Experiment”). Moreover, this temporal dynamic of reacting to imminent threats that nearly instantaneously become immediate threats does not factor in the startle response, which can add another tenth of a second to reaction time (Eaton). Delays in reaction time notwithstanding, being shot with a handgun would meet the threshold of the injuries described in California Penal Code §243(f)(4), legally justifying an officer’s use of deadly force (Cal. Penal Code §196 and §835a).

Given these circumstances, one can better comprehend how there seems to be frequent instances of police shooting unarmed people, people with knives, and people with fake or imitation guns; school police officers slamming students onto the ground; and police repeatedly striking with batons noncompliant people who are also under the influence of alcohol or drugs. In such situations, the officer arguably acts as they were trained and uses force “in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty” (Cal. Penal Code §196). Understanding the legal framework in which officers deploy arrest and control techniques and use force against those who resist them does not completely and absolutely justify officers’ actions or alleviate them from the burden of responsibly wielding such power.

During the 1980s, in an effort to restrain the police from seemingly overly aggressive tactics and to prevent circumventing due process by killing people before their opportunity to stand trial, the United States Supreme Court made two rulings that had a profound impact on the use of force. These two decisions, *Tennessee v. Garner* and *Graham v. Connor*, both Fourth Amendment issues, are now taught to every police recruit and comprise the core tenets of use of force curriculum. Occurring in 1974 but not ruled on until 1985, the *Tennessee* decision added into an officer's force options assessment the totality of circumstances (*Tennessee v. Garner*). Occurring in 1983 but not ruled on until 1989, the *Graham* decision added the standard of objective reasonableness to the evaluation of an officer's use of force (*Graham v. Connor*).

*Tennessee* is most clearly reflected in the aforementioned criteria assessed by an officer in determining an appropriate and legal amount of force to use; *Graham* established a test by which courts could objectively scrutinize an officer's actions. The test prescribed in *Graham* considers perspectives of other reasonable officers with similar training and experience; limiting the test to only the facts known to the officer at the instant the decision was made to use force, not "20/20 hindsight;" the circumstances of the encounter, "without regard to the officer's underlying intent or motivation;" and whether the officer's actions were legal as of the time of the incident, preventing future allegations of unlawfulness

*ex post facto*.<sup>1</sup> The last criterion in the *Graham* test is whether the officer felt a “sufficiency of fear,” which is the final tool the court has in preventing police from using force against people simply because the officer thinks they deserve it (“Basic Course Workbook Series, Student Materials, Learning Domain 20: Use of Force”).

It is important to note that the *Graham* test ignores officers’ beliefs and motivation in using force, so long as the force was otherwise reasonable. This is significant because an officer who is determined to have racist, misogynist, homophobic, or other incompatible beliefs can still be found to have used reasonable force. For instance, an officer who is known by their peers to be a member of a hate-based racial supremacy group would be justified in using deadly force against a person of a different ethnic background who was holding a knife and creating an imminent danger to the officer. Whether this hypothetical officer espouses racist ideas and beliefs is irrelevant to the threat presented by a knife-wielding suspect.

In summary, there exists a relatively low bar for an officer’s use of deadly force, and even feigned noncompliance can result in less physically traumatic but still unpleasant or painful uses of force. Studying these facts, we can begin to comprehend the seriousness of the issue of the use of force and the solid legal footing officers enjoy in its application. As such, when officers are confronted by

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<sup>1</sup> A legal term, translated from Latin, meaning “after the fact.” Article I, Section 9 of the United States Constitution prohibits Congress from passing any “ex post facto” laws, and Article 1, Section 10 prohibits states from passing any “ex post facto” laws (“ex post facto”, US Const. art. 1, sec. 9; US Const. art. 1, sec. 10).

protestors pelting them with rocks, children playing with toy guns that have no safety-colored painted tips, mentally ill people who unwittingly grab at officers' weapons during a fight, or any other superficially dangerous situation where an officer could easily articulate an imminent threat to their life or the life of another, bad things happen quickly. It is no wonder, then, that officers rationalize the need for more powerful weapons, more resilient body armor, and more fortified vehicles. In their eyes, they are constantly under attack in an increasingly dangerous, less understanding, more hostile world. The modern officer sees the world as *us versus everyone else*.

## CHAPTER 6

THE MILITARIZATION OF CIVILIAN  
LAW ENFORCEMENT

In 1872, the California legislature codified the foundations of civilian compliance with police action. More than one hundred years later, innovations in weapons and ammunition technology, as well as the seemingly unstoppable influx of military-grade weaponry not intended for civilian use—have outpaced the speed of revisions and additions to the California Penal Code.

Understandably, as the 1990s saw more dangerous weapons, more deadly ammunition, and stronger body armor paired with a mass proliferation of firearms and explosives, police more frequently found themselves on the defensive.

In the early 1990s, Congress authorized the Department of Defense to transfer surplus military equipment to state and federal law enforcement agencies for the purpose of fighting the War on Drugs. This scheme was known as the 1208 Program and continued until the signing of the National Defense Authorization Act for Fiscal Year 1997. The later bill allowed the Department of Defense, under section 1033 of that act, to expand their surplus military equipment program to all law enforcement agencies. This new program was administered by the Law Enforcement Support Office and was managed by the Defense Logistics Agency. With the passage of the 1997 law, Congress allowed local police to obtain military equipment for general law enforcement duties, a

significantly broader scope than the more narrow War on Drugs. Specifically, through Section 1033, the Department of Defense was permitted to transfer surplus military equipment to law enforcement agencies for any “bona fide law enforcement purpose[s]” (Wofford).

Also in the mid-1990s, the United States Department of Justice offered California access to a newly created pilot program administered through its Bureau of Justice Assistance. Similar in scope to the Department of Defense’s 1033 program, the Department of Justice program was created for “counter-drug” purposes, also allowing California police to obtain surplus military equipment. In 2009, Congress again passed the National Defense Authorization Act and, under Section 1122 of that act, broadened the scope of the Department of Justice program to include issues of homeland security and emergency response. Since the early 1990s, these federal grant programs have transferred more than 6 billion dollars’ worth of equipment to law enforcement agencies nationwide, and more than 160 million dollars’ worth of that equipment to law enforcement agencies in California (Musgrave et al., Andrzejewski and Smith, Law Enforcement Support Office). Despite the incredible value of equipment attached to these grant programs, California police have managed to utilize even more federally based programs with which to acquire military-grade weapons and other nonlethal equipment.

In addition to the programs administered by the Departments of Defense and Justice, the Department of Treasury also offers local police access to a

program where money and property seized through the prosecution of crimes is distributed back to law enforcement agencies. The Department of Treasury allows money disbursed through this program to be used by police to purchase “body armor, uniforms, firearms ... electronic surveillance equipment, [*and*] vehicles (e.g., patrol and unmarked vehicles)....” (Department of Treasury, “Equitable”). However, the Equitable Sharing Program explicitly forbids local police from purchasing “tracked armored vehicles; weaponized aircraft, vessels, and vehicles of any kind; firearms of .50-caliber or higher; ammunition of .50-caliber or higher; granade launchers [*sic*]; bayonets; and camouflage uniforms” (Department of Treasury, “Equitable”).

Last, the Department of Homeland Security awards grants yearly to local, state, and federal police, and these grants have totaled more than one billion dollars each year. The DHS grant program aims to minimize the United States’ exposure and susceptibility to terrorist attacks by way of threat assessment and hazard identification, as well as to support training exercises that prepare first responders to manage and mitigate terrorist attacks. Both arms of this grant program allow grant recipients to purchase firearms, ammunition, vehicles, and body armor as part of their preparation for eventual terrorist attacks (Department of Homeland Security, “Fiscal Year 2016”).

With hundreds of millions of dollars in tactical equipment, vehicles, and supplies being transferred to local police each year, it should come as no surprise that departments big and small are now in possession of high-powered

rifles and load-bearing ballistic vests, thermal and night vision cameras, and armored personnel carriers and mine-resistant vehicles. For roughly twenty-five years, the federal government, through its military apparatus, has gifted weapons and equipment that local police have found to be traditionally cost prohibitive to acquire. As a result of Uncle Sam's generosity, which is, more accurately, tax dollars repurposed from defense budget expenditures to local governments, city cops and deputies throughout the United States have slowly but systematically acquired the most lethal weapons in the history of the world.

## CHAPTER 7

### CONCLUSION

As more firearms of increasingly deadly accuracy and destructive power find their way into the hands of criminals, the police have rightfully demanded their selection of weapons keep pace. Just as the public would not expect a firefighter to rescue people from a burning building without turnout gear or a breathing apparatus, police are not expected to rescue hostages or stop active shooters without firearms or body armor. However, the days of crooks using antique .22-caliber rifles and six-shot revolvers recovered from a deceased ancestor's effects are long gone. Today, with patchwork legislation throughout the United States, military-grade fully automatic and semi-automatic rifles, shotguns, and pistols have become both readily accessible and commonplace. With an average of about 2.5 sworn officers per 1,000 inhabitants, even small cities and towns can be quickly overwhelmed by skilled, armed crooks and organized crime ("Crime in the U.S. 2011"; "Police Officer to Population Ratios"). As a matter of practicality, our society is less safe when the bad guys have the same guns as the police, or more of them.

In the after-action report following the North Hollywood Shootout, LAPD officers described being pinned down by the bank robbers' automatic weapon fire, having access only to revolvers and pump-action shotguns to defend themselves with and return fire. Not until the SWAT team raided a nearby gun

store were officers able to acquire equivalent weapons to those used by Mătăsăreanu and Phillips (Coffin 39; Hickman; Nally). Twenty-five years later, the landscape has changed dramatically. Today, within the law enforcement community, it is expected people committing violent crimes will have firearms or other deadly weapons. From carjackings to “dope rip” robberies to burglaries and home invasions, there have been many more homicides as a result of many more guns (Duggan 1112). When more tragic and destructive events like school shootings and incidents of rapid mass murder take place, officers’ handguns are often insufficient to complete the task at hand.

The role of a peace officer is to protect the public, and, in so doing, they often put themselves in harms way. Just as other public safety professionals are given tools and equipment to protect themselves and increase their chance of survival when engaging in dangerous situations, most if not all police now have semi-automatic pistols with a dozen rounds, access to AR-15 rifles in their patrol cars, and nearly always wear ballistic vests. While these tools are sufficient for everyday police work and the occasional violent confrontation, they are insufficient in dealing with the rare but exponentially more dangerous tasks associated with hostage and victim rescue, barricaded subjects, and rapid mass murder. As the risk of losing one’s life or suffering a life-altering, debilitating injury increases, so too do the levels of protection we must offer our police. Window washers are not expected to risk their lives many stories up a high-rise with a plank of wood and a piece of rope, and police should not be limited to whatever

equipment is deemed *good enough* by the public at large or risk-averse bureaucrats worried about liability.

One tool being more frequently deployed in these high-risk situations are armored vehicles. Frequently, Mine-Resistant Ambush Protected vehicles (MRAPs) and Armored Personnel Carriers (APCs) are driven in such a way as to protect a group of officers advancing on a structure or combatant, or act as a moving shield for noncombatants trying to escape danger. MRAPs and APCs each cost between several hundred thousand dollars and more than a million dollars to purchase, as well as tens of thousands more over the life of the vehicle for fuel, maintenance, and repair costs; however, police rightfully justify this expense in weighing it against the value of someone's life (Schlueb). The same logic applies to the justification of the acquisition of sniper rifles, grenade launchers, and bomb-disposing remotely operated vehicles. What value do we as a society place on a life? At what dollar amount are the tools the police themselves need to survive while protecting us too expensive?

When used to actively protect life, the public unequivocally supports the use of these military-grade weapons and vehicles. When used to passively protect life, or, less euphemistically, to simply keep the peace and maintain order, the public vehemently opposes the use of such weapons and vehicles. This is evidenced by the countless activists and community leaders who rail against the police using military-grade equipment during times of civil unrest and demonstration. One need only look back to events in Ferguson, Baltimore, New

York, Chicago, or any of the other hundreds of places where police took the life of someone without due process to understand public opinion toward the deployment of MRAPs and the firing into crowds of tear gas from grenade launchers attached to rifles.

Images of officers riding atop MRAPs, squads of rifle-toting officers patrolling neighborhoods, and masked officers wearing head-to-toe armor have been forever burned into the public's memory. The result, then, is the question once again presenting itself for more critical examination: "Who watches the Watchmen?" When the use is genuinely to protect and serve and to save lives, civilian police should have access to every last weapon, vehicle, and tool available. When one's life is truly in danger, how an officer intervenes is moot, so long as that intervention is successful. However, when the self-proclaimed hero and protector—the paternalistic caretaker who knows what is best for us, despite our protestations—uses this equipment to control the public in its challenge of the social contract, infringing on people's civil rights and liberties, such as freedom of expression and peaceable assembly, the backlash is and should be swift and fierce.

One suggested remedy to this conflict is the courts; however, as with most government institutions, the courts are as painfully slow in their process as they are generally loathe to limit the applicability or usefulness of the First Amendment. Additionally, an alternative route to curtailing the inappropriate use of military equipment by civilian police is through legislation. The police often

bristle about regulation and outside control, but there would be no limit to their power without it, and a police force with unlimited power does not provide a solid foundation from which to provide a free and functional democracy. One need only look back a generation or toward our current neighbors in less democratic societies to see the effects of an officious, intrusive, and unchecked police force. An effective way to permanently prohibit police from using certain weapons and equipment during times of civil unrest would simply be to outlaw it through legislation. That legislation could be enacted at the state or local level, as part of a state constitution or local ordinance, outlining specific use-cases where the use of military-grade equipment would be prohibited. That legislation could also exist at the federal level, as part of the framework agreed upon by Congress in the allocation of the budget for the military or Department of Homeland Security, or as the stipulations to acquiring military equipment under the 1033 program.

Yet another mechanism by which to limit police power is through oversight boards comprised of community members, similar to the composition of local governing bodies. People sitting on such an oversight board could be members at large or selected from within the clergy, academia, the trades, civic or civil rights organizations, or other community-based organizations. While police officers often bemoan such oversight by laypeople, oversight boards do a fair job of representing communities as a whole and providing the apparatus by which police are held accountable for their actions, both good and bad.

Regardless of the manner in which concerns over militarization of police are addressed, we are still left with a wicked problem requiring a miles-deep understanding of several complex, foundational elements. Like most of the problems in our society, there is no easy fix or silver bullet. To meaningfully address this problem, one must consider issues of sociology, public policy, criminology, psychology, and constitutional law, as well as countless other disciplines. Such an analysis would help our society decide on how to better regulate the use of these military weapons and tools by non-military and paramilitary actors, providing space in the conversation for different perspectives and concerns. Until such time as some meaningful regulation or policy framework is created, men, women, and children of color; immigrants; and the impoverished and socioeconomically disadvantaged will continue to die by the thousands each year. While our country continues to style itself both the greatest in the world and the exemplar of freedom and justice—the world’s moral authority—the best we can offer to the scores of people who have not yet been killed by police, or even yet born, is more hot lead. For the richest, most sophisticated country in the history of the world, we ought to be ashamed of the legacy we are creating.

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APPENDIX

THE CALIFORNIA COMMISSION ON PEACE  
OFFICER STANDARDS AND TRAINING,  
BASIC COURSE WORKBOOK SERIES,  
STUDENT MATERIALS, LEARNING  
DOMAIN 20 (VERSION 3.3)  
“USE OF FORCE”

# **Basic Course Workbook Series Student Materials**

**Learning Domain 20**

**Use of Force**

**Version 3.3**

Basic Course Workbook Series  
**Student Materials**  
**Learning Domain 20**  
**Use of Force**  
**Version 3.3**

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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. The Commission extends its thanks to California law enforcement agency executives who offered 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 a police officer dedicated to service and committed to safety.

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 serving the communities of California.

**ROBERT A. STRESAK**  
Executive Director



# LD 20: Use of Force

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# Preface

## Introduction

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### **Student workbooks**

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

---

### **Regular Basic Course training requirement**

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

---

### **Student workbook elements**

The following elements are included in each workbook:

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

# How to Use the Student Workbook

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## Introduction

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

---

## Workbook format

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

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

---

# Chapter 1

## Introduction to the Use of Force

### Overview

---

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

---

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>• discuss <i>reasonable force</i> as stated by law.</li></ul>	20.01.EO1
<ul style="list-style-type: none"><li>• discuss the components of the Fourth Amendment standard for determining <i>objective reasonableness</i>, as determined by the U.S. Supreme Court.</li></ul>	20.01.EO2
<ul style="list-style-type: none"><li>• explain the legal framework establishing a peace officer's authority during a legal arrest, including:<ul style="list-style-type: none"><li>- subject's requirement to submit to arrest without resistance</li><li>- peace officer's authority to use reasonable force during a detention or arrest.</li></ul></li></ul>	20.01.EO3 20.01.EO4
<ul style="list-style-type: none"><li>• identify the circumstances set forth in the California Penal Code when a peace officer has the authority to use force.</li></ul>	20.01.EO5
<ul style="list-style-type: none"><li>• discuss the level of authority agency policies have regarding the use of force by a peace officer.</li></ul>	20.01.EO6

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*Continued on next page*

## Overview, Continued

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**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.

<b>Topic</b>	<b>See Page</b>
Reasonable Force	1-3
Authority to Use Force	1-6
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---

# Reasonable Force

[20.01.EO1, 20.01.EO2]

---

## Introduction

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

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

---

## Fourth Amendment “objective reasonableness” standard

In 1989, the United States Supreme Court applied an objective standard to a force situation and further established how reasonable force must be judged objectively (*Graham v. Connor*, 490 U.S. 386, 109 S.Ct. 1865) (1989)). The Court’s analysis began by considering the subject’s Fourth Amendment right to remain free from any unreasonable seizure against the government’s interest in maintaining order through effective law enforcement.

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

	<b>The reasonableness of a particular use of force must be...</b>
<b>1</b>	judged from the perspective of a reasonable officer.
<b>2</b>	examined through the eyes of an officer on the scene at the time the force was applied, not the 20/20 vision of hindsight.
<b>3</b>	based on the facts and circumstances confronting the officer without regard to the officer’s underlying intent or motivation.
<b>4</b>	based on the knowledge that the officer acted properly under the established law at the time.

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*Continued on next page*

## Reasonable Force, Continued

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### **The officer's perspective**

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

The totality of the circumstances must be evaluated from *the perspective of the officer at the scene*, rather than from an outsider's benefit of "20/20" hindsight. Reasonable force must be based on the facts and circumstances known to the peace officer at the time the force was used.

The Court noted that:

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

A reasonable officer is defined as an officer with similar training, experience, and background in a similar set of circumstances, who will react in a similar manner.

---

### **Community policing**

Community members want their officers to possess the skills necessary to subdue violent and dangerous subjects. They also want officers to use these skills to apply only the amount of force that is reasonable to effect an arrest, to overcome resistance, or to prevent escape. Force should never be used to punish subjects. In the American criminal justice system, punishment in the form of judgments is the sole responsibility of the courts.

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*Continued on next page*

## Reasonable Force, Continued

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### **The officer's intent**

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

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

---

### **Additional gauges for reasonableness**

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

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

### **Reasonable officer standard**

The **reasonable officer** standard:

- would another officer
  - with like or similar training and experience,
  - facing like or similar circumstance,
  - act in the same way or use similar judgement?
-

# Authority to Use Force

[20.01.EO3, 20.01.EO4, 20.01.EO5, 20.01.EO6]

---

## **Introduction**

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

---

## **Subject's duty to submit to arrest**

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

*Penal Code Section 834a* states:

“If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest.”

---

## **Officer authority to use restraint**

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

*Penal Code Section 835* states:

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

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*Continued on next page*

## Authority to Use Force, Continued

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### **Authority and criteria for the use of force**

*Penal Code Section 835a states:*

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

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

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### **Agency policies**

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

Limitations on the use of force are set by agency policy. These policies are attempts to provide reasonable guidelines for officers to protect them and their agency from criminal and civil liability.

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

---

# Chapter Synopsis

---

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

---

**Reasonable force**  
**[20.01.EO1]** *Penal Code Section 835a* states:  
“Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.”

---

**The Fourth Amendment**  
**[20.01.EO2]** The U.S. Supreme Court noted that determining the objective reasonableness for the use of force must be *fact specific* and established four components for determining reasonableness.

---

**Subject’s requirement to submit to arrest without resistance**  
**[20.01.EO3]** *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.”

---

**Peace officer’s authority to use restraint during a detention or arrest**  
**[20.01.EO4]** *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 their arrest and detention.”

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*Continued on next page*

## Chapter Synopsis, Continued

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**Penal code  
authority  
[20.01.EO05]**

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

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**Level of  
authority of  
specific agency  
policies  
[20.01.EO6]**

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

---

# Workbook Learning Activities

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## 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.

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## Activity questions

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

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*Continued on next page*

## Workbook Learning Activities, Continued

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**Activity  
questions**  
(continued)

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

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*Continued on next page*

## Workbook Learning Activities, Continued

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**Activity  
questions**  
(continued)

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

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

# Chapter 2

## Force Options

### Overview

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

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>• discuss the term “<i>force option</i>.”</li></ul>	20.02.EO1
<ul style="list-style-type: none"><li>• identify that the objective of using force is to overcome resistance to gain control of an individual and the situation.</li></ul>	20.02.EO2
<ul style="list-style-type: none"><li>• recognize force options and the amount of force peace officers may use based on the subject’s resistance.</li></ul>	20.02.EO3
<ul style="list-style-type: none"><li>• explain the importance of training and ongoing practice when responding to potentially dangerous situations that may require the use of force.</li></ul>	20.02.EO4
<ul style="list-style-type: none"><li>• discuss the importance of effective communication when using force.</li></ul>	20.02.EO5

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*Continued on next page*

## Overview, Continued

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

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

---

# Force Options

[20.02.EO1, 20.02.EO2, 20.02.EO4]

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## Introduction

**Force options** are choices available to a peace officer in each agency's policy to overcome resistance, effect arrest, prevent escape, or gain control of the situation.

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## Objective for use of force

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

Peace officers are required to:

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

## Officer judgement

The amount of force applied shall not exceed what is reasonable to overcome the subject's resistance to gain or maintain control of the subject. Each officer must rely on their judgment to employ **objectively reasonable** force for that specific situation.

The *reasonableness* of a particular use of force must be judged from the perspective of a reasonable officer. Examined through the eyes of an officer on the scene at the time the force was applied, not the 20/20 vision of hindsight. Based on the facts and circumstances confronting the officer without regard to the officer's underlying intent or motivation. Based on the knowledge that the officer acted properly under the established law at the time.

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*Continued on next page*

## Force Options, Continued

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### Officer preparation

In law enforcement, preparation can mean the difference between life and death as well as generate a professional image for a peace officer. The following chart identifies some items officers must consider and prepare for:

Item	Considerations	Benefits
Uniforms	<ul style="list-style-type: none"><li>- Proper fit</li><li>- Neat, professional appearance</li><li>- Does not impair free movement</li></ul>	<ul style="list-style-type: none"><li>- More effective</li><li>- Command presence</li></ul>
Gear	<ul style="list-style-type: none"><li>- In good condition</li><li>- Inspected regularly</li><li>- Readily accessible</li></ul>	<ul style="list-style-type: none"><li>- Increased confidence in the application of physical force</li></ul>
Firearms	<ul style="list-style-type: none"><li>- Cleaned and maintained</li><li>- Serviced by a trained armorer as necessary</li></ul>	<ul style="list-style-type: none"><li>- Increased confidence in the application of deadly force</li></ul>
Body armor	<ul style="list-style-type: none"><li>- Fits properly</li><li>- Does not interfere with movement</li><li>- Is worn by the officer</li></ul>	<ul style="list-style-type: none"><li>- Enhanced survivability</li></ul>

### Practice and training

It has been established that peace officers, when required to respond in dangerous situations, will revert to the responses they learned in training. Officers' tactical performance may depend entirely on how well and effectively they have trained and practiced required skills and abilities.

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

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*Continued on next page*

## Force Options, Continued

### Factors affecting selection

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

Factor	Considerations
Public safety	<ul style="list-style-type: none"> <li>- Immediate action required for self-defense or defense of others</li> </ul>
Amount and nature of the resistance which must be overcome	<ul style="list-style-type: none"> <li>- Passive resistance</li> <li>- Active resistance</li> <li>- Assaultive resistance</li> <li>- Life-threatening resistance</li> </ul>
Presence of a weapon and type of weapon	<ul style="list-style-type: none"> <li>- Other Weapons</li> <li>- Firearms</li> </ul>
Seriousness and nature of the offense	<ul style="list-style-type: none"> <li>- Misdemeanor cite and release</li> <li>- DUI</li> <li>- Armed Robbery</li> </ul>
Characteristics of the subject as compared to the characteristics of the officer	<ul style="list-style-type: none"> <li>- Size</li> <li>- Age</li> <li>- Knowledge of Capabilities</li> <li>- History</li> </ul>
Availability of assistance	<ul style="list-style-type: none"> <li>- Number of officers</li> <li>- Available backup units</li> </ul>
Nature and condition of the location and surroundings	<ul style="list-style-type: none"> <li>- Danger to bystanders</li> <li>- Availability of weapons</li> </ul>

# Resistance

[20.02.EO3]

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## Introduction

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

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## Subjects actions

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

<b>Subject's Actions</b>	<b>Description</b>	<b>Possible Force Option</b>
Cooperative	Subject offers no resistance	<ul style="list-style-type: none"><li>- Mere professional appearance</li><li>- Nonverbal actions</li><li>- Verbal requests and commands</li></ul>
Passive non-compliance	Does not respond to verbal commands but also offers no physical form of resistance	<ul style="list-style-type: none"><li>- Officer's strength to take physical control, including lifting/carrying</li><li>- Control holds and techniques to direct movement or immobilize a subject</li></ul>
Active resistance	Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, or verbally signaling an intention to avoid or prevent being taken into or retained in custody	<ul style="list-style-type: none"><li>- Control holds and techniques to control the subject and situation</li><li>- Use of personal weapons in self-defense and to gain advantage over the subject</li><li>- Use of devices to secure compliance and ultimately gain control of the situation</li></ul>

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*Continued on next page*

## Resistance, Continued

**Subjects actions**  
(continued)

<b>Subject's Actions</b>	<b>Description</b>	<b>Possible Force Option</b>
Assaultive	Aggressive or combative; attempting or threatening to assault the officer or another person	<ul style="list-style-type: none"> <li>- Use of devices and/or techniques to secure compliance and ultimately gain control of the situation</li> <li>- Use of personal body weapons in self-defense and to gain advantage over the subject</li> </ul>
Life-threatening	Any action likely to result in serious injury or possibly the death of the officer or another person	<ul style="list-style-type: none"> <li>- Utilizing firearms or any other available weapon or action in defense of self and others</li> </ul>

NOTE: Officers must take into account the *totality of the circumstances* when selecting a reasonable force option. It is not the intent of this chart to imply that an officer's force options are limited based on any single factor.

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

**Constant reevaluation**

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

*Continued on next page*

## Resistance, Continued

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**Constant  
reevaluation**  
(continued)

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

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

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*Continued on next page*

## Resistance, Continued

### Examples

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

Situation	Subject's Action(s)	Officer's Response(s)
During a traffic stop an officer discovered that the driver had several outstanding traffic warrants.	The driver offered no resistance, was cooperative, and responded immediately to the verbal commands of the officer.	<i>Reasonable:</i> The officer's presence and verbal commands controlled the situation.
		<i>Unreasonable:</i> The officer used a physical control hold immediately before giving verbal commands. The driver became fearful of the officer's actions and began to struggle with the officer. Absent other mitigating factors, the officer's use of force was unreasonable and may have escalated the threat.
During a traffic stop an officer discovered that the driver had several outstanding traffic warrants.	The driver complied with the officer's verbal command to get out of the car and showed no signs of threatening behavior, but refused to cooperate in any other way.	<i>Reasonable:</i> The officer used a firm grip to overcome the driver's passive resistance to the officer's efforts to direct the movement of the driver and maintain control of the situation.
		<i>Unreasonable:</i> The officer used an impact weapon to disable the subject before applying a control hold and placing the subject under arrest.

*Continued on next page*

## Resistance, Continued

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**Examples**  
(continued)

Situation	Subject's Action(s)	Officer's Response(s)
<p>During a traffic stop an officer discovered that the driver had several outstanding traffic warrants.</p>	<p>The driver complied with the officer's verbal command to get out of the car but then pulled away and assumed a fighting stance.</p>	<p><i>Reasonable:</i> The officer used a leg sweep takedown technique to gain physical control of the subject and then placed the subject under arrest. Since the subject exhibited assaultive behavior toward the officer, the use of force by the officer was reasonable.</p>
		<p><i>Unreasonable:</i> The officer continued making verbal requests for the subject to comply and attempted no other action to gain control of the subject. Even though the subject was not actively attacking the officer, he was actively and aggressively resisting the officer's attempt to arrest him. By not responding to the changing situation with reasonable force, the officer may have placed himself in greater danger of losing control and placed himself at risk of serious injury.</p>

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# Communication

[20.02.EO5]

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## Introduction

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

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## 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	<ul style="list-style-type: none"><li>• provides skills that reduce the likelihood of physical confrontation</li><li>• can result in a reduction of injuries</li></ul>
Professionalism	<ul style="list-style-type: none"><li>• renders more effective public service and improves community relations</li><li>• decreases public complaints and internal affairs investigations</li><li>• decreases civil liability</li><li>• lessens personal and professional stress</li></ul>

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*Continued on next page*

## Communication, Continued

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

Effective communication is a basic element of the use of force. A major goal of law enforcement is to gain voluntary compliance without resorting to physical force.

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

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# Chapter Synopsis

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

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**Force option [2.02.EO1]** Force options are choices available to a peace officer in each agency's policy to overcome resistance, effect arrest, prevent escape, or gain control of the situation.

---

**Goal of using force to gain control [20.02.EO2]** The objective of the use of force by peace officers in any situation is to ultimately gain or maintain control of an individual and therefore the situation.

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**Officer's use of force vs subject's level of resistance [20.02.EO3]** An officer's selection of the force option or amount of force should be based on the amount or degree of resistance of the subject as well as other relevant conditions or circumstances of the specific situation.

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**Ongoing training and practice for responding to dangerous situations [20.02.EO4]** It has been established that peace officers, when required to respond quickly in dangerous situations, will revert to trained responses. Officers' tactical performance may depend entirely on how well and effectively they have trained for and practiced their abilities and skills.

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**Effective communication [20.02.EO5]** The vast majority of law enforcement responsibilities involve effective communication. Communication involves both professional demeanor and words resulting in improved safety and professionalism.

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# Workbook Learning Activities

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## 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.

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## 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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*Continued on next page*

## Workbook Learning Activities, Continued

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**Activity questions**  
(continued)

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

---

- 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.

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*Continued on next page*

## Workbook Learning Activities, Continued

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**Activity questions**  
(continued)

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

- cooperative
- resistive
- assaultive
- life-threatening

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

# Chapter 3

## Use of Deadly Force

### Overview

---

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

---

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>• identify the legal standard for the use of deadly force.</li></ul>	20.03.EO1
<ul style="list-style-type: none"><li>• identify the factors required to establish <i>sufficiency of fear</i> for the use of deadly force.</li></ul>	20.03.EO2
<ul style="list-style-type: none"><li>• recognize facts an officer should consider when determining whether or not to use deadly force.</li></ul>	20.03.EO3
<ul style="list-style-type: none"><li>• discuss the role of agency policies regarding the use of deadly force.</li></ul>	20.03.EO4
<ul style="list-style-type: none"><li>• recognize the law regarding justifiable homicide by a public officer and the circumstances under which the homicide is considered justifiable.</li></ul>	20.03.EO5

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*Continued on next page*

## Overview, Continued

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

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

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# Considerations Regarding the Use of Deadly Force

[20.03.EO1, 20.03.EO2, 20.03.EO3, 20.03.EO4]

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## **Introduction**

The use of deadly force is the most serious decision a peace officer may ever have to make. Such a decision should be guided by the reverence for all human life (including the officer's life and others that may be in imminent danger) and, used only when other means of control are unreasonable or have been exhausted.

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## **Definition**

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

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## **Leadership**

Reverence for all life is the foundation on which the use of deadly force rests. The authority to use deadly force is an awesome responsibility given to peace officers by the people who expect them to exercise that authority judiciously. In the law enforcement/community partnership, peace officers are expected to be self-disciplined, accountable, and in turn, the community is expected to support its peace officers.

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## **To protect self or life**

An officer may use deadly force to protect oneself or others when the officer has the objective and reasonable belief that his/her life, or the life of another, is in imminent danger of death or serious physical injury based upon the totality of the facts known to the officer at the time.

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*Continued on next page*

## Considerations Regarding the Use of Deadly Force, Continued

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### Use of deadly force on fleeing subject

In 1985, based on a person’s Fourth Amendment protection from unreasonable seizures by peace officers, the United States Supreme Court ruled on a case where an officer used a firearm (deadly force) to prevent the escape of a non-violent fleeing felon. The officer in this case relied on the “fleeing felon” standard, which allowed the use of deadly force on any category of felon that was attempting to escape. The Court applied the reasonableness test set forth in the Fourth Amendment (*Tennessee v. Garner*).

The lessons learned from the United States Supreme Court case of *Scott v Harris* (2007) 127S. Ct 1769 is that there is no way-to-apply a legal test. The ultimate question is whether the use of the particular force in a particular situation was reasonable. To make that determination, the court must balance the nature and quality of the intrusion on the individual’s Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion.

The Court applied the following points that would make it reasonable for an officer to use deadly force against a fleeing subject in this particular set of circumstances (i.e. using a firearm to stop a fleeing suspect escaping on foot).

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

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*Continued on next page*

## Considerations Regarding the Use of Deadly Force, Continued

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**Use of deadly force on fleeing subject**  
(continued)

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

NOTE: This US Supreme Court decision is only the baseline for use of deadly force in this particular set of circumstances. Peace officers must also know the California Penal Code and agency policies. Officers must conform to agency policy and federal and state law.

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**Related terms**

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

**Serious bodily harm or injury** means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement. (*Penal Code Section 243(f)(4)*)

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## Considerations Regarding the Use of Deadly Force, Continued

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### Related terms (continued)

**Reasonable necessity** means that delay in apprehension would create substantial and unreasonable risk to officers or others possibly resulting in serious physical injury or death.

**Imminent danger** means a significant threat that peace officers reasonably believe will result in death or serious bodily injury to themselves or to other persons. Imminent danger is not limited to “immediate” or “instantaneous.” A person may pose an imminent danger even if they are not at the *very moment* pointing a weapon at another person.

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### Sufficiency of fear

According to the law, fear alone does not justify the use of deadly force. There must be a *sufficiency of fear* for the use of deadly force to be justified. (*Penal Code Section 198*)

There are three elements needed to establish sufficiency of fear.

- The circumstances must be sufficient to excite the fears of a *reasonable person* in like circumstances.
  - The person must not act *under the influence of fear alone*. There has to be some circumstance or overt act apart from the officer’s fear.
  - The decision to use deadly force must be made *to save one’s self or another* from great bodily injury or death.
- 

### Considerations when deciding to use deadly force

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

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

*Continued on next page*

## Considerations Regarding the Use of Deadly Force, Continued

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**Considerations  
when deciding  
to use deadly  
force**  
(continued)

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

**Agency  
policies**

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

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

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

*Continued on next page*

## Considerations Regarding the Use of Deadly Force, Continued

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### Examples

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

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

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*Continued on next page*

## Considerations Regarding the Use of Deadly Force, Continued

---

**Examples**  
(continued)

Situation	Subject's Action(s)	Officer's Response(s)
<p>A peace officer got out of the patrol car to question a man loitering on a street corner.</p>	<p>The subject, using only his fists, attacked the officer.</p>	<p>The attack was of such force and violence to cause the officer to reasonably believe there was danger of being seriously injured. Provided that all other reasonable means of self defense had been exhausted or would have been ineffective, the officer would have had the authority to use deadly force in self-defense.</p>
	<p>The subject's attack was haphazard indicating that he was not experienced in any form of physical fighting skills and was reacting in fear rather than in rage.</p>	<p>Based on no other circumstances, the attack might not have been life-threatening to the officer, and other less than deadly force options would have been available to the officer to gain control of the situation.</p>

*Continued on next page*

## Considerations Regarding the Use of Deadly Force, Continued

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**Examples**  
(continued)

Situation	Subject's Action(s)	Officer's Response(s)
<p>Two officers were dispatched to a convenience store where a silent alarm was tripped.</p>	<p>An armed male subject saw the official patrol vehicle and fled.</p>	<p>The officers saw that the store clerk had been shot but was still alive and gesturing toward the fleeing subject. The officers realized that the subject was trying to escape and they had seen that he had a gun. Because the subject used a firearm to commit the crime, if necessary, the officers have the authority to discharge their firearms to prevent the escape and effect the arrest.</p>
		<p>The store clerk had not been injured and the officers did not know if the fleeing subject was armed. Unless the officers have knowledge that the robbery included the use or threatened use of force likely to cause death or serious injury, they would not have the authority to use deadly force to prevent the subject from fleeing.</p>

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# Justifiable Homicide by Public Officer

[20.03.EO5]

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## **Introduction**

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

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## **Definition**

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

- in obedience to any judgement of a competent court,
  - when necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty, or
  - when necessarily committed in retaking felons who have been rescued or have escaped, or when necessarily committed in arresting persons charged with a felony, and who are fleeing from justice or resisting such arrest.”
- 

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## Justifiable Homicide by Public Officer, Continued

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### Justifiable homicide by a public officer

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

<b>Homicide by a public officer may be justified when...</b>	<b>Explanation</b>
ordered by a court to carry out a death sentence.	If officers are under the orders of a competent court to participate in capital punishment, the officers would be committing legal execution and could not be held responsible or prosecuted.
acting in the course of duty.	In self defense an officer shoots at an armed subject and kills a bystander. This would be legally justified, but only if the accident happened in the course of duty.
retaking escaping felons.	Homicide is justifiable when necessarily committed in retaking felons who have been rescued or have escaped. ( <i>Penal Code Section 196</i> )  NOTE: <i>Fleeing felon</i> alone is no longer adequate justification.
arresting a felon who resists to the point where deadly force is reasonable.	This applies to arrest situations where: <ul style="list-style-type: none"> <li>• a threat to life exists</li> <li>• the subject could not have been taken by using other than deadly means</li> </ul>

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

*Continued on next page*

## Justifiable Homicide by Public Officer, Continued

### Unjustifiable homicide by a public officer

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

<b>Homicide by a public officer may NOT be justified when...</b>	<b>Explanation</b>
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.

*Continued on next page*

## Justifiable Homicide by Public Officer, Continued

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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
Threat to life	<ul style="list-style-type: none"><li>• Does the subject present a credible threat to the officer or others?</li></ul> <p>NOTE: Peace officers may use force reasonable to defend their lives or the lives of others.</p>
Imminent threat	<ul style="list-style-type: none"><li>• Does the subject present an imminent threat to life?</li><li>• Is the subject threatening the officer or others with a weapon?</li><li>• Subject's access to weapons or potential weapons</li><li>• Proximity of subject to the officer.</li></ul>
Type of crime/subjects	<ul style="list-style-type: none"><li>• Is the nature of the crime violent or non-violent?</li><li>• Is there a large number of subjects to be confronted?</li></ul>
Type of weapon	<ul style="list-style-type: none"><li>• Can it cause serious bodily injury or death?</li></ul>
Subject's capabilities	<ul style="list-style-type: none"><li>• Does the subject demonstrate superior physical skill over the officer?</li></ul>

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*Continued on next page*

## Justifiable Homicide by Public Officer, Continued

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

<b>Circumstances</b>	<b>Considerations</b>
Location and background	<ul style="list-style-type: none"><li>• Is there a crowd of innocent people behind the subject?</li></ul>
The officer's present capabilities	<ul style="list-style-type: none"><li>• What sort of weapon or other capabilities are at the officer's disposal?</li></ul>

**NOTE:** Officers must always take into account the totality of circumstances when selecting a force option for a given situation. It is not the intent of this chart to imply that any one circumstance alone may or may not justify the use of deadly force.

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*Continued on next page*

## Justifiable Homicide by Public Officer, Continued

---

### Examples

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

Situation	Subject's Action(s)	Officer's Response(s)
An officer in a patrol vehicle witnessed a drug transaction taking place on a sidewalk near a group of juveniles.	Seeing the officer leave the vehicle and move toward him, the suspected dealer fled down the street. The dealer entered a large building to escape.	The officer drew his firearm, shot and killed the fleeing subject. Even though the offense witnessed by the officer was a felony, the crime did not involve the use or threatened use of force likely to produce death or serious injury. The homicide by the peace officer in this situation would have been unjustified and therefore unlawful.
	While fleeing the scene, the dealer pulled a handgun from his waistband and began firing randomly toward the officer.	In this situation, the subject was posing an immediate danger of causing the death or serious injury to the officer as well as to nearby bystanders. The homicide by the peace officer would have been justified and lawful.

*Continued on next page*

## Justifiable Homicide by Public Officer, Continued

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**Examples**  
(continued)

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

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# Chapter Synopsis

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

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**Legal standard for the use of deadly force [20.03.EO1]**

The Court established four components for using deadly force on a fleeing subject in the line of duty.

- “...if the subject threatens the officer with a weapon or there is *probable cause* to believe that he has committed a crime involving the infliction of serious bodily harm [or death]...”
- “...*probable cause* to believe that the subject poses a threat of death or serious physical harm, either to the officer or others...”
- “...*probable cause* to believe that the use of deadly force is *reasonably necessary*...”[to prevent escape]
- “...*some warning* be given prior to the use of deadly force *where feasible*...”

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**Factors required to establish a sufficiency of fear [20.03.EO2]**

There are three elements needed to establish sufficiency of fear.

- The circumstances must be sufficient to excite the fears of a *reasonable person* in like circumstances.
- The person must not act *under the influence of fear alone*. There has to be some circumstance or overt act apart from the officer’s fear.
- The decision to use deadly force must be made *to save one’s self or another* from great bodily injury or death.

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*Continued on next page*

## Chapter Synopsis, Continued

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**Considerations  
when to use  
deadly force  
[20.03.EO3]**

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

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

**Role of  
agency  
policies  
[20.03.EO4]**

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

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**Justifiable  
homicide by a  
public officer  
[20.03.EO5]**

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

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





## Workbook Corrections

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Suggested corrections to this workbook can be made by going to the POST website at: [www.post.ca.gov](http://www.post.ca.gov)

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# Chapter 4

## Documenting the Use of Force

### Overview

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**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.

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>• describe why complete documentation of the use of force is critical to the peace officer and the peace officer's agency, to include:<ul style="list-style-type: none"><li>- justification for using force</li><li>- relevant factors and detail</li></ul></li></ul>	20.04.EO1

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

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

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# Documenting the Use of Force

[20.04.EO1]

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## Introduction

A peace officer's ability to clearly document the facts and activities of a use of force incident not only reflects on the officer's own professionalism, but also on the ability of the justice system to prosecute the criminal case or limit civil liability. Every use of force incident is different and may require different information.

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

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

## “Objective reasonableness” standard

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

<b>The reasonableness of an officer's use of force in the line of duty must be...</b>
---

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

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

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*Continued on next page*

## Documenting the Use of Force, Continued

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### **Inadequate documentation**

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

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

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

It sometimes takes years before a case works its way through the court system. As time increases between the incident when force was used and any legal or civil action:

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

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*Continued on next page*

## Documenting the Use of Force, Continued

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### Level of detail

To ensure that all the relevant information is included in their reports, officers need to be aware of the degree of detail required when documenting the use of force.

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### 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
- 

### 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.

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*Continued on next page*

## Documenting the Use of Force, Continued

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### Factors

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

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

In addition to the subject's physical attributes, it is necessary to document the specific characteristics regarding the identification of a subject. Some characteristics include, but are not limited to:

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

### Environment

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

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

*Continued on next page*

## Documenting the Use of Force, Continued

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### **Describing the type of force used**

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

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

### **Post-custody actions**

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

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

### **Witness statements**

Statements made immediately after the confrontation are often the most accurate since there is little time to become confused or let outside influences confuse the facts. Whenever possible, witnesses should be located and interviewed at the scene of the confrontation.

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

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

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## Report Writing Tip

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### Use of force

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

---

### Specific fact patterns

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

First, begin by “setting the stage.” Document the type of call and all information known to you before and after the call. Second, describe each person involved in the force transaction which includes, but is not limited to, their physical traits, apparent mental and emotional state, objective symptoms (drugs/alcohol), weapons, etc. Third, document a chronological step-by-step detailed account of the force transaction. Most importantly, articulate how the force transaction interconnected with the primary objective of maintaining control. Fourth, think of your writing as a “video” that replays the event visually, mentally, emotionally and physically for others so it communicates what transpired effectively and clearly.

---

### Set the stage

..I was on duty and in uniform. I was dispatched to John’s Liquor store at 2330 hours in regards to a WMA, 6-0', 250 lbs, 23-25 years old, wearing a blue jacket, white “tee” shirt and blue jeans. According to dispatch, an anonymous female (RP), who was leaving the Liquor Store, said the WMA (suspect) asked if she wanted to buy drugs. The RP said the suspect showed her a small plastic bag containing white powder...

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*Continued on next page*

## Report Writing Tip, Continued

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### **Involved person(s)**

...I arrived at John's Liquor store at 2335 hours. I approached on foot from approximately 50-yards north of the liquor store, which is located on the west side of the street. I saw (with an unobstructed view) the above-described suspect and ordered him to stop, but he continued to advance and repeated, "you're going down!" When the suspect came within about eight feet of me, I sprayed him directly in the face with a two-second burst of pepper spray. The suspect immediately dropped to his knees and started screaming, "You blinded me!"

---

### **Step by step account**

...The suspect said in a loud voice, "What do you want?" I told the suspect I needed to ask him a couple of questions. The suspect clenched his hands into fists and raised his arms chest height and shouted, "You're going down!" The suspect started walking slowly toward me with his fists chest high. I ordered the suspect to stop, but he continued to advance and repeated, "You're going down!" When the suspect came within about eight feet of me, I sprayed him directly in the face with a two-second burst of pepper spray. The suspect immediately dropped to his knees and started screaming, "You blinded me!"...

---

### **Thinking questions**

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

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*Continued on next page*

## Report Writing Tip, Continued

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### **The link**

In every use of force transaction, give an accurate account of who did what within the circumstances that were apparent to you when you made the decision to use force.

NOTE: This is not all there is to know about how to write a use of force report. Additional training is needed in areas such as scene description, interviews, evidence, medical, etc. This “tip” is only intended as a starting point for further discussion or learning activities with your instructor to broaden your expertise in this critical area.

---

## Chapter Synopsis

---

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

---

**Complete documentation [20.04.EO1]** It is imperative that *each* report be thorough and comprehensive, documenting all aspects of the use of force.

---

# Workbook Learning Activities

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## 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.

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## 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?

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*Continued on next page*

## Workbook Learning Activities, Continued

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**Activity questions**  
(continued)

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

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

---

# Chapter 5

## Fear and Anger Management in the Use of Force

### Overview

---

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

---

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>• discuss factors that can affect a peace officer's response when threatened with danger, to include:<ul style="list-style-type: none"><li>- fear</li><li>- reasonable</li><li>- unreasonable</li></ul></li><li>- anger</li><li>- indecision and hesitation</li></ul>	20.05.EO1
<ul style="list-style-type: none"><li>• give examples of acceptable techniques for managing anger</li></ul>	20.05.EO4
<ul style="list-style-type: none"><li>• describe the benefits of ongoing physical and mental training for peace officers involving the use of force</li></ul>	20.05.EO5

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*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.

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

---

# Fear and Anger Management in the Use of Force

[20.05.EO1]

---

## **Introduction**

The objective of using force is to gain control of a person or situation. It is acceptable for a peace officer to take the initiative to confront a suspected law violator. The use of force by an officer is not one of hostility but rather one designed to defend and protect the community from criminal violence.

---

## **Authority to use force (reemphasis)**

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

---

## **Ethics**

Reverence for the law is the basis for the use of reasonable force by peace officers. The rule of law is what distinguishes democracy from authoritarian control. The use of reasonable force is guided and restricted by ethics, law and agency policy. Officers study law and policy so they act lawfully and ethically; in confidence that they can withstand the test of public scrutiny.

---

## **Factors affecting the peace officer's response**

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

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

*Continued on next page*

## **Fear and Anger Management in the Use of Force, Continued**

---

### **Officer's use of force**

Peace officers who use force are not considered hostile, but rather they are using it for the defense and protection of the community from criminal violence.

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

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

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## Fear and Anger Management in the Use of Force, Continued

---

### Self-control

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

Self-control:

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

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

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

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

# Self Control

[20.05.EO1, 20.05.EO4]

---

## **Introduction**

The use of force in dangerous situations may bring on emotional responses as well as physiological responses that officers must be prepared to recognize and manage.

---

## **Emotional responses**

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

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

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

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

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## Self Control, Continued

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### Definition of fear

**Fear** is a normal emotional response to a perceived threat (real or unreal). Fear is normal and does not become a problem until it interferes with the ability to perform effectively.

---

### Experiencing fear

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

A person's fear changes with time and experience. Fear may alter alertness during stressful situations. Courage or bravery are not the lack of fear, but in fact, the control of fear.

---

### Physiological reactions to fear

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

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

*Continued on next page*

## Self Control, Continued

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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
<ul style="list-style-type: none"><li>• A controlled and legitimate fear</li><li>• A mechanism that is necessary for officer safety based on perceived circumstances</li></ul>	<ul style="list-style-type: none"><li>• Generated in the officer's mind with no direct correlation to facts and situations</li></ul>

---

### 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.

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*Continued on next page*

## Self Control, Continued

---

**Situations that may generate unreasonable fear**  
(continued)

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

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

**Sources of unreasonable fear**

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

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

<b>Physical Source of Unreasonable Fear</b>	<b>Social Source of Unreasonable Fear</b>
<ul style="list-style-type: none"><li>• Personal physical harm</li><li>• Phobias (e.g., claustrophobia)</li><li>• Psychological (i.e., paranoia)</li></ul>	<ul style="list-style-type: none"><li>• Racial, cultural, or religious-based</li><li>• Responsibility for making critical decisions</li><li>• Peer disapproval</li></ul>

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*Continued on next page*

## Self Control, Continued

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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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## Self Control, Continued

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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. When anger is inappropriate or out of control (i.e., rage), it becomes a liability.

---

### Recognizing anger

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

---

### Acceptable anger

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

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

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

---

### Identifying situations causing anger

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

Types	Anger-Provoking Situation
<b>Universal</b>	Being attacked or shot at
<b>Personal</b>	<ul style="list-style-type: none"><li>• Individual sensitivities that may prompt a reaction (e.g., history, personality, etc.)</li><li>• Emotional bruises and other sources of personal vulnerability</li></ul>

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*Continued on next page*

## Self Control, Continued

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### 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.

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

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## Self Control, Continued

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### Example

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

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# Role of Initial and Ongoing Training

[20.05.EO5]

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## 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.

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## Response vs. reaction

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

<b><i>Trained responses...</i></b>	<b><i>Reactions may be...</i></b>
<ul style="list-style-type: none"><li>• are less predictable to the subject than instinctual reaction.</li><li>• are correctable.</li><li>• are flexible (can be adjusted and customized).</li><li>• can lead to increased self-control.</li></ul>	<ul style="list-style-type: none"><li>• more predictable to the subject.</li><li>• limited.</li><li>• improper.</li><li>• dangerous to the officer or others.</li></ul>

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## Role of Initial and Ongoing Training, Continued

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### **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:

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

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## Role of Initial and Ongoing Training, Continued

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<b>Training and practice</b> (continued)	<b>Training and practice can help attain...</b>	<b>Lack of and inadequate practice may result in...</b>
	<b>mental alertness and concentration.</b>  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.	<b>panic.</b>  <u><b>Panic</b></u> is the total and absolute loss of control. Panic in crisis situations will render officers incapable of applying the correct and necessary defensive action for the situation.
	<b>control over body and emotions.</b>  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.	<b>loss of control over body and emotions.</b>  When officers lose control of themselves they may lose control of the situation.

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

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**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.

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# Chapter Synopsis

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

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**Factors that affect an officer's responses** Two major emotional factors that officers need to focus on during their training:

- [20.05.EO1]
- fear, an emotional response to a perceived threat
    - reasonable
    - unreasonable
  - anger, a feeling of displeasure from perceived opposition
    - indecision
    - hesitation
- 

**Techniques for managing anger** Few people can exercise effective emotional control when their anger is near the top of the scale. To avoid getting to this point, peace officers need to prepare themselves for dealing with anger-inducing events.

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**Ongoing training in preparation to use force** Training and practice in both physical and emotional skills provides the understanding and manipulative ability needed by a peace officer in the use of force in dangerous situations.

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## Workbook Learning Activities, Continued

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**Activity  
questions**  
(continued)

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

# Chapter 6

## Consequences of Unreasonable Force

### Overview

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**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.

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>• explain the legal and administrative consequences associated with the use of unreasonable force</li></ul>	20.06.EO4
<ul style="list-style-type: none"><li>• explain an <i>agency's</i> potential liability associated with the use of unreasonable force</li></ul>	20.06.EO5
<ul style="list-style-type: none"><li>• explain the consequences of an officer's failure to intervene when unreasonable force is used by another peace officer</li></ul>	20.06.EO6
<ul style="list-style-type: none"><li>• discuss immediate and delayed intervention techniques.</li></ul>	20.06.EO7
<ul style="list-style-type: none"><li>• discuss factors that may inhibit a peace officer from intervening in a situation where a fellow officer may be applying unreasonable force</li></ul>	20.06.EO8

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## Overview, Continued

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

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

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# Peace Officer and Agency Liability

[20.06.EO4, 20.06.EO5]

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## Introduction

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

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## Reasonable force

Peace officers who make or attempt to make an arrest need not retreat or desist from their efforts because of resistance or threatened resistance from the person being arrested. They are not considered the aggressor nor do they lose the right of self-defense when they use force to:

- effect an arrest
- prevent escape
- overcome resistance

Justification for the use of force is limited to what is known or perceived by the officer *at the time*. Facts discovered after the event, no matter how compelling, cannot be considered in determining whether the force was justified or not.

---

## Objective of force application

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

Peace officers are required to:

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

*Continued on next page*

## Peace Officer and Agency Liability, Continued

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### Unreasonable force

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

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### Consequences of unreasonable force

Malicious assaults and batteries committed by peace officers constitute unlawful conduct. When the force used is unreasonable, the officer can face criminal and civil liability, and agency disciplinary action.

The following chart highlights a number of these consequences:

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

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## Peace Officer and Agency Liability, Continued

**California statutes regarding officer behavior**

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

The following chart lists some of these statutes:

Description	<i>Penal Code Section</i>
Every officer who is guilty of willful inhumanity or oppression toward any prisoner under his care is punishable by a fine not exceeding four thousand dollars (\$4,000) and by removal from office.	147
Every public officer who, under color of authority and without lawful necessity, assaults or beats any person, is punishable by a fine not exceeding ten thousand dollars (\$10,000) or by an imprisonment in the State prison or in a county jail not exceeding one year or by both fine and imprisonment.	149
A public officer's removal for neglect or violation of official duty; discretion of the court.	661
It shall be unlawful to aid, abet, attempt, or apply cruel, corporal, or unusual punishments in reformatories, institutions, jails, state hospitals, or any other state, county, or city institution.	673

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## Peace Officer and Agency Liability, Continued

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

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### Vicarious liability

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

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

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

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

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# Failure to Intervene

[20.06.E06]

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## Introduction

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

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

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

## Definition

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

An officer may face both criminal or civil liability and disciplinary action if they fail to intervene and prevent other officers from violating anyone's constitutional rights if they had reason to know and an opportunity to act. *US v Koon*, 34F. 3d 1416at 1447 (9<sup>th</sup> Cir., 1994); *Cunningham v Gates*, 229F.3d 1271 at 1289-1290 (9<sup>th</sup> Cir., 2000)

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## Failure to Intervene, Continued

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

### **Fourth amendment protections**

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

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

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# Intervention Techniques

[20.06.E07]

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## 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.

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## Immediate intervention

During a high-stress situation such as making an arrest, peace officers may experience emotional reactions towards the subject. As a result, they may use unreasonable force without realizing what they are doing. At this point it is imperative that a fellow officer intervene immediately to diffuse the situation.

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

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

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## Intervention Techniques, Continued

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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:

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

### Duty to report

When unreasonable force is used on a person justifiably or unjustifiably arrested, it is a constitutional violation by the officer who had reasonable opportunity to intervene and did not.

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## Intervention Techniques, Continued

### Examples

Situation	Subject's/Victim's Action(s)	Type of Intervention
<p>Officers Jones and Smith worked a two-person DUI unit. They stopped a driver for suspicion of DUI.</p>	<p>The driver failed the FST's and was told he would be arrested. The driver was compliant but did not wish to be cuffed.</p>	<p><b>Immediate intervention:</b>            Officer Jones saw that Officer Smith was moving into position to apply a carotid restraint. Officer Jones felt a control hold was safer and more reasonable. Officer Jones applied a front wrist lock on the driver and received immediate compliance. Officer Jones moved into a cuffing maneuver and quickly cuffed the driver.</p>
		<p><b>Delayed intervention:</b>            Officer Smith immediately struck the driver with her impact weapon. The driver was later booked without incident. Officer Jones later discussed with Officer Smith the entire incident. Officer Jones asked Officer Smith why she hit the driver with her impact weapon instead of using a control hold. Officer Smith stated that other options were overlooked. Officer Jones then reported the incident to the supervisor.</p>

*Continued on next page*

## Intervention Techniques, Continued

Examples  
(continued)

Situation	Subject's/Victim's Action(s)	Type of Intervention
<p>Officers respond to a call about a suspected burglary at a residence.</p>	<p>While investigating the burglary report call, the victim begins to verbally chastise the officers for taking too much time to respond. While listening to this, the officers see a man run out of the back of the house; the officers give chase.</p>	<p><b>Immediate intervention:</b> Upon catching the subject, Officer Wong knocks the subject to the ground; the subject went limp and was lying in a fetal position. Officer Kwan arrived as Officer Wong was about to kick the subject. Officer Kwan stepped between Officer Wong and the subject preventing Wong from kicking the subject.</p>
		<p><b>Delayed intervention:</b> Upon catching the subject, Officer Wong knocks the subject to the ground; the subject went limp and was lying in a fetal position. As Officer Kwan arrived, she saw Officer Wong kick the prisoner two times then assisted with handcuffing. Later Officer Kwan reported the incident to the supervisor.</p>

# Factors Affecting Intervention

[20.06.E08]

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## 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.

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## Factors to intervening

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

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

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## Factors Affecting Intervention, Continued

### Personal/ psychological factors

Personal Factors	Psychological Factors
<ul style="list-style-type: none"> <li>• Unfamiliar with fellow officer</li> <li>• Inexperience with proper action to remedy the situation</li> <li>• Feeling that intervention is someone else's responsibility</li> <li>• Peer pressure</li> <li>• Personal problems</li> <li>• Fearing consequences, such as being ostracized</li> <li>• Fear of reaction from senior officers, field training officers, or supervisors</li> </ul>	<ul style="list-style-type: none"> <li>• Erroneous notion of how peace officers should behave (perhaps from movies and television)</li> <li>• Fear may play a significant part in the behavior of the observing officer</li> </ul>

### Consequence of not intervening

Peace officers are encouraged to use their own judgement and to trust their "gut" instinct (i.e., common sense). If one's instinct indicates that a situation is wrong, then it is important not to second guess themselves based upon the behavior of others in the area. Officers could suffer one of the following if they don't intervene:

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

# Chapter Synopsis

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

---

**Peace officer liability [20.06.EO4]** Justification for the use of force is limited to what is known or perceived by the officer *at the time*. Facts discovered after the event, no matter how compelling, cannot be considered in determining whether the force was justified or not.

---

**Agency liability [20.06.EO5]** The vicarious liability holds an agency responsible for the conduct of its officers while acting within the scope of their authority.

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**Failure to intervene [20.06.EO6]** Peace officers are required by their position to intervene in any force situation they perceive as excessive. This intervention may take the form of one or more actions.

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**Intervention techniques [20.06.EO7]** The three common immediate intervention techniques are: verbal, physical/touch and restraint.

The three common delayed intervention techniques are: discussion, admonishment and training.

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**Inhibitions to intervene [20.06.EO8]** Peace officers may fail to take action when an officer is behaving inappropriately. There are personal and psychological factors that may prevent an officer from intervening in inappropriate behavior.

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# Workbook Learning Activities

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## **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.

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## **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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## Workbook Learning Activities, Continued

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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 uses a Carotid Restraint Control Hold. The cover officer takes no action. The contact officer incorrectly applies the hold and the subject dies. How could the cover officer have intervened to prevent this situation? What might have prevented her from making this intervention? At this point, who may be considered legally liable for the death of the subject?

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## Workbook Learning Activities, Continued

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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

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**Introduction**      **The following glossary terms apply only to Learning Domain 20: Use of Force.**

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**anger**                      A feeling of displeasure from perceived injury, mistreatment, or opposition, to ones self or to another person

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**control**                      As it relates to defensive tactics, means maintaining composure to make sound judgments and decisions

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**deadly force**                      A force likely to cause death or serious bodily injury

---

**fear**                              A normal emotional response to a perceived threat (real or unreal)

---

**force options**                      Choices available to a peace officer in each agency's policy to overcome resistance, effect arrest, prevent escape, or gain control of the situation

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**imminent danger**                      A significant threat which persons reasonably believe will result in death or serious bodily injury to themselves or to other persons

---

**intervention**                      The act of preventing or stopping the inappropriate or unlawful behavior of another *US v Koon*, 34F.3d 1416 at 1447 (9<sup>th</sup> Cir., 1994)

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**objectively reasonable**                      The court noted that determining the objective reasonableness for the use of force must be fact specific (*Graham v Connor*, 490 us. 386, 109 S ct. 1865) (1989)

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## Glossary, Continued

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**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

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**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

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**reasonable force** Is a term for how much and what kind of force a peace officer may use in a given circumstance

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**reasonable necessity** Delay in apprehension would create substantial and unreasonable risk to officers or others possibly resulting in serious physical injury or death

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**reasonable officer** Would another officer with like or similar training and experience, facing like or similar circumstances, act in the same way or use similar judgement?  
(*Graham v. Connor*, 490 U.S. 386, 109 S. Ct. 186) (1989)

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**self-control** Maintaining composure to make sound judgments and decisions

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**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)*)

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**unreasonable force** The type, degree, and duration of force employed was not necessary or appropriate

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