Expanded Course Outline

Sonoma County Sheriff's Office Force Options Use of Force De-escalation

CCN: 5380 Course ID: 23217 | POST Certification II | Reimbursement Plan I | 8 hours

Revision Date: 12-16-21

Course Purpose

This course provides California Peace Officers with training on considerations related to the use of force including legal standards, objectiveness, de-escalation, and the need to safeguard life, dignity, and liberty of all persons without prejudice to anyone.

Course Intent

This course satisfies the requirements of California Penal Code section 13519.10. It also satisfies the communications and use of force requirements of the POST Perishable Skills Program (PSP) established by 11 CCR § 1005. Each learning objective is accompanied by notations indicating which Penal Code, Perishable Skills Program Strategic Communications (IV-SC), and Perishable Skills Program Use of Force (V-UF) requirements are met. The course is not intended to teach use of force tactics, but it is instead an examination of the considerations, reasoning, and analysis that occurs concurrent to a use of force incident.

Course Audience

This course is intended for sworn peace officers assigned to perform general law enforcement or custodial duties. The concepts presented and skills practiced are intended as a refresher and/or practical update for competencies already possessed by students.

Course Presentation Method

This course builds upon and develops existing student skills, knowledge, and attitudes related to the use of force. As a result, the course is facilitated using student-centered instructional strategies that prioritize students' analysis of use of force and related events. Students should complete the course with the ability to immediately transfer and apply their learning in their own professional contexts. The course predominately uses scenario-based learning as the context for class discussion about course content. As such, instructors should be skilled with engaged facilitation and the use of questioning to cause student critical thinking. This course cannot be presented effectively in a lecture-based format.

Note: The learning objectives and course content contained in this expanded course outline (ECO) are structured to explicitly respond to each item required by CA Penal Code 13519.10. As a result, there is significant redundancy within the ECO. Overlap between items is resolved through the lesson plan during the presentation of the course. Consequently, this ECO should not be used in place of a comprehensive lesson plan for course delivery.

A. Learning Objective: Students will describe the course learning objectives and safety policy

1. Introduction, registration, and orientation
2. Course objectives
   a) Overview and exercises
   b) Evaluation and testing
   c) Transference of learning
3. Safety policy
   a) Review
   b) First aid procedures and closest medical facility
   c) Non-training weapons are prohibited in the classroom and in the scenario/VR arenas
   d) Safety checks upon student entry/exit of all training areas

B. Learning Objective: Students will apply the legal standards for the use of force and explain the application of these standards to use of force situations. *(Penal Code 13519.10(b)(1), V-UF(a,b))*

1. Federal standard: Fourth (4th) Amendment—Prohibits unreasonable seizures
   a) Graham v. Connor: Established *objective reasonableness* as the standard for police use of force
      (1) Considers the use of force from the perspective of an objectively reasonable officer on the scene at the time the force was applied
      (2) Does not consider the 20/20 vision of hindsight
   b) Officers must consider the totality of circumstances and be able to articulate all factors which contribute to the application of force, including but not limited to:
      (1) State of mind
      (2) Whether the suspect posed an imminent threat to the safety of the officers or others.
      (3) The nature of the crime
      (4) Whether the suspect was actively resisting arrest
      (5) Whether the suspect was attempting to evade arrest by flight
      (6) Split-second judgments during circumstances that are tense, uncertain, and rapidly evolving
      (7) Officer/subject factors
         (a) Prior contacts
         (b) Number of officer vs number of suspects
         (c) Age, size, gender and relative strength between officer(s) and suspect(s)
         (d) Special knowledge or skill such as the suspect displaying a fighting skill, E.G. MMA
         (e) Environmental factors
         (f) Proximity to potential weapons

2. State Standard: Penal Code 835a
   a) In California, the Federal standard of *objective reasonableness* applies with the following additional considerations:
      (1) The totality of circumstances includes pre-force officer conduct (Hayes v. County of San Diego) and subject conduct (PC 834a/835a(e)(3))
      (2) Officers have no duty to retreat but should tactically reposition or use other de-escalation tactics when feasible.
      (3) Officers may not use deadly force when a suicidal subject is not an imminent threat to the officer or others, but this does not restrict an officer's right to protect self or others from imminent threat.
         (a) Officers have no duty to prevent suicide (Adams vs. Fremont) unless there is a risk to the public or a special relationship has been created with the subject. A special relationship may be established if:
            (i) Officers' actions increase the risk of harm to the subject, or
            (ii) subject relies (to their detriment) on something an officer says or does.
         (b) "Imminent" threat exists when a reasonable officer would perceive a present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury
   b) Penal Code 196A—Criminal Homicide
      (1) Homicide is justified when in obedience to judgment of competent court or,
      (2) When resulting from force by peace officer in compliance with 835a
3. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning

C. Learning Objective: Students will analyze and evaluate their legal duty to intercede and report excessive force to a superior officer. *(Penal Code 13519.10(b)(2), V-UF(a,b,f))*

1. Duty to Intercede
   (1) Federal
      (a) Title 18, USC 242 – criminal deprivation of civil rights
      (b) U.S. v. Gwaltney, 790 F2d 1378 (9th Cir. 1986) – CHP officer convicted of murder
   (2) Bystander officer liability
      (a) An officer witnessing another officer violating an individual's

constitutional rights may violate federal civil rights law (42 U.S.C. §1983) if:
(i) An officer had a reasonable opportunity to prevent the harm
(ii) They failed to act.
(b) Cunningham v Gates, 229 F 3d 1271 at 1289-1290 (9th Cir., 2000)
(c) U.S. v Koon, 34 F.3d 1416 at 1447 (9th Cir., 1994)

(3) State of California
(a) Government Code section 7286(b)(8): Department policy shall include the duty to Intercede
(b) Penal Code 149 – Excessive force under color of authority
(c) Agency Policy

(4) Consequences and liabilities
(a) Criminal
(b) Civil
(c) Administrative
(d) Moral/ethical

(5) Stigma
(a) In the police culture, what might create stigma against interceding?
(b) How can stigma be corrected?
(c) How does the presence of stigma reflect cultural and organizational values?

2. Reporting
(1) Government Code section 7286(b)(3): duty to report
(2) If there is a duty to intercede then there is also a duty to report to a superior officer

3. Student Activity and Learning Verification
(1) Student scenario participation
(2) Performance evaluation
(3) Observation and evaluation
(4) Instructor questioning

D. Learning Objective: Students will apply and evaluate the legal standard of *objectively reasonable force* to the use of force. *(Penal Code 13519.10(b)(3), V-UF(a,b,e),* IV-SC(a,b,c,h))

1. Penal Code 835 (a)(2): Deadly force will be used only when necessary in the defense of human life, in consideration of:
a) The particular circumstances of each case
b) Other available resources and techniques if reasonably safe and feasible
2. Penal Code 835 (a)(4): The decision by a peace officer to use force shall be

evaluated from the perspective of a reasonable officer in the same situation
a) Mirrors federal law contained in Graham v Conner (490 U.S. 386 [1989])
b) Based on the totality of circumstances known to or perceived by the officer at the time
c) Without the benefit of hindsight
d) The totality of circumstances shall account for occasions when officers may be forced to make quick judgments about using force. Considerations include but are not limited to:
e) Sanctity of all human life
f) The actions of the subject
g) Known disabilities
h) Prior contacts with subjects

3. Graham v Conner (490 U.S. 386 [1989])
   (1) What a reasonable officer would believe at the time of the use of force
   (2) Without regard to 20/20 hindsight
4. Peace officers must be self-aware and self-regulating
   a) An arrest is an emotional problem as well as a physical one for all involved persons, including the officer.
   b) Physical capacities
      (1) Self-control is gained through confidence, which is achieved from proper, adequate, and ongoing use of force training.
      (2) Potential problems of over- and under-confidence
   c) Emotional capacities (emotional intelligence)
      (1) Self-control and awareness of biases
      (2) Awareness and control of fear and anger
5. Pre-event strategies when feasible
   a) Effective communication between responding officers
   b) Reinforcing intentional action
   c) Slow down and listen; assess before action
   d) Tactical repositioning
   e) Mental reassessment
   f) De-escalation tactics/techniques
6. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning

E. Learning Objective: Students will evaluate and explain the responsibilities of a supervisor in a use of force incident. ***(Penal Code 13519.10(b)(4), V-UF(a))***

1. Supervisor's responsibility

a) Ensure that injured parties are examined and treated by medical personnel
b) Obtain the basic facts from the involved officers/deputies
c) If there is an allegation of misconduct against agency personnel, obtain the basic facts of the allegation when appropriate
d) Ensure additional notification is made pursuant to department policy
e) Ensure that photographs have been taken of any injuries and evidence
f) Review any use of force reports for completeness, accuracy, adherence to department policy, and to identify potential training issues
g) Ensure proper collection of information to allow yearly reporting to the Department of Justice as mandated under Government Code section 12525.2.

2. Officer's responsibilities for supervisor notification following a use of force:
   a) Shall notify a superior officer of any use of force incident where serious or great bodily injury has occurred or is believed to have occurred.
   b) Notify a superior officer in accordance with department policy following a use of force not involving the occurrence or believed occurrence of great bodily injury.
3. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning

F. Learning Objective: The student will review and analyze a use of force incident using pertinent legal standards and department policy. *(Penal Code 13519.10(b)(5), V-UF(a,b,c,h))*

1. Legal standards
   a) Graham v Conner (490 U.S. 386 [1989])
   b) Penal Code 835a
2. Department policy
   a) Department policy can be more restrictive than federal or state law. (Long Beach Police Officer v. City of Long Beach, 156 Cal.App.3d 996 [1984]):
   b) How does policy shape the review of use of force?
   c) Policy matters not having to do with the use of force should be addressed in a separate administrative investigation.
3. Subject to department policy and investigative limitations, consider public transparency via the early release of appropriate information (CA Penal Code 832.7).
4. Student Activity and Learning Verification
   a) Student scenario participation

b) Performance evaluation
c) Observation and evaluation
d) Instructor questioning

G. Learning Objective: Students will describe the POST guidelines for the use of deadly force and explain how the guidelines may influence their department policy. *(Penal Code 13519.10(b)(6), V-UF(c))*

1. POST guidelines on the use of force
   a) Obtaining the document
   b) Legal requirements and deadline
   c) Impact on agency policy
2. Students' department policies on the use of force
3. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning

H. Learning Objective: Students will describe their obligation related to state-required reporting mandated by Government Code section 12525.2. *(Penal Code 13519.10(b)(7), V-UF(a))*

1. Government Code section 12525.2(a) mandates that:
   a) Each department shall annually furnish to the Department of Justice (DOJ), in a manner defined and prescribed by the Attorney General, a report of all instances when a peace officer employed by that agency is involved in any of the following:
   b) An incident involving the shooting of a civilian by a peace officer.
   c) An incident involving the shooting of a peace officer by a civilian.
   d) An incident in which the use of force by a peace officer against a civilian results in serious bodily injury (as defined by Penal Code 243(f)(4)) or death.
   e) An incident in which the use of force by a civilian against a peace officer results in serious bodily injury or death.
2. For each incident reported under 12525.2(a), the information reported to DOJ shall include, but not be limited to, all the following:
   a) The gender, race, and age of everyone who was shot, injured, or killed
   b) Date, time, and location of the incident
   c) Whether the civilian was armed and if so, what type of weapon.
   d) The type of force used against the officer, civilian, or both, including the type(s) of weapons used.
   e) The number of officers involved in the incident.
   f) The number of civilians involved in the incident.
   g) A brief description regarding the circumstances surrounding the incident,

which may include the nature of injuries to officers and civilians and perceptions on behavior or mental disorders.

3. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning

I. Learning Objective: Students will demonstrate and assess de-escalation and interpersonal communications skills intended to avoid escalating situations and mitigate elevated events. *(Penal Code 13519.10(b)(8), V-UF(e),* IV-SC(a,b,c,d,e,f,h))

1. De-escalation definition
   a) "De-escalation is the process of using strategies and techniques intended to decrease the intensity of the situation." (California Commission on Peace Officer Standards and Training [POST], 2020)
   b) The foundation of police de-escalation is officers' own capacity for self-awareness, self-regulation, and empathy: "...we can't expect them to deescalate others if they cannot defuse themselves"
2. Components and strategy considerations
   a) How to approach, greet, engage, adapt, repair, and close the event in an effective manner.
   b) Tactical methods not limited to time, distance, cover, and concealment
   c) The impact of volume, tone, pace, and demeanor on communication
   d) Giving respect and dignity
   e) Active listening
   f) Ability to give and receive constructive feedback
   g) Mindful attention
   h) Providing a voice to others and the value of allowing people to "vent"
   i) Non-verbal communication and behavioral cues.
   j) Questioning strategies: open vs closed-ended
   k) Persuasion strategies: rational, personal, or ethical appeals
   l) Dealing with difficult or dominating people
   m) Inappropriate communication
   n) WAIT Strategy – "Why Am I Talking?"
3. Officer safety and team communication considerations
   a) Control the environment
   b) Tactical Pause
   c) Slow things down
   d) Pre-arrival intelligence gathering and planning
   e) Time + Distance = Options
   f) Coordinated response

g) One voice
h) Single point of contact with subject(s)
i) Single point of contact with dispatch

4. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning

J. Learning Objective: Students will articulate how human implicit and explicit biases may impact policing, and how officer self-awareness and cultural competency may lessen these effects. ***(Penal Code 13519.10(b)(9)***

1. Biases arise in all humans when our brains interpret and simplify our perceptions in order to respond quickly to our complex world.
   a) Our brains create mental shortcuts that allow us to think quickly while also saving energy.
   b) These shortcuts improve the speed and efficiency of our reasoning but may also introduce errors. These errors are "cognitive biases".
2. Two cognitive biases that may impact judgement and decision-making are:
   a) Implicit bias
   b) Unconscious belief or attitude toward a specific social group that may lead an individual to unknowingly act in discriminatory ways.
   c) People are generally unaware of their implicit biases and may even hold contradictory conscious beliefs.
   d) "Research shows that implicit biases can be reduced through the very process of discussing them and recognizing them for what they are." (USDOJ CRS, 20
   e) Explicit bias
   f) Conscious belief or attitude toward a specific social group that may lead an individual to act in discriminatory ways.
   g) People are aware of their explicit biases
3. Bias by proxy
   a) Occurs when citizens make false or ill-informed reports of misconduct or criminal behavior about persons they dislike or against whom they hold implicit or explicit bias.
   b) "When the police act on a request for service rooted in implicit or explicit bias, they risk perpetuating the caller's bias" (San Francisco Police Department [SFPD], 2020).
4. Cultural Competency: The ability to understand, communicate with, and effectively interact with people across cultures.
5. Student Activity and Learning Verification
   a) Student scenario participation

b) Performance evaluation
c) Observation and evaluation
d) Instructor questioning

K. Learning Objective: Students will demonstrate and assess de-escalation and interpersonal communications skills intended to effectively, safely, and respectfully interact with people having disabilities or behavioral health issues. *(Penal Code 13519.10(b)(10),), V-UF(e),* IV-SC(a,b,c,d,e,f,g,h))

1. Policing challenges related to mental and physical health and disabilities
   a) Penal Code 835a
   b) Disabilities may affect a person's ability to understand or comply with commands from peace officers
   c) Individuals with disabilities are involved in between one-third and one-half of all fatal encounters with law enforcement
2. De-escalation definition
3. Communication components and strategy considerations
4. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning

L. Learning Objective: Students will assess their response to scenarios including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don't-shoot situations, and real-time force option decision-making. *(Penal Code 13519.10(b)(11),), V-UF(a,b,c,d,e,f,g,h),* IV-SC(a,b,c,d,e,f,g,h,i))

1. Students will participate in at least one mandatory scenario and contribute to the assessment of officer performance in at least two other scenarios.
2. Mandated scenarios and content
   a) Low-frequency, high-risk event
   b) Shoot-or-don't-shoot decision making
   c) Multiple force-options decision-making
3. Optional scenarios and content
   a) Communication skills & de-escalation
   b) High-frequency events
   c) Interacting with persons with disabilities
   d) Establishing a special relationship
   e) Duty to Intercede
4. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation

d) Instructor questioning

M. Learning Objective: Students will distinguish alternatives to the use of deadly force and physical force, including de-escalation tactics and less lethal alternatives that are part of the decision-making process leading up to the consideration of deadly force. *(Penal Code 13519.10(b)(12), V-UF(a,b,d,e),* IV-SC(b,c,d,e,f,h))

1. Why is it important for officers to be aware of de-escalation tactics and less lethal alternatives to the use of deadly force?
   a) Reverence for human life
   b) Law enforcement officers shall be guided by the principle of reverence for human life (SB230).
   c) The use of force "shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life" (835aPC).
   d) "The authority to use force is a serious responsibility given to peace officers by the people who expect them to exercise that authority judiciously and with respect for human rights, dignity, and life" (SB230).
   e) How may officers balance "reverence for human life" with "the greater good?"
2. The availability of alternatives to the use of force is highly context-dependent
   a) Given the totality of circumstances, what other options may be feasible?
   b) Consider the problem of police-created exigent circumstances – Kentucky v. King, 563 U.S. 452 (2011)
   c) Alternatives should not increase the risk to officers, the subject, and the public.
   d) Officers are not required to use the least intrusive alternative as long as the force is objectively reasonable - Scott v Henrich, 39 f3d 912 (9th Cir. 1994)
3. Alternatives to the use of physical force and/or deadly force
   a) With consideration of officer safety, alternatives may include but are not limited to:
   b) Slowing down and creating more time
   c) Less-lethal weapons
   d) Mental reassessment/new perspectives of event
   e) Communication/developing rapport/questioning/persuasion
   f) Listening
   g) Tactical repositioning
   h) Retreat
   i) Is there clarity on the benefits and risks of adopting an alternative approach?
   j) Other responding officers' awareness of risks/benefits

k) If feasible, supervisor awareness of awareness of risks/benefits

4. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning

N. Learning Objective: Students will describe policing considerations related to mental health, including bias and stigma. *(Penal Code 13519.10(b)(13), V-UF(a,e),* IV-SC(b,c,d,e,f,g))

1. Those with disabilities may experience increased bias and stigma within their communities. How may this impact:
   a) Interactions with the public?
   b) Contacts with police?
   c) Bias by proxy?
2. Individuals with physical, mental health, developmental, or intellectual disabilities are significantly more likely to experience greater levels of physical force during police interactions (Penal Code 835a).
   a) Disabilities may affect a person's ability to understand or comply with commands from peace officers.
   b) It is estimated that individuals with disabilities are involved in between one-third and one-half of all fatal encounters with law enforcement
3. The verbal, non-verbal, and physical/positional behavior of officers may influence the outcome of a contact with a mentally ill person
4. Consider communication and de-escalation components and strategies.
5. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning

O. Learning Objective: Students will describe how public service, such as the rendering of first aid following a use of force incident, may contribute to increased trust and reduce conflicts between officers and their communities. *(Penal Code 13519.10(b)(14), V-UF(g),* IV-SC(c,d))

1. Law enforcement may be perceived as representing the entire justice system.
2. Public perception of legal and procedurally just policing can increase public perspective of police legitimacy and the legitimacy of the entire justice system.
   a) Legal: Policing that adheres to policy, statutes, and court precedent
   b) Procedurally Just: Policing that gives members of the public:
   c) fairness in the processes
   d) transparency in actions

e) opportunities for voice
f) impartiality in decision-making
g) Justice system legitimacy

3. What opportunities may officers have to demonstrate to the public a position of impartiality and equitability?
   a) Rendering first aid after a use of force
   b) What is peace officer responsibility for rendering first aid?
   c) What are considerations for handcuffing and/or rendering aid to subjects who are severely injured or deceased?
   d) The use of force that is reasonable according to law and policy
   e) Where allowable and/or required by law and policy, increased public transparency following a use of force. (CA Penal Code 832.7)
   f) Public interaction during discretionary time and non-use of force events
4. How a contact is ended today may influence the outcome of a future contact.
5. Student Activity and Learning Verification
   a) Student scenario participation
   b) Performance evaluation
   c) Observation and evaluation
   d) Instructor questioning