



# Basic Course Workbook Series

Student Materials



California

Commission on

Peace Officer

Standards and

Training

Use of Force  
Learning Domain 20

## Authority to Use Force, Continued

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<b>Criteria for the use of force</b>	<p><i>Penal Code Section 835a</i> establishes the criteria for justified use of force.</p> <p>An officer who has probable cause to believe that a person has committed a crime may use reasonable force to:</p> <ul style="list-style-type: none"><li>• <i>effect an arrest</i> or detain for investigation a person whom the officer reasonably believes or suspects has committed a criminal offense.</li><li>• <i>prevent the escape</i> of a person whom the officer reasonably believes has committed a criminal offense.</li><li>• <i>overcome resistance</i> or the use or threatened use of physical force directed against the officer or another person.</li></ul>
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<b>The officer's rights</b>	<p>When the level of force that is applied in a given situation is reasonable, a peace officer is not considered the aggressor.</p> <p>Officers have a legal right to:</p> <ul style="list-style-type: none"><li>• use reasonable force to overcome resistance.</li><li>• stand their ground against any aggressor; they "need not retreat or desist."</li><li>• use reasonable force for protection; "the right of self-defense is not lost."</li></ul>
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<b>Department policies</b>	<p>Although the law and courts have presented a foundation for the use of force by a peace officer, the most detailed considerations and regulations are established by each agency's departmental policies.</p> <p>Limitations on the use of force are set by specific departmental policy. All such policies are attempts to provide rational guidelines and to protect the officer and agency from criminal and civil liability.</p> <p><i>Peace officers are responsible for becoming familiar with and complying with their own department's specific policies and guidelines regarding the use of force.</i></p>
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## Chapter Synopsis

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**Learning need** It is critical that peace officers be aware of the laws governing the use of force for their safety and for the safety and well-being of fellow officers. Peace officers need to recognize they have the authority to use reasonable force to effect an arrest under the circumstances authorized by the California Penal Code.

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**Define reasonable force [20.01.EO1]** *Penal Code Section 835a* defines **reasonable force** to effect an arrest as only that force reasonable for restraint of the suspect and to get the suspect to submit to custody.

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**Components of the Fourth Amendment for determining objective reasonableness [20.01.EO2]** 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 <i>perspective of a reasonable officer</i> .
<b>2</b>	examined through the eyes of an officer on the scene <i>at the time the force was applied</i> .
<b>3</b>	based on the facts and circumstances confronting the officer <i>without regard to the officer's underlying intent or motivation</i> .
<b>4</b>	based on the knowledge that the officer <i>acted properly under the established law at the time</i> .

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## Chapter 2

### Force Options

#### Overview

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

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>POST Code</b>
define the term <i>force option</i> .	20.02.EO1
recognize the ultimate goal of using force as gaining control of an individual and the situation.	20.02.EO2
correlate the force option or the amount of force used by an officer with the suspect's level of resistance.	20.02.EO3
recognize the importance of training and ongoing practice in responding to potentially dangerous situations that may require the use of force.	20.02.EO4
explain the importance of effective tactical communication with the use of force.	20.02.EO5

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## Overview, Continued

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

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# Force Options

[20.02.EO1, 20.02.EO2, 20.02.EO3]

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**Introduction**      **Force options** are choices available to a peace officer concerning the methods available as identified in each agency's or department's policy documentation.

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

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 only the amount of force reasonable to overcome resistance and to gain or maintain control of a suspect.
  - use only the amount and type of force which is permitted by individual agency or department policy.
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## Force Options, Continued

### Officer judgement

The amount of force applied should not exceed the amount which is reasonable to overcome the suspect's resistance and gain or maintain control of the suspect. Every situation is unique though.

Each agency must rely on the individual officer's judgement to employ an objectively reasonable level of force for that specific situation.

### Factors affecting selection

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

Factor	Some Examples
Officer safety	- Immediate action required for self-defense or in defense of others
Amount and nature of the resistance which must be overcome.	- No resistance - Active resistance - Combative resistance - Life-threatening resistance
Presence of a weapon and type of weapon	- Edge weapons - Firearms - Impact weapons - Chemical agents
Seriousness and nature of the offense	- Misdemeanor cite and release - DUI - Armed robbery
Characteristics of the suspect as compared to the characteristics of the officer	- Size - Age - Known capabilities - History
Availability of assistance	- Number of officers - Available backup units
Nature and condition of the location and surroundings	- Danger to bystanders - Availability of weapons

## Level of Resistance

[20.02.EO3, 20.02.EO4]

**Introduction** The actions of the individual suspect will determine the type or amount of force applied by peace officers. The following chart illustrates how a suspect's level of resistance can correlate with the level of force applied by an officer.

**Resistance of the suspect** An officer's selection of the force option or amount of force should be based on the amount or degree of resistance of the suspect as well as other relevant conditions or circumstances of the specific situation. The following chart explains different levels of resistance.

Resistance	Description	Possible Level of Force Option Applied
Cooperative	Suspect 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>
Resistive	Passive: 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</li><li>- Controlling holds and techniques to direct movement or immobilize a suspect</li></ul>
	Active: Pulling away, running away, physically resisting the officer	
Assaultive	Aggressive or combative; attempting or threatening to assault the officer or another person	<ul style="list-style-type: none"><li>- Controlling holds and techniques to effect control of the suspect and situation</li><li>- Use of personal weapons in self-defense and to gain advantage over the suspect</li><li>- Use of devices to secure compliance and ultimately gain control of the situation</li></ul>
Life-threatening	Any action likely to result in serious injury or possibly in 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 for a given situation. It is not the intent of this chart to imply that an officer is limited based on any single factor.

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## Level of Resistance, Continued

### Constant re-evaluation

Peace officers must use the force option that is appropriate for the situation. But situations may change rapidly and officers must continually analyze and reevaluate the suspect and situation. Officers must be ready and able to escalate or deescalate the level of force, transitioning to the appropriate tools and techniques as needed for that moment in time.

### 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 constantly consider and prepare for accordingly.

Item	Considerations
Uniforms	<ul style="list-style-type: none"><li>- Proper fit</li><li>- Neat, professional appearance</li><li>- Does not impair free movement</li></ul>
Gear	<ul style="list-style-type: none"><li>- In good condition</li><li>- Inspected regularly</li><li>- Readily accessible</li></ul>
Firearms	<ul style="list-style-type: none"><li>- Cleaned after each firing</li><li>- Serviced by a trained armorer as necessary</li></ul>
Body armor	<ul style="list-style-type: none"><li>- Fits well</li><li>- Does not interfere with movement</li><li>- Is used!</li></ul>

### Practice and training

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

*Without ongoing practice and training, peace officers are placing themselves and others in jeopardy.*

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## Level of Resistance, Continued

**Examples** The following chart presents examples of situations and the appropriate and inappropriate use of force based on the level of resistance that is being offered by the suspect.

Situation	Suspect's Action(s)	Officer's Response(s)
<p>During a routine traffic stop an officer discovered that the driver had a number of outstanding traffic warrants.</p>	<p>The driver offered no resistance, was cooperative, and responded immediately to the verbal commands of the officer.</p>	<p><i>Appropriate:</i> In this situation, the officer's presence and verbal commands offered the appropriate force options for the officer to maintain control of the situation.</p>
		<p><i>Inappropriate:</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 options was inappropriate and may have escalated the threat of the situation.</p>
<p>During a routine traffic stop an officer discovered that the driver had a number of outstanding traffic warrants.</p>	<p>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.</p>	<p><i>Appropriate:</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.</p>
		<p><i>Inappropriate:</i> The officer used a chemical spray to disable the suspect before applying a control hold and placing the suspect under arrest. Absent other mitigating factors, the use of force options such as a chemical spray was not warranted and was excessive.</p>

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## Level of Resistance, Continued

### Examples (continued)

Situation	Suspect's Action(s)	Officer's Response(s)
<p>During a routine traffic stop an officer discovered that the driver had a number of 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>Appropriate:</i> The officer used a leg sweep takedown technique to gain physical control of the suspect and then placed the suspect under arrest. Since the suspect exhibited aggressive resistance toward the officer, the use of force options by the officer was appropriate.</p>
		<p><i>Inappropriate:</i> The officer continued making verbal requests for the suspect to comply and attempted no other action to gain control of the suspect. Even though the suspect 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 equal force, the officer may have placed himself in greater danger of losing control and placed himself at risk of serious injury.</p>

# Tactical Communication

[20.02.E05]

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**Introduction** Tactical communication provides a set of tactics that enable the peace officer to gain cooperation and generate the voluntary compliance of others in stressful situations (e.g., confronting a hostile suspect), or in any other contact which places the officer and community in conflict with each other.

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**Definition** **Tactical communications** involves a strategic message delivered to a specific audience to generate voluntary compliance; it combines “what to say” with “how to say it.”

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**Benefits of tactical communication** The vast majority of law enforcement responsibilities involve effective communication. Tactical communication involves both professional demeanor and words resulting in improved safety and professionalism. The following chart highlights the benefits of tactical communication.

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

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## Tactical Communication, Continued

### The law enforcement profession and communication

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

- executive (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.

### SAFER

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

However, there are situations where communication through words is not effective. The acronym SAFER summarizes the five conditions that require more than words, as shown in the following chart.

	Conditions Requiring More Than Words
Security	<ul style="list-style-type: none"><li>• Whenever others are in imminent jeopardy</li><li>• Whenever property under the officer's control is threatened</li></ul>
Attack	<ul style="list-style-type: none"><li>• Whenever the officer's personal danger zone (PDZ) is violated (imminent jeopardy)</li></ul> <p>NOTE: The PDZ is determined by the officer's training and by the situation.</p>
Flight	<ul style="list-style-type: none"><li>• Whenever a suspect unlawfully flees from the officer's presence</li></ul>
Excessive repetition	<ul style="list-style-type: none"><li>• No voluntary compliance is forthcoming</li><li>• All verbal options have been exhausted</li></ul>
Revised priorities	<ul style="list-style-type: none"><li>• Whenever a matter of higher priority requires immediate attention or presence</li></ul>

## Chapter Synopsis

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<b>Introduction</b>	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, level of resistance, and other circumstances known to the officer at the time the force was used.
<b>Define force option</b> <b>[2.02.EO1]</b>	<b>Force options</b> are choices available to a peace officer concerning the methods available as identified in each agency's or department's policy documentation.
<b>Goal of using force to gain control</b> <b>[20.02.EO2]</b>	The objective for the use of force by peace officers in any situation is to ultimately gain or maintain <i>control of an individual and therefore the situation</i> .  Peace officers are required to: <ul style="list-style-type: none"><li>• use force only when authorized to do so (e.g., to overcome resistance to a lawful process).</li><li>• use the type of force which is reasonable under the circumstances.</li><li>• use only the amount of force reasonable to overcome resistance and to gain or maintain control of a suspect.</li><li>• use only the amount and type of force which is permitted by individual agency or department policy.</li></ul>

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## Chapter Synopsis, Continued

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**Officer's use of force vs suspect'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 suspect as well as other relevant conditions or circumstances of the specific situation.

The types of resistance a suspect may demonstrate that requires the use of some of level of force option by the peace officer include:

- cooperative (i.e., no resistance),
- resistive, including:
  - passive, and
  - active,
- assaultive, and
- life-threatening.

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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 the trained responses they learned in training. Officers' tactical performance may depend entirely on how well and effectively they have trained for and practiced their abilities and skills.

*Without ongoing practice and training, peace officers are placing themselves and others in jeopardy.*

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**Effective tactical communication**  
[20.02.EO5]

The vast majority of law enforcement responsibilities involve effective communication. Tactical communication involves both professional demeanor and words resulting in improved safety and professionalism.

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## Considerations Regarding the Use of Lethal Force

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

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**Introduction** The use of lethal force is the most serious decision a peace officer may ever be called upon to make. Such a decision should be guided by a reverence for human life and used only when other means of control are impractical or have been exhausted.

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**Definition** **Lethal force** means a force likely to cause death or serious bodily injury.

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**Considerations when deciding to use lethal force** The decision of whether or not to use lethal force may be influenced by the officer's:

- preparation by training,
- officer judgement,
- mental alertness,
- emotional maturity,
- existing circumstances, and
- understanding of the law as it relates to:
  - department policies concerning the use, and
  - level of force that is objectively reasonable to achieve the law enforcement mission.

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## Considerations Regarding the Use of Lethal Force, Continued

### Legal standard for use of lethal force

In 1985, the United States Supreme Court set a four part legal standard for the use of lethal force based on a person's Fourth Amendment protection from unreasonable acts by peace officers (*Tennessee V. Garner*). The Court's analysis required balancing a person's fundamental interest in safety against the government's interest in effective law enforcement.

The Court established the following components and prerequisites to an officer using lethal force in the line of duty.

	In order for peace officers to employ lethal force, they must...
1	Life-threatening escape - "Where the officer has <i>probable cause</i> to believe that the suspect poses a threat of serious physical harm, either to the officer or others..."
2	Life-threatening felony - "...if the suspect 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..."
3	Give warning where feasible - "...the court imposes a constitutional requirement that <i>some warning</i> be given prior to the use of lethal force <i>where feasible</i> ..." "Halt, police! Stop or I'll shoot!"
4	If necessary to prevent escape - "...in order for lethal force to be constitutionally permissible, there must be <i>probable cause</i> to believe that the use of lethal force is <i>reasonably necessary</i> ..."

NOTE: This federal constitutional standard is only the baseline starting point for use of lethal force. Peace officers must also regard penal code and department policies.

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## Considerations Regarding the Use of Lethal Force, Continued

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**Related terms** In order to understand the aspects of the use of lethal 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)(5)*).

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

**Sufficiency of fear**

According to the law, bare fear alone does not justify the use of lethal force. There must be a *sufficiency of fear* for the use of lethal 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 lethal force must be made *to save one's self or another* from great bodily injury or death.

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## Considerations Regarding the Use of Lethal Force, Continued

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### Departmental policies

Although the law and courts have presented a baseline for the use of lethal force, the conditions under which lethal force may be employed are strictly controlled by department policy. *Officers must conform to department policy regardless of what federal or state law might allow.*

Some of the most common issues specific to the use of lethal force addressed by departmental 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, or
  - moving vehicles.
- shooting from a moving vehicle.

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## Considerations Regarding the Use of Lethal Force, Continued

### Examples

The following chart presents examples that illustrate the selection of lethal force based on authority in given situations based on the details of the situations given.

Situation	Suspect's Action(s)	Officer's Response(s)
A neighbor called the police to report that there seems 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 was using unlawful lethal force against the officer, the officer would have had the authority to use lethal 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 would no longer have had the authority to use lethal force. The burglar should be apprehended through other less than lethal means.
A peace officer got out of the patrol car to question a man seen loitering on a street corner.	The suspect, using only his fists, attacked the peace officer.	Although the attacker was not using lethal force, the attack was of such force and violence as to cause the officer to reasonably believe that there was danger of being seriously injured. Provided that all other reasonable means of self-defense had been exhausted or would have been effective, the officer would have had the authority to use lethal force in self-defense.
	The suspect's attack was haphazard indicating that he was not experienced in any form of physical fighting skills and was reacting in fear rather than in rage.	Based on no other mitigating circumstances, the attack might not have been life-threatening to the officer, and other less than lethal options would have been available to the officer to gain control of the situation.

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## Considerations Regarding the Use of Lethal Force, Continued

### Examples (continued)

Situation	Suspect's Action(s)	Officers' Response(s)
<p>Two officers were dispatched to a convenience store where a silent alarm was tripped.</p>	<p>An armed male suspect saw the official vehicle and fled.</p>	<p>The officers saw that the store clerk had been shot but was still alive and gesturing toward the fleeing suspect. The officers realized that the suspect was trying to escape and they had seen that he had a gun. Because the suspect used a weapon to commit the crime, the officers would have the authority to discharge their weapon 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 suspect 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 lethal force to prevent the suspect from fleeing.</p>

## Homicide by a Peace Officer

[20.03.E05]

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**Introduction** Homicide is the killing of a human being by another human being, lawfully or unlawfully. Under certain circumstances that a peace officer must face, homicide by a peace officer may be justifiable and legal.

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**Definition** **Justifiable homicide by a public officer** occurs when public officers, such as peace officers or people working for them, kill a person in the performance of their duty or in self-defense in arresting or retaking a felon who is armed or poses a significant threat of death or serious injury to the officer or others (*Penal Code Section 196*).

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## Homicide by a Peace Officer, Continued

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

<b>Homicide by a peace officer may be justified when...</b>	<b>Explanation</b>
<i>the officer is under orders to carry out a death sentence.</i>	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.
<i>acting in the course of duty.</i>	If, in a situation requiring lethal force, an officer accidentally shot and killed a bystander, this would be legally justified, but only if that accident happened in the course of duty.  NOTE: In these circumstances, the officer may still be civilly liable for death or injury.
<i>retaking escaping felons.</i>	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.
<i>arresting a felon who resists to the point where lethal force is reasonable.</i>	This applies to arrest situations where: <ul style="list-style-type: none"> <li>• a threat to life exists, and</li> <li>• the suspect could not have reasonably been taken by use of other less than lethal 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*.

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## Homicide by a Peace Officer, Continued

**Unlawful  
homicide by a  
peace officer**

The following chart illustrates the circumstances under which homicide by a peace officer may not be justified (based on mitigating factors) and, therefore, a crime.

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

<b>Homicide by a peace officer may NOT be justified when...</b>	<b>Explanation</b>
<i>pursuing nonviolent felons.</i>	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 suspect except in the most extreme situations.
<i>arresting or pursuing a felon who does not present a threat to life.</i>	If the felony is not of the violent variety, then the use of lethal force against the fleeing suspect would be improper.  A violent felony is one that is a forcible and atrocious felony which threatens death or serious bodily harm.
<i>when arresting or pursuing a misdemeanor.</i>	When an arrest is for a misdemeanor, use of force to the extent of homicide is not justified. It is the policy of the law that it is better to allow a misdemeanor to escape than to apply lethal force against the individual.

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## Homicide by a Peace Officer, Continued

### Considerations before using lethal force

In some instances, peace officers may have the luxury of time needed to evaluate and assess all aspects of a situation. But in many situations, split-second decisions must be made.

As part of the mental process for preparing to use lethal force, peace officers should consider several important factors *before* a situation requiring the use of lethal force arises. The following chart suggests, but is not limited to, a few of the mitigating circumstances that should be considered.

Mitigating Circumstances	Considerations
Threat to life	<ul style="list-style-type: none"> <li>- Does the suspect present a threat to the officer or others?</li> </ul> <p>NOTE: The peace officers may use any force necessary if their own lives or the lives of others are in peril, or there is a threat of serious bodily injury by a suspect's action.</p>
Immediacy of threat	<ul style="list-style-type: none"> <li>- Does the suspect present an immediate threat to life?</li> <li>- Is the suspect threatening the officer or others with a weapon?</li> <li>- Suspect's access to weapons or potential weapons</li> <li>- Proximity of suspect to the officer</li> </ul>
Type of crime/suspects	<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 suspects to be confronted?</li> </ul>
Suspect's and weapon's capabilities	<ul style="list-style-type: none"> <li>- What kind of weapon does the suspect have?</li> <li>- Does the suspect demonstrate superior skill over the officer?</li> </ul>
Location and background	<ul style="list-style-type: none"> <li>- Is there a crowd of innocent people behind the suspect?</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> <li>- Can some other level of force effectively prevent escape?</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 lethal force.

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## Homicide by a Peace Officer, Continued

**Examples** The following chart illustrates examples of the use of lethal force by an officer.

Situation	Suspect's Action(s)	Officer's Response(s)
An officer in a patrol vehicle witnessed a drug transaction openly 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. When the suspect appeared to be about to enter a large building and escape, the officer drew his service weapon, fired and killed the fleeing suspect.	Even though the offense witnessed by the officer was a felony, the crime did not obviously 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 suspect pulled a handgun from his waistband and began firing randomly toward the officer.	In this situation, the suspect 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.
During a riot, an officer witnessed two men shoplifting from a store in the area.	In the confusion of the riot, one of the suspects pulled out a handgun and began to fire at other rioters who were trying to prevent his actions.	Although the initial crime was a misdemeanor, the situation had now escalated to involve the unlawful use of force by the suspect and the imminent threat to others. In such extreme circumstances, the officer's actions are lawful and the homicide justifiable.
	When the men fled the scene, the officer drew his weapon and ordered the men to stop. The suspect ignored the officer's commands.	The officer fired at the fleeing suspects and fatally shot one of the suspects. Since the offense witnessed by the officer was a misdemeanor and non-violent, the homicide would not have been justified and therefore was unlawful.

## Chapter Synopsis

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**Learning need** Peace officers must have a clear understanding of their authority, responsibility, and liability regarding the use of lethal force under the circumstances authorized by law.

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**Legal standards for the use of lethal force [20.03.EO1]** The Court established the following components and prerequisites to an officer using lethal force in the line of duty.

	<b>In order for peace officers to employ lethal force, they must...</b>
<b>1</b>	Life-threatening escape - "Where the officer has <i>probable cause</i> to believe that the suspect poses a threat of serious physical harm, either to the officer or others..."
<b>2</b>	Life-threatening felony - "...if the suspect 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..."
<b>3</b>	Give warning where feasible - "...the court imposes a constitutional requirement that <i>some warning</i> be given prior to the use of lethal force <i>where feasible</i> ..." "Halt, police! Stop or I'll shoot!"
<b>4</b>	If necessary to prevent escape - "...in order for lethal force to be constitutionally permissible, there must be <i>probable cause</i> to believe that the use of lethal force is <i>reasonably necessary</i> ..."

**NOTE:** This federal constitutional standard is only the baseline starting point for use of lethal force. Peace officers must also regard penal code and department policies.

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## Basis for Intervention

[20.05.EO1]

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### Introduction

The community expects that its peace officers will use only reasonable amounts of force. Likewise, it expects that someone, including other officers, will intervene if reasonable levels of force are exceeded. For the community's protection and the officer's protection and peace of mind, the officer must have a basic knowledge of the laws pertaining to intervention.

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### Definition

**Intervention** is the act of preventing or stopping the inappropriate or unlawful behavior of another.

Appropriate intervention allows peace officers to maintain or restore professional control over a given situation or improve the professional quality of future interactions.

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### Fourth Amendment Protections

The United States Constitution provides protection for individuals against unlawful actions of peace officers.

The United States Code contains criminal sanctions against peace officers who violate the civil rights of the public (*USC Title 18, Sections 241 and 242*).

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

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## Basis for Intervention, Continued

### Lawful resistance

Although *Penal Code Section 834a* states that the person being arrested must submit to an arrest, if unlawful or unreasonable force is used to effect the arrest, the person being arrested may lawfully resist to overcome that force. The following chart lists the applicable penal code sections.

<i>Penal Code Section</i>	<b>Description</b>
692	Lawful resistance to the commission of a public offense may be made by the party about to be injured or by other parties.
693	Resistance sufficient to prevent the offense may be made by the party about to be injured in self-defense or in the protection of another person or to prevent the taking or injuring of property in that person's lawful possession.
694	Any person, in aid or defense of the person about to be injured, may make resistance sufficient to prevent the offense.

### Appropriate intervention

When peace officers intervene appropriately, their professionalism is enhanced as is their personal and organizational credibility.

Intervention may also save officers from:

- physical injury resulting from unnecessary escalation,
- disciplinary action up to and including termination,
- criminal complaints filed against them, and
- financial loss resulting from civil suits.

# Intervention Techniques

[20.06.EO2]

**Introduction** Intervention involves the application of a variety of techniques for restoring or maintaining professional control over a given situation. In some situations it may be desirable or necessary to intervene immediately. In others, it may be desirable to utilize an intervention strategy after the fact.

**Immediate intervention** During a high-stress situation such as making an arrest, peace officers may experience emotional or angry reactions to the suspect. As a result, they may start applying excessive force without realizing what they are doing. At this point it is imperative that the fellow officer step in immediately and diffuse the situation.

There are three common immediate intervention techniques, as 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 suspect 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 clearly unreasonable physical force.	Fellow officer physically takes hold of the other officer in order to separate the peace officer from the suspect.

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## Intervention Techniques, Continued

### Delayed intervention

In situations that have already taken place, it may be necessary to implement a delayed intervention technique. This can be valuable in improving the professional quality of future contacts.

There are three common delayed intervention techniques, as 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 ongoing training is when a peer consistently demonstrates desirable behaviors.

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## Intervention Techniques, Continued

**Examples** The following examples illustrate a situation with immediate and delayed intervention.

Situation	Suspect's/Victim's Action(s)	Type of Intervention
<p>Officers Jones and Smith worked a two-person DUI unit. They stopped a vehicle for suspicion of DUI.</p>	<p>The driver failed the FST's given and was told he would be arrested. The suspect was compliant to demands but did not wish to be cuffed.</p>	<p><i>Immediate intervention:</i>            Officer Jones saw that Officer Smith was moving into position for the carotid restraint. Officer Jones felt that a control hold was safer and more reasonable. Officer Jones applied a front wrist lock on the suspect and received immediate compliance. Officer Jones moved into a cuffing maneuver and quickly cuffed the suspect.</p>
		<p><i>Delayed intervention:</i>            Officer Smith immediately applied a carotid restraint and cuffed the unconscious suspect. The suspect was later booked without incident. Officer Jones later discussed with Officer Smith the entire incident. Officer Jones asked Officer Smith why a carotid restraint was used immediately and why wasn't a control hold or takedown considered instead. Officer Smith stated that the other options were overlooked.</p>
<p>Officers respond to a call about a suspected burglary at a private residence.</p>	<p>While investigating the burglary report call, the victim begins to verbally chastise the officers for taking too much time to respond.</p>	<p><i>Immediate intervention:</i>            Upon catching the suspect, Officer Wong began to kick the suspect; the suspect went limp and was lying in a fetal position. Officer Kwan arrived and stepped between Officer Wong and the suspect in order to handcuff the suspect.</p>
	<p>While listening to this, the officers see a man run out of the back of the house; the officers give chase.</p>	<p><i>Delayed intervention:</i>            Upon catching the suspect, Officer Wong began to kick the suspect; the suspect went limp and was lying in a fetal position. Officer Kwan arrived, but refrained from stepping in and after a few more kicks, both officers handcuffed the suspect. Later while writing the report, Officer Kwan told Officer Wong that it was wrong to kick the suspect.</p>



# Factors Affecting Intervention

[20.05.EO3]

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**Introduction** Although peace officers are legally and ethically required to intervene when they observe inappropriate behavior of a fellow officer, personal and psychological reasons may tend to prevent them from intervening.

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**Behaviors requiring intervention** If a peace officer witnesses a fellow officer resorting to, or on the verge of using inappropriate behavior, the observing officer should take appropriate action by intervening. This requires making the rational decision that the errant officer seems incapable of making in the heat of the moment. Such behavior can include:

- unlawful use of force,
- inappropriate use of language, and
- other unlawful, unethical, or inappropriate behaviors (i.e., theft).

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**Necessity for intervention** Appropriate intervention is required 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 organization liability because it results in fewer:
  - physical injuries arising from unnecessary escalation,
  - disciplinary actions and personal complaints,
  - criminal complaints filed against officers, and
  - civil liability suits, including fewer punitive financial judgments against individual officers.

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## Factors Affecting Intervention, Continued

### Barriers 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.

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>• Certain types of stress develop into aggression</li><li>• Fears may play a significant part in the behavior of the observing officer</li></ul>

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## Factors Affecting Intervention, Continued

**Intervention** When a peace officer has lost emotional control, it may be necessary for a partner to intervene and assist. If the other officer cannot create a buffer, they may attempt to slow down the action or interrupt the sequence of events.

However, the other officer may be prevented from taking any action due to a number of factors. The following chart lists some of these factors.

Other officers might not intervene because of...	They might think...
diffusion of responsibility.	"Somebody else will step in any minute now."
pluralistic ignorance.	"Nobody else is doing anything so maybe I am just misunderstanding the situation and nothing is really wrong."
evaluation apprehension.	"What if I'm wrong? What will everyone think of me if I step in and do something?"

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

- loss of peace of mind,
- embarrassment,
- civil/criminal action,
- disciplinary action, or
- loss of both officers' careers.

## Chapter 7

### Consequences of Unreasonable Force

#### Overview

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**Learning need** Peace officers must recognize not only their authority to use force, but also their responsibility and liability when the use of force is inappropriate.

---

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

After completing study of this chapter, the student will be able to:	POST Code
identify a <i>peace officer's</i> potential criminal and civil liability associated with the use of excessive force.	20.07.EO1
identify the <i>agency's</i> potential criminal and civil liability associated with the use of excessive force by one of its officers.	20.07.EO2

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

Topic	See Page
Peace Officer and Agency Liability	7-2
Chapter Synopsis	7-6
Workbook Learning Activities	7-7

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# Peace Officer and Agency Liability

[20.07.EO1, 20.07.EO2]

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**Introduction** Liability should not be taken lightly. Society imposes a tremendous burden upon peace officers when it grants, by legal statute, permission to use force that may cause serious bodily injury or take the life of a human being.

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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, or
- 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.

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**Goal of force application** The objective for the use of force by peace officers in any situation is to ultimately gain or maintain *control of an individual and therefore 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 only the amount of force reasonable to overcome resistance and to gain or maintain control of a suspect.
  - use only the amount and type of force which is permitted by individual agency or department policy.
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## Peace Officer and Agency Liability, Continued

**Unreasonable force**

**Unreasonable force** occurs when it is apparent that the type, degree, and duration of force employed was neither necessary nor appropriate.

**Consequences of indiscriminate use of force**

Malicious assaults and batteries committed by peace officers constitute gross and unlawful misconduct. When the use of force is applied indiscriminately, the officer can also face criminal and civil liability as well as face departmental disciplinary action. The following chart highlights a number of these consequences.

Consequence	Officer may...
Criminal action	face criminal actions for improper use of authority or force.
Civil rights violation	be held accountable for civil rights violations.
Compensatory and punitive damages	have civil lawsuits brought against them.
Administrative or departmental action	be subject to disciplinary actions or 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

Along with *Penal Code Section 149*, there are additional statutes which are intended to regulate the behavior of peace officers. The following chart lists these statutes.

<i>Penal Code Section</i>	<i>Description</i>
147	Any officer who is guilty of willful inhumanity or oppression toward any prisoner under that officer's care is punishable by fine and removal from office.
149	Every officer who, under color of authority and without lawful necessity, assaults or beats any person, is punishable by fine and/or imprisonment.
661	A peace officer may be removed from public office for neglect or the violation of their official duty.
673	It is 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.

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## Peace Officer and Agency Liability, Continued

### Federal law regarding officer behavior

There are also two sections of the U.S. Code that relate to an officer's unlawful action. The following chart notes these:

<i>U.S. Code Section</i>	<b>Description</b>
<i>242, Title 18 (Criminal)</i>	Peace officers are prohibited from depriving citizens of their rights under the color of the law. If death results, officers may be punishable by life imprisonment.
<i>1982, Title 18 (Civil)</i>	Peace officers are prohibited from depriving citizens of their rights under the color of authority.

### Vicarious liability

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

The vicarious liability of an agency (*master-servant rule of law*) holds an agency responsible for the conduct of its officers while acting within the scope of their authority. The agency can be:

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

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



## Chapter Synopsis

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**Learning need** Peace officers must recognize not only their authority to use force, but also their responsibility and liability when the use of force is inappropriate.

---

**Peace officer's potential criminal and civil liability [20.07.EO1]** Malicious assaults and batteries committed by peace officers constitute gross and unlawful misconduct. When the use of force is applied indiscriminately, the officer can also face criminal and civil liability as well as face department disciplinary action. Some of these consequences are:

- criminal action,
  - civil rights violation,
  - compensatory and punitive damages,
  - administrative or departmental action, and
  - moral impact.
- 

**Agency's potential criminal and civil liability [20.07.EO2]** The unreasonable use of force by an officer can discredit and result in loss of public support to an officer's agency.

The vicarious liability of an agency (*master-servant rule of law*) holds an agency responsible for the conduct of its officers while acting within the scope of their authority. The agency can be:

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