

Emeryville Police Department
Perishable Skills Program Update – Use of Force
CCN#:1690-29580

Course Goal:

The course will provide the trainee with the minimum topics of Use of Force required in the POST Perishable Skills Training Program (PSP). The trainee will develop tactical knowledge and skills to improve the student's knowledge of Use of Force laws and policies as well as critical decision-making skills. This course provides updated legislative content regarding PC 835(a), AB392, SB 290 and De-escalation.

The course consists of power point, round table exercise, case law review, scenarios, and group discussions for in-service officers. **The training may be presented in a 4, 6, or 8-hour format allowing for flexibility based upon specific agency or trainee group needs, as long as the minimum topics are contained within each format independently.**

Use of Force

Minimum Topics/exercises:

- A. Policies & Case law
- B. Legislative content regarding AB392 & 835(a)PC (Power Point)
- C. SB 290
- D. Case Law
- E. Respect for life
- F. Duty to Intercede
- G. De-escalation
- H. Rendering First Aid
- I. Verbal Commands vs Verbal communication
- J. Decision making and Environment control
- K. Evaluation & Testing

Course Objective:

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The trainee will:

1. Demonstrate knowledge of our Departmental Policy and use of force laws.
2. Demonstrate knowledge of the importance of De-escalation and Verbal commands.
3. Demonstrate knowledge of force options, decision making and proper techniques to include.
 - a. Legal Duty to intercede
 - b. Rendering aid
 - c. Respect for Human life
 - d. Appropriate force options
 - e. Appropriate time allowed for response
 - f. Pre-planning prior to the contact
 - g. Report Excessive Force to a Supervisor.
4. Demonstrate minimum standards of performance will be tested by an instructor observing trainees during the participation of group discussions, round table exercise and scenarios. If trainee does not meet standards set by the instructors, remediation will be provided until standards are met.

Expanded Course Outline

I. Introductions/Orientation

- A. Introductions, Rosters & Orientation
 1. Instructor
 2. Registration/Roster
 3. Safety Policy

II. Policies

V(a)

- A. Department Policies regarding Use of Force
 1. G.O. 300 use of Force review
 - a. Duty to intercede
 - b. Fair & Unbiased Use of Force
 - c. Alternative tactics/ De-escalation
 - d. Reporting Use of Force

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III. AB 392 & 835a PC Update

V(b)

A. AB 392 effect on Penal code

1. 196 PC The circumstances of justifiable homicide change from when "overcoming actual resistance to the execution of some legal process or in the discharge of any other legal duty" to "the homicide results from a peace officer's use of force that follows PC 835a.
2. 835a(a) PC added to reflect legislative intent including:
 - a. Use of force authority conferred on peace officers is a serious responsibility
 - b. Deadly force should be used only when necessary.
 - c. Use of force decisions are to be evaluated carefully and from a "reasonable officer" perspective.
 - d. Individuals with disabilities may be affected in their ability to understand or comply with peace officer commands.
3. 835a(b) PC amends reasonable force standard to "objectively reasonable force"
4. 835a(c)(1) PC amends deadly force standards to include "totality of the circumstances" when:
 - a. defending against imminent threat of death or serious bodily injury
 - b. apprehending fleeing persons for felony
 - c. involving threatened or actual death or serious bodily injury
 - d. immediate apprehension is reasonably believed to be needed
 - e. requires, when reasonable, that officers identify themselves and warn of intent to use force
 - f. definition of imminent threat: has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury
5. 835a(c)(2) PC prohibits deadly force against a person who only poses a danger to themselves
6. 835a(e) PC adds definitions for deadly force, imminent and totality of the circumstances.

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IV. SB 230

V(c)

A. Changes SB 230 created

1. Section 1 (g) A law enforcement agency's use of force policies and training may be introduced as evidence in proceedings involving an officer's use of force. The policies and training may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably but shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training.
2. Section 2 7286 (b) (2) A requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

V. Case Law

V(d)

- A. Graham v. Conner
- B. Tennessee v. Conner
- C. Forrester v. County of San Diego
- D. Hayes v. City of San Diego
- E. Future Pending case

VI. Respect for life

V(e)

- A. What is respect for human life?
- B. How is this applied to use of force?
- C. Decision making regarding human life of the individual vs the public.

VII. Duty to Intercede

V(f)

- A. What is "Duty to Intercede"?
 1. Officer Liability/failure to act
 - a. Criminal
 - b. Civil
 - c. Administrative
 2. Stigma around Interceding
 3. How does this effect your personal values?
 4. How does this effect the organizational values?
- B. Who are you responsible to as a peace officer to intervene?
 1. The suspect
 2. The Public

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3. Fellow officer(s)
 4. The organization
 5. Yourself
- C. How to recognize when to intercede
- D. Rendering Aid
1. What is the Agency's policy on rendering aid?
 2. When is it safe to render aid?
 3. Do you know what your responsibility is to render aid?

VIII. De-Escalation

V(g)

- A. De-Escalation defined
- B. How to use de-escalation
- C. Components and considerations for de-escalation
- D. Slow Down
- E. Gather Information
- F. Evaluate situation, consider alternative options
- G. Establish perimeter to contain scene
- H. Use other available resources (CIT, Mobile Crisis Team)
- I. Develop a plan
- J. Time + Distance = Options
- K. Tactical re-positioning, Retreat

IX. Verbal Commands vs Verbal communication

V(h)

- A. What is the difference between commands and communication?
- B. How does communication work in the force continuum?
- C. How is communication used for de-escalation vs. commands?
- D. What tone to use during a use of force incident. Use clear, calm, deliberate, and controlled communication. This allows to establish clear communication lines between subjects and officers.

X. Decision making and Environment control

V(i)

- A. What is important right now?
- B. Tactical pause, Slow down (if you can)
- C. Gather intelligence
- D. Set priorities
- E. Develop a plan(s)
- F. Think through your options (Time & Distance)
- G. What tools are available?
- H. De-escalation techniques/Tactical re-position/Retreat Considerations

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- I. What resources may be needed (Stage Medical?)
- J. Activate Body Worn Camera
- K. Make a record of your compliance with law and policy (developing plan, de-escalation, resources, alternative options, gathering information, officers' responsibilities. Use body worn cameras and radio to demonstrate your actions so you can see and hear it)

XI. Trainee Evaluations/Testing/Classroom Role Play Scenarios

V(j)

- A. Use of Force scenarios worked through the following process
 - 1. Participation in role play scenarios: Classroom role play scenarios
 - a. Non-Criminal/Barricade-5150W&I
 - b. Domestic Violence/Non-compliant suspect but not active resistance
 - c. Burglary Search/Suspect locate
 - d. Threats/Suspect with a knife
 - 2. Debrief of role paly scenarios
 - a. Department policies
 - b. Legal standards
 - c. Tactics
- B. Use of Force group exercises worked through the following process
 - 1. Class presentation
 - a. Students teach back specific course material