

**Monterey County Sheriff's Office**

**Use of Force Liability Litigation Course**

POST Course Control #6730-21179-19

Revision Date 5-21-2020

**I. Introductions**

- a. Administrative business
- b. Goal of class
  - i. What do the students want out of the course?

**II. Pre-Test**

- a. Written Pre-Test
  - i. Current use of force

**III. AB 392**

- a. What does this mean?
- b. Living and working with AB392
- c. California PC 196
- d. De-escalation

**IV. Use of Force Concerns / Misconceptions**

- a. Criminal Prosecution
  - i. Officer
  - ii. Supervisor
- b. Civil Suit
  - i. Officer
  - ii. Supervisor
  - iii. Agency
- c. Administrative Action
  - i. Leave
  - ii. Dismissal
- d. Misconceptions
  - i. Minimal amount of force
  - ii. Least injurious force
  - iii. "Necessary Force"

**V. Use of Force – What can happen?**

- a. Criminal Prosecution
  - i. Federal
    - 1. 18 U.S.C 241 – Conspiracy to prevent exercise of rights
    - 2. 28 U.S.C 242 – Deprivation of Civil Rights
  - ii. State
    - 1. 149 P.C.
    - 2. 147 P.C

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- b. Civil Liability
    - i. 42 U.S.C 1983 – Deprivation of Civil Rights
    - ii. Monel Claims
    - iii. Supervisor Liability
- VI. Use of Force Basics
- a. Core Transaction
  - b. Special Relationship
  - c. 4<sup>th</sup> Amendment
  - d. 835(a) PC
    - i. Authorizations
    - ii. Protections
- VII. Force Options
- a. Hands On
    - i. Injury Expectations
    - ii. Medical Treatment
  - b. OC Spray
    - i. Injury Expectations
    - ii. Medical Treatment
  - c. Taser
    - i. Injury Expectations
    - ii. Medical Treatment
  - d. Baton
    - i. Injury Expectations
    - ii. Medical Treatment
  - e. Carotid Restraint
    - i. Injury Expectations
    - ii. Medical Treatment
  - f. Deadly Force
    - i. Injury Expectations
    - ii. Medical Treatment
- VIII. Continuum or no Continuum
- a. Why you should NOT have a continuum
    - i. Dangers

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**IX. Graham V Connor (1989 – United States Supreme Court)**

- a. Case background
  - i. Diabetic
  - ii. Thought Robbery
  - iii. Detained
- b. Reasonable Officer Standard
  - i. Same or similar training and experience
  - ii. Same or similar circumstances
  - iii. Same of similar response
- c. Evaluation factors for Use of Force
  - i. Severity of the Crime at issue
  - ii. Threat of the suspect to officer or others
  - iii. Level of resistance / attempts to flee
- d. Important language of case
  - i. No hindsight
    - 1. Don't jump to conclusions on your officers cases.
    - 2. Find out the facts!
  - i. Tense, uncertain, rapidly evolving
- b. Video #1 – Apply Graham Factors
- c. Video #2 – Apply Graham Factors

**X. Tennessee V Garner (United States Supreme Court)**

- a. Background to Case
- b. Fleeing Felon Standard
  - i. PC believe a violent crime has been committed
  - ii. PC believe they are a threat to others if allowed to escape.
    - 1. Forrett v Richardson clarified the case for 9<sup>th</sup> circuit.

**XI. Electronic Control Devices (TASER)**

- a. When can we use it?
  - i. Dart mode?
  - ii. Drive Stun mode?
  - iii. Multiple applications?
  - iv. Juveniles?
  - v. EDP?
  - vi. Handcuffed?
- b. Bryan vs McPherson

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c. Brooks vs Seattle

**XII. Documentation**

a. Report Writing

i. Level of Detail

1. Misconceptions
2. Refresh my memory vs movie script

ii. Key components of good reports

1. Precursor events
2. Justification for contacts (if not in precursor events)
3. Avoid police jargon
4. Avoid catch or canned terms..”assisted to the ground or fighting stance.)
5. 835a pc – include as much language from the code as you can

iii. Pitfalls

1. Lack of detail
2. Missing key components

**XIII. SB1421**

- a. What does it say
- b. Implications on force investigations

**XIV. Practical Application**

- a. Verbal report
- b. Mine the Mind
  - i. Talk the event out to dig up the details
    1. Unless IA issues
- c. Report review

**XV. Post Test**

- a. Remedial – if needed

**XVI. Conclusion**

- a. Evaluations
- b. Certificates

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#### Video Credits –

1. Utah Highway Patrol camera, shows Jared Massey being taser - [https://www.youtube.com/watch?v=NH\\_qVJfaYZA](https://www.youtube.com/watch?v=NH_qVJfaYZA)
2. Walter Scott Death: Video Shows Fatal North Charleston Police Shooting | The New York Times - <https://www.youtube.com/watch?v=XKQggVlk0NQ>
3. Arizona Cop Runs Over Rifle-Toting Suspect | Marana Police Car Slams & Rams Armed Man | FULL VIDEO - <https://www.youtube.com/watch?v=DFcEMMZju7U>
4. Raw Video: Police Slam Wrong Man Into a Wall - <https://www.youtube.com/watch?v=9llvTQn8v-c>
5. Man on horse beaten by San Bernardino Cops - <https://www.youtube.com/watch?v=IXFiMdt1gEc>
6. Motorcycle Police Officer Helmet Cam Chase Hit and Run Suspect Man Tasered - <https://www.youtube.com/watch?v=L1tFD7WMe40>
7. Seattle Police Officer Punches Girl In The Face - <https://www.youtube.com/watch?v=W1bbfmUX6rU>
8. Force options scenarios – <http://www.milorange.com/index.php>
  - a. Disturbance at the Marina
  - b. Drunk subject in the park
  - c. Domestic violence in the motel room.