



# APD USE OF FORCE TRAINING

2019-2020

# WHAT ARE OUR GUIDELINES FOR USING FORCE?

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Federal Law

State Law

Department Policy



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# FEDERAL LAW:

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4<sup>th</sup> Amendment

Graham Vs Connor



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# 4<sup>TH</sup> AMENDMENT

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Prohibits Unreasonable Searches and Seizures

Applies to searches of Persons, Places, Things

Applies to Use of Force on “Free Citizens”



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# REASONABLE SUSPICION/PROBABLE CAUSE

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## Reasonable Suspicion:

Specific and Articulate Facts and Circumstances that would lead a reasonable officer to **suspect** that a crime has been, is being, or is about to be committed.

## Probable Cause:

Specific and Articulate Facts and Circumstances that would lead a reasonable officer to **believe** that a crime has been, is being, or is about to be committed.



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# PAT DOWN SEARCH

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The "investigatory stop must be lawful" and the officer must "reasonably suspect that the person stopped is armed and dangerous."

Liberal v. Estrada, 632 F.3d at 1079 (quoting Arizona v. Johnson, 129 S.Ct. at 784).



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# GRAHAM VS CONNOR

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“OBJECTIVELY REASONABLE UNDER THE TOTALITY OF THE CIRCUMSTANCES”

Whether the officer’s actions are “objectively reasonable” in light of facts and circumstances confronting them without regard to underlying intent or motivation.



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# GRAHAM FACTORS

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Immediate Threat to Safety of Officers/Others

Actively Resisting (vs. Passive/Non-Compliant)

“Split-Second” Judgments - Circumstances **T**ense,  
**U**ncertain, **R**apidly Evolving (“pace” of events)

Severity of the Crime(s) at Issue

Attempting to Escape or Evade Seizure by Flight



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# OFFICER/SUBJECT FACTORS

Prior Contacts

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Number of Officers vs. Number of Subjects

Age, Size, Gender, Relative Strength

Special Knowledge or Skills

Injury or Exhaustion

Mental Illness or Drug Usage

Environmental Factors

Proximity to Potential Weapons



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# STATE LAW: 835A PC

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May use “reasonable” force to:

Effect the arrest

Prevent escape

Overcome resistance

Defense of self or others

Need not retreat or desist

Nor shall the officer be deemed the aggressor or lose his right to self defense  
(defense of self or others)



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# APD POLICY #300/USE OF FORCE

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APD Policy is similar to Graham V Connor + Penal Code 835a

 Refer to Policy handout



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# 9<sup>TH</sup> CIRCUIT COURTS LEVELS OF FORCE

## Deadly Force (High)

"Force with Substantial Risk of SBI/Death"

Objectively Reasonable under TOC; Defense of Self/Others; CA PC §835a

+ Active Resistance + Threat of SBI/Death

Also: Fleeing Felon = PC to believe violent felon/imminent threat

## Non-Deadly Intermediate Force (Moderate)

Force with "Significant Risk of Injury"

OC, CEW (Probe), Impact Weapons, K-9, LVNR

Objectively Reasonable under TOC; Defense of Self/Others; CA PC §835a

+ Active Resistance + Threat of Harm

## Non-Deadly Force (Low)

Force with "Minimal Risk of Injury"

Presence, Verbal, Empty Hand Control, CEW (drive-stun)

Objectively Reasonable under TOC; Defense of Self/Others;

Effect Arrest, Overcome Resistance, Prevent Escape = CA PC §835a



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# IMPORTANT FACTORS TO INCLUDE IN YOUR REPORT:

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## Initial Contact:

Often the weakest point of use of force reports

Observations, suspicions, and the foundation for your suspicion (training, experience) need to be articulated

Be very clear for the legal reason for any detention (Terry V Ohio, 4th Amendment)

Remember the most important part of a use of force is often what led up to the incident



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# BODY WORN CAMERA CONSIDERATIONS

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BWC's are not a complete and accurate overview of the incident

Remember, the camera does not always capture what you see or do not see, it is 2 dimensional and doesn't zoom in, turn, or shift its vision like a human being

We are not robots, we all see, react, and perceive things differently based upon our own personal experiences

If your memory of an incident is different than your video it doesn't necessarily mean you are being untruthful, focus your report on what **YOU** saw, and what **YOU** were focused on



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# CONCLUSION:

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It's okay to make mistakes, it's never okay to lie

Remember, you are a human being, you hurt, you have emotions, you are not a super hero (it's okay)

Your report/statement is your opportunity to tell your side of the story, if you don't tell your side of the story, who will?

You will only get one chance to tell your story, take your time, go out of service if necessary, make the most complete and accurate statement possible



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