Understanding An Officer's Use of Force (Ver. 3)

ADD YOUR DEPARTMENT LOGO AND
RE-TITLE IF DESIRED

Prepared by California Training Institute: www.cti-home.com

Instructions

- This presentation is intended to be a “template.” Review this presentation and make any adjustment that may be specific to your Department. Pay close attention to the yellow highlighted areas.
- Our intention is to give you a complete sample presentation. You may add or delete information or your own videos.
- The handout contains the references used, hyperlinked to the source.
- We recommend that you save this presentation as a PDF file, then print it out for the participants, three slides per page, and add some note lines.
- Please contact me at California Training Institute: www.cti-home.com

craiggeis1@gmail.com or 707-968-5109 if you have any questions or need additional information.

Our open-enrollment training schedule for Human Factors and Force Encounters courses is located on our website. We are also available for in-house sessions for your department or agency. Please recommend the training to a friend.

Objective

- Depending on the audience, you may wish to modify the objective. (i.e. Media, Public, Review Board, Etc.)
- To introduce you to the science of an officer's reaction to having to use force.
- To introduce you to our Department's policy on the use of force.
- To answer commonly asked questions that arise from an incident involving use of force.
- Interactive
  - Active participation is encouraged, please ask questions.

The Use of Force "Disconnect"

"Before we go out and educate people on use of force, we need to educate ourselves."

— Dr. Geoffrey Alpert, Professor, University of South Carolina

[1] IACP (2012) Emerging Use of Force Issues; Balancing Public and Officer Safety. Retrieved from: http://www.theiacp.org/portals/0/pdfs/emerginguseofforceissues041612.pdf

Legal Aspects on Use of Force

- A brief overview on the legal aspects of the use of force is important in the understanding of what an officer must consider.
  - Tennessee v Garner (1985)
  - Graham v Connor (1989)
  - California Penal Code 835

Tennessee v Garner (1985) [2]

- *Tennessee v. Garner*, 471 U.S. 1 (1985), was a case in which the Supreme Court of the United States held that under the Fourth Amendment, when a law enforcement officer is pursuing a fleeing suspect, he or she may use deadly force only to prevent escape, if the officer has probable cause to believe that the suspect poses a significant threat of death, or serious physical injury to the officer or others.

What Constitutes a Reasonable Use of Force (Graham v Connor) 1989 [3]

- *Graham v. Connor*, 490 U.S. 386 (1989) The United States Supreme Court determined that an objective reasonableness standard should apply to a free citizen's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other "seizure" of his person.

Objective Reasonableness

- Whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting the officer without regard to the underlying intent or motivation.

Objective Reasonableness

- More than an officer's subjective beliefs about a suspect
- Cannot be based on a hunch or feeling, rather a good faith belief
- Identify specific and particular facts to justify force
- The process deals with probabilities, not certainties

Factors To Determine Reasonableness

1. The severity of the alleged crime at issue.
2. Whether the suspect poses an immediate threat to the safety of officers and/or others.
3. Whether the suspect is actively resisting or attempting to evade arrest by flight.

Graham v. Connor Factors

- Immediate threat to safety of officers/others
- Actively resisting (vs. passive)
- Circumstances tense, uncertain, rapidly evolving (pace of events), split second judgments
- Severity of the crime at issue
- Attempting to evade seizure by flight

Additional, Not Dispositive Factors in Graham Analysis

- Failure to warn if subject fails to comply
- Reasonable opportunity to comply with directives prior to each force application
  - ✓ Given time to recover from the extreme pain experienced/gather themselves
- Evaluate what other tactics, if any, were available to affect the arrest (less-intrusive measures)

Officer/Suspect Factors

- Number of officers v. suspects
  - ✓ Are additional officers available to respond?
- Proximity to potential weapons
- Age, size, gender
- Special knowledge or skill level
- Injury or exhaustion
- Mental illness or drug usage
- Prior contacts
- Environmental factors

Use of Force (CA Penal Code 835) [4]

- Any peace officer that 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.

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

Department Use of Force Policy
"Modify This Slide for Your Department"

- It is the policy of this department that officers shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control.
  - "Reasonableness" of the force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident.
  - Any interpretation of reasonableness must allow for the fact that police officers are often forced to make split-second decisions about the amount of force that is necessary in a particular situation, in circumstances that are tense, uncertain, and rapidly evolving.

Officer Safety and Tactics

- In the interest of officer and public safety, an officer must identify cues and respond quickly, before lethal force is required. Their lives depend on it.
  - ✓ The longer a threat remains without address, the more dangerous the situation can become.
  - ✓ Action is faster than reaction every time.
- Officers are trained to use a Force Matrix. It is not like a ladder, it does not require steps to move between force options. The situation must be constantly evaluated by the officer.

Department's Use of Force Matrix [5]

Constant Evaluation Escalation/ De-escalation

A. Officer's presence through the identification of authority
B. Verbal command, persuasion and/or negotiation
C. Weaponless defense and/or control tactics and procedures
D. Oleoresin Capsicum or other approved chemical agents
E. Batons, impact weapons, specialized equipment, police canines and/or less-than lethal weapons and tactics
F. Physical Restraint
G. Lethal weapons and deadly force are normally employed as a last resort, when other measures are not effective under the existing circumstances.

Deadly Force

When is an officer justified to use deadly force?

- In obedience to any judgment 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.
- When necessarily committed in retaking felons who have been rescued or have escaped, or when necessarily committed in arresting persons charged with felony, and who are fleeing from justice or resisting such arrest.

Why do we see officers using force so often?

- The percent of police officers using force is actually quite low. What we see is what makes the news.
- Research has shown that a very small percentage—just 1 to 2 percent—of police-citizen contacts involve the threat or application of physical force by the police, while arrests that result in force by police to control a suspect are estimated at 15 percent to 20 percent. [6]
- In 2010, 56 law enforcement officers were feloniously killed in the line of duty (53,469 were assaulted, 26.1% were injured). [6]

Don’t police officers sometimes make mistakes? [7]

- Police officers are human.
- Humans undergo many changes during high stress situations.
- The body releases chemicals that help us cope effectively.
- What may seem like errors to some, are often the body’s natural response to high stress and survival.
- In a high stress situation, everyone will experience decreased performance in particular areas.
- Police officers are no different.

What are some of the symptoms we see in individuals under high stress?

- Research on stress has shown that over 50% of officers involved in the stress of a use of force encounter will experience:
  - Tunnel vision
  - Sound distortion
  - Memory loss for parts of the incident
  - Time distortion
  - A sense of helplessness

Why does it appear that officers react too quickly sometimes?

- Why does a baseball player sometimes get hit by the pitcher's ball when there is no intent to hit batter? Why doesn't he just step aside?
  - ✓ What is your answer:

It's really ***pure science***: 90mph ball speed, 60.5 feet distance = 0.458 seconds to the plate.

- Actual time for brain to process ball movement : 0.25 sec.
- Actual time to program a movement: 0.15 sec.
- Remaining time to move out of the way: 0.058 sec.
- Most players will be struck by the ball.

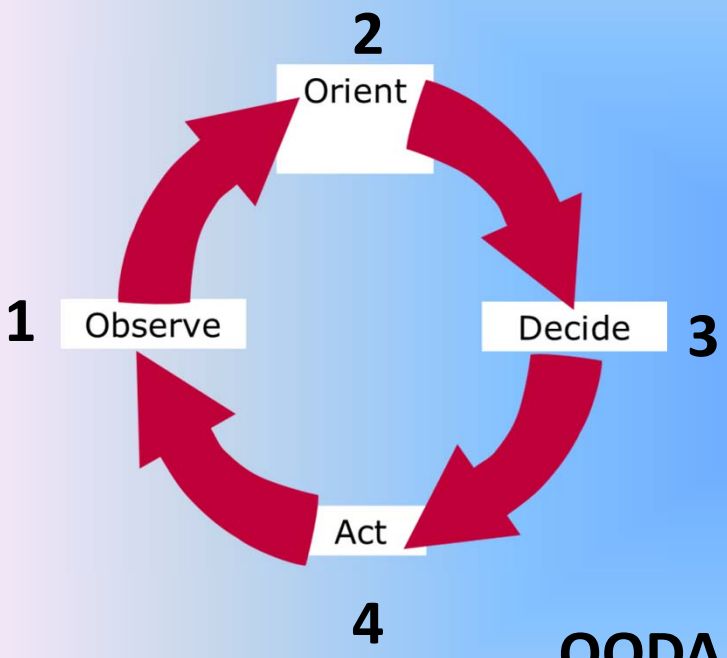
- Lets use this concept to see the challenges officers face.

Officer Reaction Times

- Court accepted scientific studies have been conducted by Force Science Institute ® to determine how quickly a suspect can act, and how much time an officer has to respond.
- A suspect acts with *predetermined intent,* so their only necessary reaction time is the time it takes to point the weapon and pull the trigger.
- An officer *does not act with predetermined intent*. They must:
    1. **Observe** - Perceive a threat.
    2. **Orient & Decide** - Engage in a mental process to consider what action is appropriate for the situation, and decide on the appropriate response.
    3. **Act** - Implement the appropriate action.

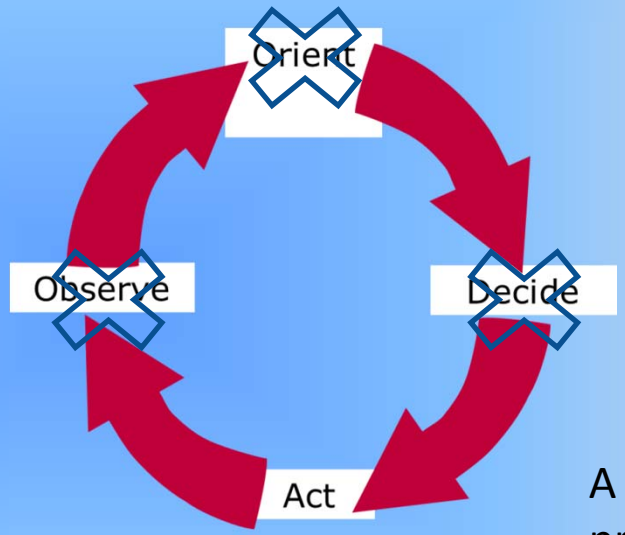
Officer vs. Suspect Reaction Times

Officer



3

Suspect



OODA Loop [8]

Action Always Beats Reaction

A suspect with predetermined intent eliminates Steps 1, 2, and 3 and therefore **only has to act.**

Suspect vs. Officer Reaction Times

Traffic/Car Stops - Suspect with a Weapon

Position	Suspect Movement Time + Discharge [9]
Console To Driver Window	0.25 (0.15 Fastest Time)
Left Thigh To Passenger Window	0.26 (0.09 Fastest Time)

Fastest an Officer can Respond

Officers Fastest Reaction Time – From the Force Science® LAPD Study [10]

- On target/finger on trigger/unsighted: 0.44
- Low/High ready/finger on frame/unsighted: 0.70
- Bootleg/finger on frame/unsighted: 0.79
- Level 2 unsnapped: 1.72 Avg. (1.41-2.24)
- Level 3 unsnapped: 1.78 Avg. (1.42-2.36)

Calculated for a visual stimulus/unsighted

Officer will be shot 100% of the time (if the suspect's aim is good).

Suspect vs. Officer Reaction Times

Walking Stop - Suspect with a Weapon

Position	Suspect Movement Time + Discharge [9]
Waist Band Draw to Combat Tuck	0.23 (0.09 Fastest Time)
Waist Band Draw to Extended Arm	0.26 (0.09 Fastest Time)

Fastest an Officer can Respond

Officers Fastest Reaction Time – From the Force Science® LAPD Study [10]

- On target/finger on trigger/unsighted: 0.44
- Low/High ready/finger on frame/unsighted: 0.70
- Bootleg/finger on frame/unsighted: 0.79
- Level 2 unsnapped: 1.72 Avg. (1.41-2.24)
- Level 3 unsnapped: 1.78 Avg. (1.42-2.36)

Calculated for a visual stimulus/unsighted

Officer will be shot 100% of the time (if the suspect's aim is good).

Suspect vs. Officer Reaction Times

Running from an Officer - Suspect with a Weapon

Position	Suspect Movement Time [9]
Points Backwards on Gun Side and Turns Away	0.17 (Fastest Time 0.0)
Points Backwards Over Shoulder and Turns Away	0.09 (Fastest Time 0.0)
Points Backwards Under Arm and Turns Away	0.13 (Fastest Time 0.0)

Fastest an Officer can Respond

Officers Fastest Reaction Time – From the Force Science® LAPD Study [10]

- On target/finger on trigger/unsighted: 0.44
- Low/High ready/finger on frame/unsighted: 0.70
- Bootleg/finger on frame/unsighted: 0.79
- Level 2 unsnapped: 1.72 Avg. (1.41-2.24)
- Level 3 unsnapped: 1.78 Avg. (1.42-2.36)

Calculated for a visual stimulus/unsighted.

If the officer is not shot, and initiates their action while the suspect is turned and shooting, the suspect will be shot in the back.

Officer will be shot 100% of the time (if the suspect's aim is good).

Suspect vs. Officer Reaction Times

Walking Stop Where Suspect Points Weapon and Turns

Suspect Movement	Suspect Time From Firing To Square Back [9]
Fires, Turns 90°, and Runs Away	0.90 (Fastest Time 0.5)
Fires, Turns 180°, and Runs Away	0.90 (Fastest Time 0.5)

Fastest An Officer Can Respond

Officers Fastest Reaction Time – From the Force Science® LAPD Study [10]

- On target/finger on trigger/unsighted: 0.44
- Low/High ready/finger on frame/unsighted: 0.70
- Bootleg/finger on frame/unsighted: 0.79
- Level 2 unsnapped: 1.72 Avg. (1.41-2.24)
- Level 3 unsnapped: 1.78 Avg. (1.42-2.36)

Calculated for a visual stimulus/unsighted.

If the officer is not shot, and initiates their action while the suspect is turned and shooting, the suspect will be shot in the back.

Why do officers sometimes shoot a suspect in the back?

Officers do not shoot a suspect in the back on purpose.

- A suspect may point a weapon, or shoot at an officer, then turn to flee.
- The officer starts an action when he/she sees the weapon pointed at him/her.
- If the suspect turns to run, the officer cannot immediately turn that action off.
- The minimum lag time in a laboratory setting is 0.35 sec. and under stress approximately 0.70 sec. [10, 11]
- During that lag time, the average officer under stress will most likely fire 2-3 rounds.
- In this instance, ***based on real time events***, all of the rounds fired by the officer will strike the suspect in the back. [9]

Why do officers fire so many rounds?

When lethal force is warranted, an officer is trained to fire until the threat is diminished. Once the decision is made to stop firing, it takes time to program the movement to stop, which means additional rounds will be fired.
(An involuntary factor) [10, 11]

Conditions	Average # Rounds	# Rounds (Stress)
Laboratory Conditions [10]	2 Additional Rounds (0.35 sec. to stop) @ .25 sec. per round	3 Additional Rounds (0.70 sec. to stop)

Research supports that the average officer can fire at a rate of 0.25 seconds per round.

Why do officers fire so many rounds?

The Los Angeles Police Department ("Department") deliberations by the Board of Police Commissioners ("BOPC") determined that the average delay under street conditions to stop firing is 1.0 – 1.3 sec. [12]

Conditions	Average # Rounds	# Rounds (Stress)
Street Conditions [12]	4 - 6 Additional Rounds (1.0 – 1.3 sec. delay to stop) @ .25 sec. per round	Additional rounds will be fired if additional stress increases delay.

Why do officers use so much force when a suspect is on the ground?

If a suspect is in the prone position, and is concealing a weapon, the officers must gain immediate control of the suspects hands. [13]

How Fast a Suspect Can Point and Shoot

Action	Average Time (sec.)
All Positions	0.36
Chest Up & Ahead	0.25
Chest To Left Rear	0.37
Chest To Right Rear	0.30
Waist To Left Rear	0.47
Waist To Right Rear	0.41

Hands must be controlled immediately or there is no defense.

Don’t videos clearly depict what an officer sees?

Imagine that while at the beach you take this photo of your family in the water. If asked later to recall in great detail what was to the left and right of your family, how much do you think you would remember? The eye/brain does not process many things that a camera might record, especially under stress.

Tunnel Vision

- Under stress, the human nervous system causes a tunneling of our vision. This enables us to unconsciously focus more attention on a threat.
  - Under moderate levels of stress, at a distance of ten yards, our clear visual field (not peripheral) is approximately 207 inches.
  - As stress increases from moderate, to high, and eventually to extreme, our clear ***visual field narrows*** from 207 inches, to 63 inches, to 19 inches, and ***eventually to 3 inches***.
  - An officer will only remember what they can see and focus their attention on.

Limitations of body worn cameras [14]

Efficacy of Police Body Cameras for Evidentiary Purposes: Fact or Fallacy?

http://www.cti-home.com/wp-content/uploads/2014/01/Body-Cameras-proof-finalword.pdf

This article is downloadable from the CTI website. You may want to add some key points on this slide.

Body Camera Limitations [15]

1. A camera doesn't follow your eyes or see as they see.
2. Some important danger cues can't be recorded.
3. Camera speed differs from the speed of life.
4. A camera may see better than you do in low light.
5. Your body may block the view.
6. A camera only records in 2-D.
7. The absence of sophisticated time-stamping may prove critical.
8. One camera may not be enough.
9. A camera encourages second-guessing.
10. A camera can never replace a thorough investigation.

Excellent Force Science Institute article on body camera limitations. You may want to add some on this slide.

Force Science® News #265

What steps does the Department take to investigate Use of Force or Officer Involved Shootings?

This slide needs to include your department policy on UOF and/or OIS investigations.

What This Means

Based on science, a police officer faced with a critical life or death decision, will only have a split second to decide on a course of action, based on ALL of their training, experience, and observations.

Hindsight is always 20/20, and it is far too easy to contradict, second guess or make assumptions about an incident from a controlled environment, without the stress and factors present during the actual encounter.

What This Means

- The situation an officer finds themselves in often dictates the outcome
- Could an officer have done something different – “Of course.” There are always other possibilities when we know the outcome in hindsight.
- Officers must deal in real time probabilities based on their perception, training, experience, and judgment.
- We are here to serve & protect. This mandate pertains to the public and our officers.

Thank You

- We welcome your questions and comments at this time.
- You are welcome to a copy of this presentation.
- All footnotes on the slides are referenced on the handout and you can follow the links for additional information.

- Questions?

Changes

- Please send your comments and/or recommended changes to this presentation to: craiggeis@cti-home.com
- As updates are made, I will redistribute them.

References

[1] IACP (2012) Emerging Use of Force Issues; Balancing Public and Officer Safety. Retrieved from: http://www.theiacp.org/portals/0/pdfs/emerginguseofforceissues041612.pdf

[2] Tennessee v. Garner Tennessee v. Garner, 471 U.S. 1 (1985)

[3] Graham v. Conner Graham v. Conner, 490 U.S. 386 (1989) United States Supreme Court

[4] California Penal Code California Penal Code 835a

[5] Use of Force Continuum Use of Force Continuum: National Institute of Justice

[6] Use of Force by the Police Use of Force by Police: Overview of National and Local Data (Washington, D.C.: National Institute of Justice and Bureau of Justice Statistics, 1999)

References

[7] Force Encounters California Training Institute: Human Factor & Force Encounters Training

[8] OODA Loop O.O.D.A Loop and How We Use It - Tracy A. Hightower: Tactical Response

[9] How Fast the Suspect Can be in 11 Different Shooting Positions – Police Marksman November/December 2000 - Research conducted by Force Science Institute Why Is the Suspect Shot In the Back?

[10] Police Marksman Nov/Dec 2002: Research conducted by Force Science Institute Biomechanics of Lethal Force Encounters

[11] Time to start shooting? Time to stop shooting? The Tempe study. – Police Marksman September/October 2003 – Research conducted by Force Science Institute Reaction Time In Lethal Force Encounters

References

[12] Los Angeles Police Department ("Department") deliberations by the Board of Police Commissioners ("BOPC"). http://www.theiacp.org/portals/0/pdfs/emerginguseofforceissues041612.pdf

[13] More Dangerous Than Imagined - Force Science Institute Newsletter 164 Prone Suspects

[14] Efficacy of Police Body Cameras for Evidentiary Purposes: Fact or Fallacy? http://www.cti-home.com/wp-content/uploads/2014/01/Body-Cameras-proof-finalword.pdf

[15] Body cameras limitations by Force Science Institute ® http://www.forcescience.org/fsnews/265.html