



DEPARTMENT OF PUBLIC SAFETY
STANDARDS AND TRAINING

USE OF FORCE PRESENTATION

Training Overview



SELECT THE CHAT ICON



Please direct all questions to “everyone” to ensure that it is seen by our staff

INTRODUCTION

SCOTT WILLADSEN

Use of Force Program Coordinator





PRESENTATION SUMMARY

TOPICS COVERED TODAY



PRESENTATION SUMMARY

TOPICS COVERED TODAY

Program Overview
Program Goals
Oregon Use of Force Law
Federal Use of Force Rulings
Use of Force Scenario Training

Disclaimer



PROGRAM OVERVIEW

SURVIVAL SKILLS PROGRAM

22 hours of Use of Force classroom
50 hours of Defensive Tactics training
60 hours of Firearms training
35 hours of Physical Fitness training
20 hours of Use of Force scenarios



PROGRAM OVERVIEW

SURVIVAL SKILLS PROGRAM

Communication Skills
Community Competency
Implicit Bias
Ethics
Behavioral Health
De-escalation
Etc.

Use of Force Program Goals



INCREASE OFFICER SAFETY

Reduce officer deaths
Reduce career ending injuries
Reduce officer suicides
Improve officer health and wellness



REDUCE "BAD" USE OF FORCE

Eliminate unlawful use of force
Reduce unreasonable use of force
Increase legitimate arrest actions

OREGON REVISED STATUTES

CIVILIAN USE OF FORCE

This instruction establishes:

Legal definitions

Who can use force

Why force can be used

Limitations of the use of force

PEACE OFFICER USE OF FORCE

This instruction establishes:

Why force can be used

Limitations of the use of force

Admonishment against reckless
or negligent deadly force

OBJECTIVELY REASONABLE

FEDERAL USE OF FORCE STANDARD

...the "reasonableness" inquiry in an excessive force case is an objective one: the question is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

Graham v. Connor – US Supreme Court



OBJECTIVELY REASONABLE

FEDERAL USE OF FORCE STANDARD

... "the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application," however, its proper application requires careful attention to the facts and circumstances of each particular case

Graham v. Connor – US Supreme Court



POLICE LEGITIMACY

STANDARDS VS GOALS

After recruits have learned and understand the “Objective Reasonableness” standard, we then begin to integrate other elements of Police Legitimacy, such as: proper communication, ethical decision making, behavioral health, de-escalation, procedural justice, etc.

Objective Reasonableness is the standard but Legitimate Use of Force is the goal.

Proper communication and procedures

Objectively Reasonable

Oregon Law

Federal Case Law

Legitimate Use of Force

WHAT ARE THE GRAHAM STANDARDS?

...however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.

Graham v. Connor – US Supreme Court

Graham Standards



SEVERITY OF THE CRIME

Reason, Violent, Type of Crime

Although burglary is a felony offense, it is not necessarily a violent crime. Indeed, it often relies more on stealth than on force.

Beaver v Federal Way – 9th Circuit



IMMEDIATE THREAT

Physical or Deadly Threat

a simple statement by an officer that he fears for his safety or the safety of others is not enough; there must be objective factors to justify such a concern.

Deorle v Rutherford – 9th Circuit



RESISTING ARREST

Passive or Active Resistance

We must eschew ultimately unhelpful blanket labels and evaluate the nature of any resistance in light of the actual facts of the case.

Bryan v. MacPherson – 9th Circuit

Graham Standards



EVADING ARREST BY FLIGHT

Foot or Vehicle Pursuit

Mr. Beaver was attempting to flee and the Court has no trouble concluding that the first tasing was justified to stop him.

Beaver v. Federal Way – 9th Circuit



TENSE, UNCERTAIN AND RAPIDLY EVOLVING

Physical or Deadly Threat

...Officer Laird was faced with unenviable choices and had to make split-second decisions, and this Court will not second-guess his decision...

Beaver v. Federal Way – 9th Circuit



TOTALITY OF THE CIRCUMSTANCES

All other Objective Factors

...we examine the totality of the circumstances and consider whatever specific factors may be appropriate in a particular case...

Bryan v. MacPherson – 9th Circuit



SIX BASIC TYPES OF “SUSPECTS”





NINTH CIRCUIT USE OF FORCE “RULES”

Oregon is within the jurisdiction of the Ninth Circuit, United States Court of Appeals.

The Ninth Circuit makes rulings that either specify or clarify the Supreme Court’s ruling regarding “Objectively Reasonable” Force.

In essence, the Ninth Circuit rulings add to the “Objective Reasonableness” standard and instruct law enforcement to the expectations of society and the courts.

TYPE AND AMOUNT OF FORCE

ADMINISTRATIVE FORCE

Administrative force is physical force that does not cause pain or injury, as defined by ORS 161.015 (7).

PHYSICAL FORCE

Physical force is force capable of causing pain or physical injury to a person.

Flores v Ashcroft 7th Cir.
(Adopted by the 9th)

INTERMEDIATE FORCE

Intermediate Force is force that creates physiological effects, high levels of pain, and foreseeable risk of physical injury.

Bryan v McPherson 9th Cir.

DEADLY PHYSICAL FORCE

Deadly force means physical force, under the circumstances that it is used, is readily capable of causing death or serious physical injury.

ORS 161.015 (3)

POINTING WEAPONS

FEDERAL USE OF FORCE STANDARD

We have held that the pointing of a gun at someone may constitute excessive force, even if it does not cause physical injury.

Robinson v. Solano County – 9th Circuit

(the ruling in) Robinson was plain: an officer who points his gun at the head of an arrestee who is cooperative and unthreatening, outnumbered by police, and apparently unarmed, violates the Fourth Amendment.





LESS LETHAL WEAPONS

**TASERS, PEPPER SPRAY,
BATONS, AND PROJECTED
IMPACT WEAPONS**

The Court did not, however, limit the inquiry to those factors. "Because the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application," the reasonableness of a seizure must instead be assessed by carefully considering the objective facts and circumstances that confronted the arresting officers. In some cases, for example, the availability of alternative methods of capturing or subduing a suspect may be a factor to consider.

Smith v City of Hemmet – 9th Circuit



ALTERNATIVE METHODS OR FORCE

Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment...

Instead, he would need to ascertain the least intrusive alternative...and choose that option and that option only. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves...

Officers thus need not avail themselves of the least intrusive means of responding to an exigent situation; they need only act within that range of conduct we identify as reasonable

Scott v Henrich – 9th Circuit

COMMUNICATION, COMMANDS, AND WARNINGS



First, use proper communication to mitigate the need for arrest or force



Second, use proper warnings and commands before arrest or using force



Third, warnings or commands should establish appropriate boundaries

WARNINGS PRIOR TO USE OF FORCE

WARNINGS ARE REQUIRED IF FEASIBLE

In some cases, the absence of a warning or order to halt prior to deploying forceful measures against a suspect may suggest that the use of force was unreasonable.

Deorle v. Rutherford – 9th Circuit

FEASIBLE

Reasonably capable of being completed or accomplished.

Black's Law Dictionary – 2nd Edition



RISK ANALYSIS PRIOR TO DE-ESCALATION ATTEMPTS



WHO IS IN DANGER?

Are people being threatened?
Is the officer in danger? Is the
subject threatening only
themselves?



HOW DANGEROUS?

Does the officer know if the
subject armed or unarmed? If
the subject is armed, what
with?



IS THE SCENE SAFE?

Is the subject inside of their
room or home? Are they in
the middle of the road? Are
they moving around or are
they staying in one place?

BEHAVIORAL HEALTH AND USE OF FORCE



IDENTIFY ISSUES

Whether the officers knew or should have known that the subject was mental distraught or emotionally disturbed



SUICIDE BY COP

If safe and feasible officers should use proper de-escalation procedures, request crisis intervention and medical personnel



EXCITED DELIRIUM

Excited Delirium subjects require medical attention as soon as possible. Officers should be calm attempt to use low levels of force

USE OF FORCE REPORT WRITING

REPORTS SHOULD ADDRESS THE
LEGAL QUESTIONS PLUS...



TRUTHFUL

Officers must be honest about what they reasonably believed was happening and what would happen.

DETAILED

Officers must describe the circumstances completely, including information that the officer may believe is unimportant.

THOROUGH

Officers must describe every moment that they can remember from when they were dispatched to after they lodged the suspect in the jail.

TRANSPARENT

Officers must avoid using language that is ambiguous or descriptions that are vague.

POST USE OF FORCE PROCEDURES



MEDICAL ATTENTION

Physical or Intermediate Force: Officer should call for medical personal even if the suspect does not ask for it or appear injured



DEADLY FORCE

When deadly force is used medical aid should be given to the suspect as soon as it is safe to do so



INVESTIGATIONS

Deadly force incidents must include investigators from an outside agency.
ORS 181A.790

USE OF FORCE SCENARIOS

STUDENTS PARTICIPATE IN BOTH "LIVE" AND VIDEO SCENARIOS

PASSIVE RESISTANCE

Officers should recognize that the subject is non-violent and use low levels of force for the arrest

PHYSICAL ASSAULTS

Officers are put into different situations while being assaulted and need to defend themselves

DE-ESCALATION

Approximately one third of all scenarios have branches that can be de-escalated

ACTIVE RESISTANCE

Officers either recognize the resistance early or they can be surprised by the suspect

DEADLY THREATS

Officers are attacked by subjects with guns or knives and have to defend themselves

SUICIDE BY COP

Officers are expected to assess when it is safe to de-escalate and call for the proper resources



SCENARIO TRAINING

Communication Skills
Community Competency
Implicit Bias
Ethics
Behavioral Health
De-escalation
Procedural Justice
Criminal Law
Etc.

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