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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

THE HONORABLE JAMES L. ROBERT



12-CV-01282-ORD

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AUG 01 2014

PM

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

UNITED STATES OF AMERICA

Plaintiff,

vs.

CITY OF SEATTLE

Defendant.

CASE No. C12-1282-JLR

MEMORANDUM SUBMITTING  
CONSENSUS USE OF FORCE  
TRAINING CURRICULUM  
AND ORDER APPROVING  
SAME

*[Handwritten signature]*

Pursuant to ¶ 121 of the Settlement Agreement, the Parties and the Monitor hereby submit the Seattle Police Department's 2014 Use of Force Review Board Training Curriculum (the "Training Curriculum").

The overriding goal for the Department's Use of Force Review Board (the "Board") is to enable the SPD to rigorously and systematically self-manage the risk of unconstitutionally excessive force. As noted by the Monitor's prior reports, the Board has become a hub of critical self-analysis and continual self-improvement.<sup>1</sup> Consistent with the Board's goals and the

<sup>1</sup> For a full discussion of the Board's purview, processes, and procedures, see the Monitor's Second Semiannual report at 19-22 and the Monitor's Third Semiannual Report at 48-54.

1 Department's continued self-improvement, the Consent Decree expressly requires the  
2 Department to create a training program for board members.

3 Specifically, the Settlement Agreement requires that "[e]ach member [of the Board]  
4 receive a minimum of eight hours of training, including legal updates regarding the use of force  
5 and curriculum utilized by the Education and Training Section regarding use of force."<sup>2</sup> Similar  
6 to the policies and training previously reviewed and approved by this Court, the development of  
7 the Training Curriculum resulted from a collaborative effort between the Parties. The  
8 Department's Education and Training Section provided an initial draft of the Training  
9 Curriculum and continue to demonstrate their dedication to develop training consistent with the  
10 Settlement Agreement.

11 The DOJ and the Monitor have closely reviewed and provided revisions to the Training  
12 Curriculum. The Training Curriculum was drafted and revised with the understanding that board  
13 members need to be well versed in not only the skills of policing but also in the critical analysis  
14 of a use of force event. Because the Training Curriculum provides essential guidance to the  
15 execution of the Board's overarching goals, the Monitor recommends that the Training  
16 Curriculum is adopted.

17 Respectfully Submitted this 31<sup>st</sup> day of July, 2014.

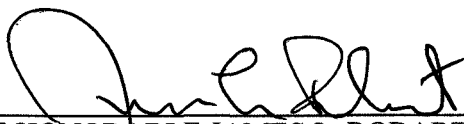
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20 Merrick J Bobb, Monitor  
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25 <sup>2</sup> Settlement Agreement at 121.

1 The Court hereby approves the Training Curriculum filed herewith as Exhibit 1.

2 DONE IN OPEN COURT this 14<sup>th</sup> day of August, 2014.

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5 THE HONORABLE JAMES L. ROBART  
6 UNITED STATES DISTRICT JUDGE  
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**CERTIFICATE OF SERVICE**

I certify that on the 31<sup>st</sup> day of July, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following attorneys of record:

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DATED this 31<sup>st</sup> day of July, 2014.

/s/ Carole Corona  
Carole Corona

# EXHIBIT 1



## ***Use of Force Review Board***



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## Executive Summary

The mission of the Use of Force Review Board is to review all Type II and III Use of Force Reports in a timely, comprehensive and reliable manner to:

- confirm that the use of force investigation, report and review are thorough and complete;
- confirm that uniform standards are applied in use of force practices;
- monitor all aspects of the Department's use of force practices with the goal of continual improvement;
- determine whether the findings of the chain of command are supported by a preponderance of the evidence;
- ensure that all uses of force are lawful;
- identify trends or patterns of deficiencies regarding policy, training, equipment, or tactics;
- Refer deficiencies to the relevant commanding officer for correction.

In order to meet these goals, the Use of Force Review Board members need to be well versed in not only the skills of policing but also in the critical analysis of a use of force event. In order to meet this dual role, this course provides the board members with an overview of use of force skills and a guide to conducting critical analysis of a use of force event. This is a three-day course designed to instruct students on the critical review of use of force incidents in light of relevant case law and Department Policy and Procedures. Eight (8) hours of the course will require online completion of e-learning modules and self-directed study of sample cases. The remaining sixteen (16) hours will consist of in-person instruction on the responsibilities and function of the Use of Force Review Board, with an emphasis on the critical analysis of use of force incidents. Key concepts will be drawn from applicable law and policy. Students will apply the concepts via analytical review of use of force scenarios based on actual incidents.





## Training Needs Assessment

In reviewing past training, the Education and Training Section delivered the initial training for use of force review board members in 2012. This training was a one day course focused primarily on ensuring that the members were fundamentally sound in search and seizure and use of force case law. The training consisted of four hours of case law review and four hours of practical application of that case law to table top exercises. One takeaway from the completion of the training was that it assumed that the students reviewing use of force cases had a higher base line of understanding of current case law than they actually had. Additionally, the majority of those who attended that training no longer serve on the use of force review board. In 2013, the use of force review board did not receive any training in addition to the training required by their current positions within the department.

In preparing the training for 2014, the Education and Training Section relied on their past experience in teaching the board, input from the current acting chair of the board and their experience in participating on the board. The settlement agreement requires that the use of force review board receive at least eight hours of training per year. Taking into account the fact that the board has not had board specific training since 2012, the initial training was inadequate, the current expectations of the use of force review board, the input of the current acting chair indicated that eight hours of training would be insufficient, we have devised a 24 hour course for 2014.

Our goal in this the initial use of force review board training under the current policy is to give the members a broad overview of the depth and breadth of the relevant use of force case law, access to current information on police practices, and a guide to use when conducting a critical analysis of a use of force incident.

## Priorities

In 2014, the priority for training the use of force review board will be on ensuring that all members are current in their mandatory training and that they receive this initial training for use of force review board members.

Upon completion of this training, the Education and Training section along with the Force Review section will complete a debriefing and prepare a plan for future training sessions. The Education and Training section intends to move all future training for the use of force review board under an overall use of force ISDM that encompasses the entire efforts of the ETS on use of force.



## Constraints

The primary constraint facing the Education and Training section in the development and delivery of use of force review board training is time and staffing. Since early in 2014, the Education and Training section has been developing, delivering and managing training for the new policies being implemented as part of the settlement agreement on a constant basis. During that same time period we have faced reductions in available staffing for training development due to work load of delivering training and transfers out of the section.

Training for the use of force review board members has an impact on Operations in that each hour that a member spends in training for the board on top of their mandatory training is another hour away from their regular duties. In order to reduce the impact on operations, we have been mindful in the creation of this training. For example, it was recommended by several board members to essentially make the board take the use of force field instructor course which the student receives 40 hours of credit for, but in fact probably requires 60-80 hours to complete. Instead, we have reduced the pre-read assignment significantly while still trying to achieve the same goals.

## Program Goals

The Education and Training Section's overall goal is to provide the members of the use of force review board with the knowledge and skills necessary to critically review use of force investigations and be able to identify those that are within policy and those that are not within policy.

The Education and Training Sections specific goals for the use of force review board are as follows:

- I. All members of the use of force review board will be able to demonstrate an understanding of key search and seizure concepts, demonstrate that they understand the use of force policy, and demonstrate that they understand the relevant use of force case law to the satisfaction of an Education and Training Section subject matter expert.
- II. All members of the use of force review board will demonstrate that they understand the investigation and reporting requirements under the use of force policy to the satisfaction of an Education and Training Section subject matter expert.



- III. All use of force review board members will demonstrate the ability to critically analyze a use of force incident by identifying the key issues presented in the case to the satisfaction of an Education and Training Section subject matter expert.

### **Learner Characteristics**

Learner characteristics have been previously covered in other ISDM's. However, the Education and Training Section understands that this training is for students at or above the rank of Sergeant and that most students have been participating on the use of force review board for some time. Therefore, many of the students are familiar with the processes associated with the use of force review board, which has allowed us to spend more time in the curriculum in developing technical knowledge. We also recognize that the members of the board work hard on and are very interested in the review process.

### **The Program's Training Method**

#### **Training Methodology**

The Seattle Police Department Education and Training Section personnel in conjunction with the Force Review Section will train board members during this training using the following methods:

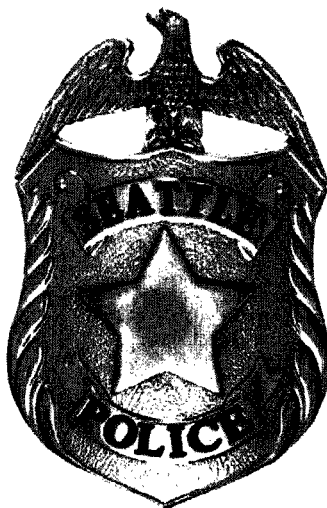
1. Online e-Learning
2. Pre class assignments
3. In-person classroom training

### **Lesson Plans**

The lesson plans for this training consist of the pre-read packet and an ETS standard lesson plan included in this packet. The standardized lesson plan follows the same general format of previously submitted lesson plans.

# **Lesson Plan**

## **2014 USE OF FORCE TRAINING**



## **USE OF FORCE REVIEW BOARD**

**Prepared by:** M. Russey

**Reviewed by:** T. Ovens

**Training summary:**

This is a three-day course designed to instruct students on the critical review of Use of Force incidents in light of relevant case law and Department Policy and Procedures. Eight (8) hours of the course will require online completion of e-learning modules and self-directed study of sample cases. The remaining sixteen (16) hours will consist of in-person instruction on the responsibilities and function of the Use of Force Review Board, with an emphasis on the critical analysis of Use of Force incidents. Key concepts will be drawn from applicable law and policy. Students will apply the concepts via analytical review of Use of Force scenarios based on actual incidents.

**Training Plan:**

The intended audience for this training is Use of Force Review Board standing members or personnel designated to attend the Use of Force Review Board. The training will be delivered in two phases.

The first phase will involve student completion of pre-load material and exercises via self-directed study; in preparation for the in-person phase. The pre-load material will take approximately nine (8) hours to complete.

In preparation for the second phase of this training, students should also have completed the 2014 Phase II Use of Force training, to include Less Lethal and Use of Force Core Principles.

The second phase will be delivered via two (2) days of in-person classroom instruction.

**Training schedule:****Day 1:**

**0630-0700** Instructors on site to set up and prepare for class

**0700-0715** Introduction and Overview:

- Introduction of instructors and students
- Course objectives
- Interest introduction
- Material introduction

**0715-0800** Expectations for Use of Force Review Board members-Captain Caylor

**0800-0900** Instructor-facilitated review of key concepts from Seattle Police Manual Section 8.400—Reviewing Use of Force

**0900-1000** Review of the Incident Review Guide and key concepts



**1000-1100** Lessons Learned and Looking Forward

**1100-1200** **LUNCH BREAK**

**1200-1530** Instructor facilitated review of key concepts using pre-load work

- Facilitated review of key concepts using group work
- Review of exercises completed during preload phase
- Students will have answered analytical questions regarding the sample scenarios. The class will review each scenario and discuss the key concepts covered by the questions

**1530-1600** Experiential Debrief

### **Day 2:**

**0630-0700:** Instructors on site to set up and prepare for class

**0700- 1100:** Application of Incident Review Guide to Use of Force scenario exercises

**1100-1200:** **LUNCH BREAK**

**1200-1530:** Application of Incident Review Guide to Use of Force scenario exercises

**1530-1600:** Experiential Debrief

### **Logistical Information:**

#### **Site:**

- Park 90/5; Classroom #4

#### **Staffing:**

- Instructors: 2 from ETS, 1 from Force Review

#### **Training Equipment:**

- Computer for instructors
- Projector/screen
- Office supplies (pens, paper)



### Performance Objectives:

When presented with a use of force exercise, and under the guidance and evaluation of an Education and Training Section staff instructor, the use of force review board members will:

- Complete a thorough analysis of each incident;
- Apply department policy and the law to the analysis of each incident;
- Identify and address patterns or concerns related to their analysis of each incident.

### Overview

The course will consist of the following blocks of instruction:

1. **(Self-directed) Prerequisites:** Students will complete related e-learning modules prior to the class; including Use of Force modules and Search & Seizure modules.

Students will complete the 2014 Use of Force Phase II training, to include Less-Lethal and Use of Force Core Principles, prior to reporting for the in-person classroom training.

2. **(Self-directed)** Students will review four (4) sample use of force incidents. Students will address specific points of analysis using the incident review guide for each incident. Students will be provided with reference material to assist with their analysis of the cases and prepare for classroom discussion. This material will include:
  - a. Police Practices and Use of Force Information
  - b. Incident Review Guide
  - c. Case Law
3. **(In-class)** Instructor-facilitated review of the expectations for Use of Force Review Board members
4. **(In-class)** Instructor-facilitated review of Seattle Police Manual Section 8.400—Reviewing Use of Force.
5. **(In-class)** Instructor-facilitated review of key concepts related to Search & Seizure and Use of Force, including application of concepts to preload material.
6. **(In-class)** Use of Force review exercises; involving group analysis of sample Use of Force scenarios; utilizing the Incident Review Guide to analyze each event.



## **Interest Introduction**

The Seattle Police Department has instituted a rigorous review process for Use of Force incidents. There is an expectation that Use of Force investigations will be thorough, complete, and address any identified concerns; including concerns with Search & Seizure, the application of force, and the use of tools and tactics to resolve the incident.

A key component of this review process is the Use of Force Review Board. Once a complete summary of an incident has been compiled, it is the responsibility of the Review Board to ensure that the investigation is thorough and complete, whether the reviewer's determinations are supported by a preponderance of the evidence and whether there are considerations that need to be addressed regarding equipment, tactics, training, policy or Department best practices.

In order to adequately fulfill this responsibility, Review Board members need a frame of reference within which they can evaluate each incident. The measures of reasonableness of force, or whether searches and seizures were appropriate, have been framed by case law and defined by Department policies. It is crucial that each Review Board member understands the boundaries established by case law and policy, in order to apply uniform standards of evaluation to their deliberations.

## **Material Introduction**

This class is intended to prepare students for the critical analysis of Use of Force incidents; utilizing relevant law and Seattle Police Department Manual Section 8.400—Reviewing Use of Force as a reference.

This class utilizes current Seattle Police Department policies and case law as a basis for reviewing Use of Force reports.

The course requires active participation by students and provides them numerous opportunities to discuss issues with their fellow students and the instructors. It is intended that the students learn from each other throughout the course.



**Material:****Pre Class Work**

1. **(Self-directed) Prerequisites:** Students will complete 2014 Use of Force Phase I training, to include:

- Authorized Force
- Force Investigation Team (FIT)
- Less-lethal 2014
- Reviewing Use of Force and Reviewing Use of Force Update
- Use of Force – Type I, II, and III

Students will complete online Search & Seizure training, to include:

- Social Contacts Update-published 2013
- Civil Infractions Update-published 2013
- Terry Stops Modules 1-3-published 2014

Students will complete the 2014 Use of Force Phase II in-person training, to include:

- Less-Lethal
- Use of Force Core Principles

2. **(Self-directed) Review of provided reference material, to include:**

- Police Practices and Use of Force Information
- Incident Review Guide
- Court cases related to Search & Seizure and Use of Force

The following cases will be provided as a reference to prepare students for the analysis of the scenarios presented for review in this course. The cases will include:

- Terry v. Ohio
- Graham v. Connor
- Tennessee v. Garner
- Deorle v. Rutherford
- Headwaters v. Humboldt
- Humboldt County v. Headwaters Forest Defense Fund
- Young v. County of Los Angeles
- Bryan v. McPherson
- Brooks v. City of Seattle



3. **(Self-directed)** Students will review four sample Use of Force incidents using the provided questions for scenario analysis. Students will complete a concept application exercise as part of their evaluation of each incident.

**Exercise #1:**

- Two officers are attempting to arrest a man in the street. The man is on the ground, but is not cooperating with their efforts to handcuff him. Both officers become engaged in attempting to handcuff the man. A second suspect approaches and suddenly punches one of the officers. The second suspect then tackles one of the officers to the ground.
- The suspect ends up on top of the officer, with one of his arms clamped around the side of the officer's neck. The officer is not able to get away from the suspect or get the suspect's arm from around his neck. The other officer on scene is not making any effort to assist the officer on the ground.
- At this point, another officer arrives. The arriving officer kicks and punches the suspect in the head. The suspect stops attacking the officer on the ground. The officers take the suspect into custody.

**Exercise #2:**

- Officers are attempting to take a man into custody for DUI.
- The officers have the man leaned over the hood of a patrol car and he is resisting their efforts to control his arms. He is a very large man and the officers do not appear to be able to pull his hands behind his back.
- One of the officers is equipped with a TASER. As the man is standing at the hood of the car, the officer applies the TASER in "dart" mode to his back. The man falls to the ground and indicates he will comply.
- As officers roll him to his stomach and start to take control of his arms, the TASER is applied a second time.
- The officers then continue securing the suspect in handcuffs. One of the officers requests a third TASER application, but the suspect is taken into custody without any more applications of the TASER.

**Exercise #3:**

- An officer is on the ground, engaged in a physical fight with a suspect.
- The suspect has both his arms wrapped around the back of the officer's neck and is pulling him in.
- The officer delivers several punches to the suspect's back. The officer tries to pin the suspect down, but the suspect pulls the officer's hand away and turns toward the officer, as if he is going to continue his assault on the officer.
- Another officer arrives to assist the first officer. They are still not able to fully control the suspect.
- The first officer applies O.C. to the suspect's face. The officers are able to gain control of the suspect, roll him to his stomach and secure him in handcuffs.

**Exercise #4:**

- Officers are responding to investigate a hit and run. The suspect has fled into a friend's apartment. When officers contact a female at the apartment, she indicates the suspect is inside. She also repeatedly tells the officers she is worried about him cutting himself. She does not actually confirm he has a knife, but she makes cutting motions on her wrist as she tells them about her concerns.
- She tells the officer there are no other exits out of the apartment.
- One officer enters the apartment by himself and confronts the male. The male is standing in a small kitchen and armed with a knife.
- The suspect refuses commands to drop the knife and walks towards the officer.
- The officer shoots and kills the suspect.

Students will analyze each use of force incident using the Incident Review Guide. The ability to critically analyze an incident using the guide will provide a basis for review board members to adequately address the discussion questions posed during Use of Force Review Board proceedings.

**Incident Review Guide**

**Legal Authority:** *What was the officer's legal authority to be in the location where the seizure and use of force took place?*

- Was the place open to the public?
- If not, did the officer have a warrant?
- If not, was there an exception to the warrant requirement?
- Exceptions: Consent, exigent circumstances, community caretaking

*If it is not clear from the documentation provided that the officer had clear legal authority to be where the seizure and use of force took place, then the investigation is not thorough and complete unless the chain of command has already dealt with this lack of clarity.*

**Lawful Purpose:** *What was the officer's lawful purpose in making the seizure and in using force?*

- Was the force used to make a Terry stop?
- Was reasonable suspicion explained regarding the belief that the subject was committing a crime, had committed a crime or was about to commit a crime?
- Was the force used to conduct a frisk for weapons?



- Was reasonable suspicion explained regarding the belief that the subject was armed and currently dangerous?
- Was the force used to make an arrest?
- Was probable cause clearly articulated so a reasonable person would believe there was a substantial possibility that the subject arrested had committed a crime for which the officer could arrest them?
- Was the force was used for some other reason?
- Was the reason clearly explained so a reasonable person would believe the force was necessary and lawful?

*If it is not clear from the documentation provided that the officer had a clear lawful purpose to make the seizure and to use force, then the investigation is not thorough and complete unless the chain of command has already dealt with this lack of clarity.*

#### **Scope/Progression of Seizure:**

- Did the officer's seizure exceed the scope of the intended contact?
- Did the officers' actions convert a social contact to a Terry Stop without reasonable suspicion?
- Did the officer convert a Terry Stop to an arrest without probable cause?

*If the chain of command has not dealt with a seizure exceeding the scope of permissible conduct, then the investigation is not thorough and complete.*

#### **Pre-Force**

**Tactical Considerations:** What effect did tactics have on the force used?

- Were the tactics used consistent with training?
- If the tactics were not consistent with training, were they reasonable departures from training based on the circumstances?
- Did the subject take actions to lessen the effectiveness of the officer's tactics?
- Did the tactical situation change? If so, how did this affect the use of force?

*If you identified any tactical issues, did the officer adequately explain the effect of tactics on their use of force? Did the chain of command address the tactical issues you identified? If the chain of command identified tactical issues, do you agree with their analysis and resolution?*

**De-Escalation:** Was de-escalation feasible?

- If de-escalation was feasible, what steps were taken and were they clearly explained?
- If de-escalation was not feasible, why not and were those reasons clearly explained?



*If de-escalation was not attempted and the reasons for not attempting de-escalation are not clearly explained and the chain of command has not addressed de-escalation then the investigation is not thorough and complete.*

### **Force**

*For the force options used, identify the following in light of the totality of the circumstances:*

- What was the **level of resistance or threat posed by the subjects'** actions at the time the force option was used?
- **What force options were used** by the officer?
- Were there any escalating or mitigating factors present during the application of that force option?

**Necessary:** Why was the force option necessary?

- Was there a reasonably effective alternative to the force option used at the time it was used?
- Was the force option reasonable to effect the intended purpose?
- Was the intended purpose for using the force lawful?

**Objectively Reasonable:** Was the force option objectively reasonable?

- What was the totality of the circumstances and how did that affect the reasonableness of force?
- What was the severity of the crime or situation?
- Did the subject pose an immediate threat of harm to the officer or another?
- Was the subject attempting to resist or escape?
- Was this a time-pressured situation? Was the situation tense, uncertain, rapidly- evolving?
- Was there time to plan and evaluate various force options under different contingencies? Does the investigation address those options?

**Proportional:** Was the force option balanced against the subject's actions and the totality of the circumstances?

- How did the officer assess and modulate the force?

### **Post-Force**

**Did the officer offer or summon aid?**

**Was the force reported properly?**

- Did the officer report the force to a supervisor according to policy?
- Did the supervisor respond to the scene?
- Did the supervisor take appropriate action at the scene?
- Did the supervisor follow the use of force reporting policy?
- Was the investigation thorough and complete?
- Was the investigation fair and impartial?
- Did everyone in the investigation complete their duties according to the timelines and procedures established by policy and training?
- Do you agree with the classification of force in this investigation?

**Any other issues (Policy, Equipment, Training, Practices) identified by this investigation?****Does the preponderance of the evidence support the decisions of the chain of command?****Did the chain of command adequately address any identified issues?****Review Board Questions for Discussion:**

- Does the board concur with the legal basis for the seizure as documented in the investigation?
  - + Legal authority to be in the location where the seizure occurred.
  - + Lawful Purpose for the seizure.
- Does the board concur that the use of force was necessary, objectively reasonable and proportional based on the documentation provided?
- Does the board concur with the chain of command's identification of any tactical/decision making issues?
- Does the board concur with how those issues were dealt with and documented?
- Does the board identify any tactical/decision making issues that were not identified by the chain of command?
- Does the board concur with the chain of command's identification of any policy violations?
- Does the board concur with how those policy violations were addressed and documented?



- Does the board identify any policy violations that were not identified by the chain of command?
- Does the board concur with the chain of command that the investigation was thorough and complete?
- Are there any other items that the board should consider in their review of the case?
- + Commendations
- + Unusual circumstances

### In Classroom

#### Day one: Hours 1-4

1. Instructor-facilitated review of key concepts, to include:
  - Expectations for Use of Force Review Board members-**Captain Caylor**
    - Attendance at UFRB meetings is mandatory
    - It is expected that you will attend more than 80% of the board meetings
    - If you cannot attend a meeting
      - i. Immediately notify the UFRB chair
      - ii. Find a trained replacement that is suitable to the UFRB chair
    - UFRB meetings will take precedence over other work-related duties, with these exceptions:
      - i. Unavoidable patrol duties that cannot be handled by any other supervisor
      - ii. Emergency situations that are the primary responsibility of the board member that cannot be handled by any other supervisor
    - Board members will stay for the duration of the UFRB meeting
    - Board members will come prepared to each meeting to include reviewing all statements, reports and relevant videos
    - Board members will present the cases using the outline to present only that information is relevant to each case
    - Board members should be prepared to discuss the answer to the following questions: "Do the officers' actions meet best practices?" and "What, if any reasonably effective alternatives were available?"
    - Board members will actively participate in the discussions
    - All board members will review cases objectively, fairly and impartially
    - Board members will become subject matter experts in the use of force policy, police practices and relevant case law



- Use of Force Review Board: Lessons learned and looking forward—**Captain Caylor**
  - That force review must include tactical considerations and a review of the incident to see if it is consistent with trained best practices
  - Force review should look at policy issues that affect the department as a whole.
  - Broader outreach to explain the purpose of the UFRB to the members of the Department and the Community
  - Full integration of the Firearms Review Board into the UFRB
  - Greater input of UFRB into best practices, force options, policy development, equipment and training
  - Increased communication of lessons learned to the Department at large
- Seattle Police Manual Section 8.400—Reviewing Use of Force
  - Training Requirements
  - Review Board Process and Procedures
    - Presentation Outline
    - Review Board Questions for Discussion
- Incident Review Guide , including key concepts related to:
  - Search and Seizure
    - Terry v. Ohio
    - Legal Authority and Lawful Purpose
    - Terry Stop Practical Exercises
  - Use of Force
    - Federal Law, State Law and Department Policy
    - Tennessee v. Garner
    - Graham v. Connor
  - Seattle Police Manual Section 8.000—Use of Force Core Principles
    - Minimal Reliance on Force
    - De-escalation
    - Necessary
    - Objectively Reasonable
    - Proportional
    - Mitigate
    - Report
  - Seattle Police Manual Section 8.100—Using Force
    - Authorized Force
    - Prohibited Force



**TERRY EXERCISES:**

These exercises will be reviewed as part of the in-class review of key concepts. The main focus will be on the Legal Authority, Lawful Purpose and the Scope/Progression of Seizure.

**In-Class Exercise (Day 1)****Concept Application Exercise: Search & Seizure Exercise #1 (Lakewood, CO stop)****Summary of Video:**

- The video is captured by the man's recording device and starts when the first officer contacts him.

**Summary of Incident:**

- A man is photographing a police station.
- Officers contact him regarding his picture-taking.
- The man refuses to provide any information to the officers and questions whether he is free to go.
- The officer at first says he is conducting a Terry stop, but then says the man is free to go and does not have to answer any questions.
- Multiple officers respond to back the first officer. One of the officers brings a camera to the scene and begins photographing the man.

**<http://www.youtube.com/watch?v=Ih9VzrAfw4g>**

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide for the lawful purpose and lawful authority. Also, discuss best practices and whether or not you believe our officers would have handled the situation in a similar fashion. (10 minutes)
2. Group discussion of incident. (10 minutes)
3. Exercise Debriefing. (5 minutes)



**Instructor Notes:**

- **Legal Authority:** What was the officers' legal authority to be there?
  - + The incident was occurring in a public area.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - + Without further information, beyond the man taking pictures, the officer did not have enough information to support a Terry stop.
  - + The officer initially says he is conducting a Terry stop, but then tells the man he is free to walk away and does not have to answer any questions.
  - + However, by this time, there are four officers standing around the man, with one officer taking pictures of the man, in very close proximity to the man. This is clearly a police-dominated environment and it is likely that someone in that situation would feel they were being detained.
- **De-Escalation:** What steps did the officers take to de-escalate the situation?
  - + The primary officer had a calm demeanor.

**Concept Illustration Video (Univ. of N. Texas PD Terry stop video):****Summary of Video:**

- The video is recorded by the man who is talking with the officer. The video captures the end of the frisk and the conversation between the officer and the man.

**Summary of Incident:**

- The officer conducts a Terry Stop and frisks a man for weapons. Another man records the incident.
- The man who is recording the frisk questions the officer about the legality of the frisk. The officer engages him in conversation and explains the reason for the stop, the justification for the stop and the difference between a frisk and a search.

**<http://www.youtube.com/watch?v=hPCmk4iZ6J8>**

**In Class Exercise**

4. In small groups, work together to come to a consensus on your review of the incident using the incident review guide for the lawful purpose and lawful authority. Also, discuss best practices and whether or not you believe our officers would have handled the situation in a similar fashion. (10 minutes)
5. Group discussion of incident. (10 minutes)
6. Exercise Debriefing. (5 minutes)

**Instructor Notes**

- **Legal Authority:** Did the officers have legal authority to be there?
  - YES
  - This occurred in parking lot open to the public
- **Lawful Purpose:** Did the officers have a lawful purpose to be there?
  - YES
  - The officer was investigating a report of a person with a gun. He had reliable information from people at the scene.
- **De-Escalation:** What steps did the officers take to de-escalate the situation?
  - The officer went out of his way to engage the man who was questioning his frisk of the subject he initially contacted.

**Day one: Hours 5-8**

2. Students will participate in an interactive instructor led review of the preload scenarios, applying the key concepts of the classroom instruction to the analysis of each incident that was conducted as part of the preload portion of the course.
  - Facilitated discussion of the application of the key concepts to the four preload exercises. The class will review their answers as a group and discuss the relation of the key concepts presented during the classroom instruction to the preload scenarios.

**Preload and In-class Review: Concept Application Exercises:**

**Summary:** There will be two phases of the Concepts Application Exercise. The first phase (preload) will be completed during self-directed study, prior to the classroom portion of the course. The second phase (in-class) will be facilitated by an instructor during the classroom portion.

**(Preload)** Students will review the fact patterns from four example Use of Force incidents as part of their preload course work. Students will evaluate each incident for any concerns, specifically in relation to Search & Seizure and Use of Force. Students will explain the reasonableness of the officer's actions or identify any concerns using the Incident Review Guide as a basis for analysis.

**INCIDENT REVIEW GUIDE****Seizure**

- **Legal Authority:** What was the officer's legal authority to be there?
- **Lawful Purpose:** What was the officer's lawful purpose?
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?

**Pre-Force**

- **Tactical Considerations:** What effect did the tactics have on the force used?
- **De-Escalation:** Was de-escalation feasible?

**Force**

- **Level of Resistance or Threat Offered by the Suspect**
- **Force Options Used:**
  - + **Necessary:** Why was this force option necessary?
  - + **Objectively Reasonable:** Was the force option objectively reasonable?
  - + **Proportional:** Was the force balanced to the subject's actions?

**Post-Force**

- Aid Offered?
- Force Reported Properly?
- Any other issues? (Policy, Equipment, Training, Practices)
- Preponderance of Evidence Supports the Decision of the Chain of Command?
- Did the Chain of Command Adequately Address Identified Issues?

**(In-class)** As a small-group exercise during the classroom portion of the course, students will review their analysis of the Preload exercises in relation to the classroom instruction regarding key concepts, in order to further analyze their initial evaluation of each incident. The instructor will facilitate a discussion of how each key concept applies to the facts of the four exercises.

**Preload Exercises / In-class Review and Analysis:**

- The students will have completed independent review of these scenarios as part of the class pre-load. The scenarios are based on actual Use of Force incidents. The scenarios will include a video of the force used and supporting details of the incident.
- After each scenario is given, students will individually conduct an analytical review, utilizing the Incident Review Guide and questions related to the instructed concepts.
- Once the individual reviews are complete, the instructor will facilitate a group review and analysis of each incident, based upon the UOFRB Chair Review questions.

**Preload Exercise #1 Review and Analysis (Day 1):****Video of Incident:**

- The video is recorded by a bystander. The video captures the officers' attempts to arrest the first suspect, the attack on the officers by the second suspect, the arrest of the second suspect and the officers' interaction with the crowd.

**Summary of Incident:**

- Two officers are attempting to arrest a man in the street. The man is on the ground, but is not cooperating with their efforts to handcuff him. Both officers become engaged in attempting to handcuff the man. A second suspect approaches and suddenly punches one of the officers. The second suspect then tackles the officer to the ground.
- The suspect ends up on top of the officer, with one of his arms clamped around the side of the officer's neck. The officer is not able to get away from the suspect or get the suspect's arm from around his neck. The other officer on scene is not making any effort to assist the officer on the ground.
- At this point, another officer arrives. The arriving officer kicks and punches the suspect in the head. The suspect stops attacking the officer on the ground. The officers take the suspect into custody.

**<http://www.youtube.com/watch?v=aalSrtIVwpc>**

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (15 minutes)
2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)

**Instructor Notes:****Seizure:**

- **Legal Authority:** What was the officers' legal authority to be there?
  - This took place on a public street.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - For the contact with the initial suspect, the reason for the detention is not known. **Absent facts indicating otherwise in this incident, assume the officers have a lawful purpose for the detention.**
  - When the second suspect attacked, the lawful purpose of the officers was to defend themselves and take the suspect into custody for the assault on the officer.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?

**Pre-Force:**

- **Tactical Considerations:** Did the tactics have an effect on the force used?
  - During the contact with the first suspect, the officers' contact/cover roles broke down. The cover officer attempted to assist the contact officer with taking the suspect into custody. The contact officer's attempts at controlling and handcuffing the suspect were not effective.
  - When the roles broke down, the second suspect was able to circle in and approach the officers undetected. If the officers had detected him, they would have been better able to defend against him or to prevent his attack altogether.
- **De-Escalation:** Was de-escalation feasible?
  - With the initial suspect, de-escalation was feasible. Officers were using a low level of force and were giving the man instructions on what they wanted him to do.
  - When the second suspect attacked the officer, there was no time for de-escalation. The officers could have given commands, such as "Stop" or "Quit fighting", during their efforts to subdue the suspect.

**Force:**

- **Level of Resistance Offered:** The first suspect was offering Active Static Resistance, with some Active Egressive, as he pulled away from them in an attempt to resist the officers' attempts to handcuff him.
- **Force Option Used:** Physical control, physical striking
  - **Necessary:** Was the force necessary?
    - + Force was necessary in both suspect contacts.
    - + In the contact with the first suspect, he is resisting the officers' efforts to take him into custody. Given his lack of compliance, control tactics are necessary to place him under arrest.



- + In the contact with the second suspect, force is necessary to defend against the attack on the officer.
- **Objectively Reasonable:** Was the force objectively reasonable?
  - + The force used on the first suspect was reasonable; controlling his hands and rolling him over for handcuffing.
  - + The force used on the second suspect was reasonable, in that he was presenting a serious threat to the officer on the ground.
    - He made an unprovoked attack and continued the assault even after he had the officer on the ground.
    - He resisted efforts of the officer to defend himself and continued the assault.
    - He had hold of the officer around the neck and could have been choking the officer.
    - It is reasonable to believe the suspect intended to inflict serious physical injury on the officer.
    - He had the officer in a position of extreme physical disadvantage. In this position, the suspect can use their weight and leverage to attack the officer and the officer will have a hard time escaping.
    - In this position, the officer will have difficulty defending his weapon against an attempt by the suspect to disarm him. If the suspect is able to take the officer's gun, there is a near certainty that he will attempt to shoot the officer with that weapon.
    - There was a hostile crowd in close proximity to the officer.
- + Due to all these factors, the force used by the officer on the ground was reasonable.
- + The force used by the backing officer was also reasonable.
- + There was very little time for the backing officer to make an assessment of the situation and choose a force option. Based on the facts available to him, it was reasonable for him to believe that the officer on the ground was in serious danger.
- + A kick to the face and two punches is reasonable to stop the threat posed by the suspect.
  - + Under these circumstances, deadly force does not immediately appear to be a reasonable option.
  - + **However;** the situation is extremely dangerous, both from the threat posed by the suspect and from the threat posed by the hostile bystanders. If the suspect were to attempt to disarm the officer or if multiple suspects joined the assault, then the situation might require deadly force to resolve.
  - + Less-lethal would be an option.
  - + **However;** less-lethal tools require time to deploy, time to take effect and time to assess their effectiveness or transition to another option. This is a rapidly-evolving and escalating situation and officers likely do not have time to attempt less-lethal. The officer on the ground would likely not be able to deploy a less-lethal tool, due to his active engagement with the suspect and inability to defend himself while accessing a less-lethal tool such as O.C. or TASER.





- + The other officers on scene might attempt a less-lethal option in an effort to assist the officer on the ground, but they are also facing the same time constraints as the officer on the ground.
- + Failure to quickly and decisively end the assault on the officer puts all the officers at the scene at increased risk.
- **Proportional:** Was the force proportional to the subject's actions?
  - a. YES
  - b. In the case of the second suspect, officers used the force necessary to stop his attack. Once he stopped attacking the officer on the ground, the officers transitioned from striking the suspect to physically controlling the suspect.

#### Post-Force:

- **Any other issues (Policy, Equipment, Training, Practices)**
- **How should the chain of command handle this incident?**

#### Instructor Follow-Up:

- The situation is extremely serious for the officer on the ground. When the responding officer arrives on scene and sees the suspect on top of the other officer, grabbing the officer around the neck, and with numerous hostile suspects in close proximity, it is reasonable and expected that the responding officer will take immediate action to stop the suspect's actions.
- The situation is tense, uncertain and rapidly evolving. The time for the responding officer to perform a threat assessment is near zero. Once he recognizes the threat to the officer on the ground, the responding officer must act decisively to stop the threat. In this situation, the suspect is actively assaulting a uniformed officer. A reasonable police officer must conclude that since the suspect is continuing his assault on the officer while the officer is in an inferior position, the suspect must be intending to cause serious physical injury or death to the officer.
- A reasonable officer knows that it is difficult for the officer on the ground to defend against the suspect. A suspect in this position may be able to access the officer's sidearm, and it would be difficult for the officer to defend that attempt. If the suspect gains access to the officer's weapon, there is a very high likelihood that the suspect will immediately shoot the officer.

**Preload Exercise #2 Review and Analysis (Day 1):****Summary of Video:**

- The video is filmed by a camera person accompanying the officers. The recording starts when the officers have the man detained on the hood of the car and captures the incident through his arrest.

**Summary of Incident:**

- Officers are attempting to take a man into custody for DUI.
- The officers have the man leaned over the hood of a patrol car and he is resisting their efforts to control his arms. He is a very large man and the officers do not appear to be able to pull his hands behind his back.
- One of the officers is equipped with a TASER. As the man is standing at the hood of the car, the officer applies the TASER in "dart" mode to his back. The man falls to the ground and indicates he will comply.
- As officers roll him to his stomach and start to take control of his arms, one of the officers says "Give it to him, again" and the TASER is applied a second time.
- The officers then continue securing the suspect in handcuffs. One of the officers requests a third TASER application, but they take the suspect into custody with any more applications or force.

**<http://www.youtube.com/watch?v=eT7dwx-JGOA>**

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (15 minutes)
2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)

**Instructor Notes:****Seizure:**

- **Legal Authority:** What was the officers' legal authority to be there?
  - This was taking place in a parking lot.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - The officers had probable cause to arrest the suspect for DUI.
  - When the officers attempted to arrest the man, he resisted arrest.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?

**Pre-Force:**

- **Tactical Considerations:** Did the tactics have an effect on the force used?
  - The officers had good communication amongst themselves prior to the TASER deployment. They appeared to be familiar with certain phrases to indicate the stages of the TASER application process.
  - Just prior to the TASER application, the officers either completely or partially released their hold on the suspect. This may have been part of their training; possibly out of concern of receiving a shock from the TASER application. However, this created a window of opportunity for the suspect to escape or assault the officers, which could have led to the need for a higher level of force.
- **De-Escalation:** What steps did the officers take to de-escalate the situation?
  - The officers gave clear warning to the suspect that he was under arrest.
  - After the TASER application, officers continued to give the suspect clear direction as to what they wanted him to do.
  - A warning regarding the impending TASER application was not captured on the video. The video starts with the TASER already drawn, so the officer may have given a warning prior to the start of the video clip.

**Force:**

- **Level of Resistance Offered:** Active Static: The suspect appeared to be tensing his arms to resist the officer's efforts to pull them behind his back.
- **Force Option Used:** Verbal, Physical, Intermediate (TASER)
  - **Necessary:** Was the force necessary?
    - + Based on the suspect's size and strength advantage, it appeared that force was going to be necessary to overcome the suspect's resistance and take him into custody.
    - + The suspect had failed to comply with officers' Verbal and Physical control techniques. It did not appear that officers would be able to "out-muscle" the suspect.



- + The longer the suspect went uncontrolled, the increased risk to the officers that he could formulate and act on a plan to assault the officers.
- **Objectively Reasonable:** Was the force objectively reasonable?
  - + The first TASER application was reasonable
  - + The officers did not appear to have other means available to control the suspect, as he was much bigger and stronger than the officers.
  - + The second TASER application **might not** have been reasonable.
  - + After the first TASER application, the suspect indicated he would submit and he allowed officers to roll him to his stomach and start placing his hands behind his back.
  - + The reasonableness of the second application would depend on the officers' being able to explain continued resistance by the suspect or some other threat posed by the suspect, that the video might not have shown. Without that explanation, the second application might not be reasonable.
  - + If the suspect was continuing to resist after the first application, then the second application would be reasonable.
- **Proportional:** Was the force proportional to the subject's actions?
  - a. The officers appeared to increase their force in response to the suspect's continued resistance.
  - b. Dependent on the explanation of reasonableness of the second TASER application, officers eventually decreased the level of their force once the suspect was under control and had stopped resisting.

**Post-Force:**

- **Any other issues (Policy, Equipment, Training, Practices)**
- **How should the chain of command handle this incident?**

**Preload Exercise #3 Review and Analysis (Day 1):****Summary of Video:**

- This incident is recorded by a camera person. The video clip starts when the officer is attempting to arrest the suspect and the suspect is resisting the arrest and continues through the arrest of the suspect.

**Summary of Incident:**

- Officers are attempting to handcuff a suspect.
- The suspect is actively resisting the arrest.
- The suspect has both his arms wrapped around the back of the officer's neck and is pulling him in.
- The officer delivers several punches to the suspect's back. The officer tries to pin the suspect down, but the suspect pulls his hand away and turns toward the officer, as if he is going to continue his assault on the officer.
- Another officer arrives to assist the first officer. They are still not able to fully control the suspect.
- The first officer applies O.C. to the suspect's face. The officers are able to gain control of the suspect, roll him to his stomach and secure him in handcuffs.

**<http://www.youtube.com/watch?v=0uQsB7pTOgg>**

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (15 minutes)
2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)

**Instructor Notes:****Seizure:**

- **Legal Authority:** What was the officers' legal authority to be there?
  - Unknown from the video, but it appears the both the officer and suspect are outside.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - When the video starts, the officer is being assaulted by the suspect, so his lawful purpose is to defend himself and arrest the suspect for assault.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?

**Pre-Force:**

- **Tactical Considerations:** Did the tactics have an effect on the force used?
  - The officer was without a cover officer at the start of the incident. This may have been unavoidable, depending on the circumstances that led up to the incident.
  - Having a backing officer may have allowed the officer to avoid using force or to use less force to control the suspect.
- **De-Escalation:** What steps did the officers take to de-escalate the situation?
  - Even as he was defending himself against the suspect, the officer gave repeated commands for the suspect to give up his hands and to put his hands behind his back.

**Force:**

- **Level of Resistance Offered:** Aggressive Assaultive: The suspect had his arms wrapped around the back of the officer's neck and was pulling him down towards the suspect. The suspect was not complying with the officer's commands.
- **Force Option Used:** Verbal, Physical, Intermediate Force (O.C.)
  - **Necessary:** Was the force necessary?
    - + The suspect was refusing to comply with verbal commands.
    - + The suspect was actively assaulting the officer.
  - **Objectively Reasonable:** Was the force objectively reasonable?
    - + At the start of the video, the officer breaks free of the suspect's hold and then delivers several strikes to the suspect's side and back, while pinning his head to the ground.
    - + The suspect is still not complying with the officer's commands and is still struggling against his hold. The suspect tries to pull the officer's arm away from him, to keep the officer from pinning his head to ground.
    - + The suspect is successful in breaking the officer's hold and turns his body towards the officer, allowing him to re-engage the officer and potentially mount a further assault.
    - + The officer tries to pin the suspect to the ground by the throat. About this time another officer arrives and they are able turn the suspect on to his side.



- + The suspect is still failing to comply and struggling against their hold.
- + During the struggle, the officer's collapsible baton has come loose and is on the ground between the suspect and the officer, directly within reach of the suspect's hands. The suspect is grabbing at the officer's wrists as the officer tries to control the suspect's hands.
- + The officer delivers an application of O.C. to the suspect's face. After the O.C. application, the officers are able to roll the suspect on to his stomach and take him into custody.
- **Proportional:** Was the force proportional to the subject's actions?
  - + The suspect was actively resisting and fighting with the officers. The officer attempted verbal control; to no effect. Physical force was also not sufficient to control the suspect. The officer attempted to use strikes, but when they were not effective, the officer transitioned to O.C. Once this was effective, the officer reduced his level of force back to physical control.

**Post-Force:**

- Any other issues (Policy, Equipment, Training, Practices)
- How should the chain of command handle this incident?

**Instructor Follow-up**

- A suspension of 10 days was the initial disciplinary recommended for the officer. The police chief decided to terminate the officer. The matter went to arbitration and the officer was re-instated, with a one-day suspension for a policy violation regarding the reporting of the force.

**Preload Exercise #4 Review and Analysis (Day 1)**  
**Deadly Force****Summary of Video:**

- The video was recorded via a body-worn camera on the officer. The video captured the entire incident, including audio.

**Summary of Incident:**

- Officers are responding to investigate a hit and run. The suspect has fled into a friend's apartment. When officers contact a female at the apartment, she indicates the suspect is inside. She also repeatedly tells the officers she is worried about him cutting himself. She does not actually confirm he has a knife, but she makes cutting motions on her wrist as she tells them about her concerns.
- She tells the officer there are no other exits out of the apartment and the windows are too small for the suspect to get through.
- One officer enters the apartment by himself and confronts the male. The male is standing in a small kitchen and armed with a knife.
- The suspect refuses commands to drop the knife and walks slowly towards the officer.
- The officer shoots and kills the suspect.

**<http://www.youtube.com/watch?v=QlBntEm1n2g>**

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (15 minutes)
2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)



**Instructor Notes:****Seizure:**

- **Legal Authority:** What was the officers' legal authority to be there?
  - The suspect was inside his residence. The officer had legal authority to enter for community care-taking purposes, in order to investigate the concerns of the female that the suspect may be attempting to harm himself.
  - The officer would not be allowed inside for the purposes of investigating the hit and run.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - The officer's lawful purpose was to perform a community care-taking function by checking on the suicidal suspect.
  - The officer may have had reasonable suspicion or probable cause for the crime of hit and run, but that alone would not allow him to enter the residence.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?

**Pre-Force:**

- **Tactical Considerations:** Did the tactics have an effect on the force used?
  - The officer had a community care-taking interest in preventing the suspect from harming himself, but there was also significant risk posed by contacting a potentially armed suspect.
  - By choosing to enter the apartment to search for the suspect, the officer put himself in a position where he had to use deadly force to defend against a lethal threat.
  - Further attempts to talk with the suspect from a position of cover at the doorway may have convinced the suspect to come outside.
  - If the officer still decided to make entry, the use of a cover officer may have provided more options for dealing with the threat posed by the suspect. For example, had he entered with a cover officer, the cover officer may have been able to lead him out of the apartment as he covered the suspect, in order to create sufficient space to safely disengage from the suspect.
- **De-Escalation:** What steps did the officers take to de-escalate the situation?
  - The officer spent a little over a minute attempting to talk the suspect, including reassurances that the situation was not a big deal. The officer used a calm and professional tone of voice.

**Force:**

- **Level of Resistance Offered: Aggressive Deadly Assault**
- **Force Option Used: Deadly Force (Firearm)**
  - **Necessary:** Was the force necessary?



- + At the point where the armed suspect ignored the commands to drop his weapon, and advanced on the officer, force was necessary.
- **Objectively Reasonable:** Was the force objectively reasonable?
  - + The officer was faced with a lethal threat, as the suspect was armed with a knife and advancing on the officer from approximately ten feet away.
- **Proportional:** Was the force proportional to the subject's actions?
  - + The officer used the force necessary to overcome the threat posed by the suspect. Once the threat from the suspect stopped, the officer stopped using force.

#### **Post-Force:**

- **Any other issues (Policy, Equipment, Training, Practices)**
  - Utilize CIT officers or HNT
  - Treat the situation as a barricaded person if not successful in gaining compliance of the suspect
- **How should the chain of command handle this incident?**

#### **Instructor Follow-up**

- The initial crime was a minor hit and run. The suspect had hit a utility pole with his truck earlier in the day.
- When he got to the apartment, the officer noted the screen door was broken and there was glass on the porch. The female witness was injured and the officer suspected there had possibly been a domestic violence incident. The female denied there had been any domestic violence.
- When confronted by the officer, the suspect was holding two knives.
-



Day two: Hours 1-4

**Concept Application Exercises:**

- The class will be provided with Use of Force scenarios to review. The scenarios are based on actual Use of Force incidents. The scenarios will include a video of the force used, and supporting details of the incident when available.
- After each scenario is given, students will individually conduct an analytical review, utilizing the Incident Review Template and questions related to the instructed concepts.
- Once the individual reviews are complete, the instructor will facilitate a group review and analysis of each incident, based upon the UOFRB Chair Review questions.
- Each incident will be reviewed using the provided Incident Review Guide:

**INCIDENT REVIEW GUIDE**

**Seizure**

- **Legal Authority:** What was the officers' legal authority to be there?
- **Lawful Purpose:** What was the officer's lawful purpose?
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?

**Pre-Force**

- **Tactical Considerations:** What effect did the tactics have on the force used?
- **De-Escalation:** Was de-escalation feasible?

**Force**

- **Level of Resistance or Threat Offered by the Suspect**
- **Force Options Used:**
  - + **Necessary:** Why was this force option necessary?
  - + **Objectively Reasonable:** Was the force option objectively reasonable?
  - + **Proportional:** Was the force balanced to the subject's actions?

**Post-Force**

- Aid Offered?
- Force Reported Properly?
- Any other issues? (Policy, Equipment, Training, Practices)
- Preponderance of Evidence Supports the Decision of the Chain of Command?
- Did the Chain of Command Adequately Address Identified Issues?

**Concept Application Exercise #1****Video of Incident:**

- The video is recorded from the patrol car backseat video. The video captures the use of force and the interaction between the suspect and the officers.

**Summary of Incident:**

- Officers are transporting an intoxicated subject in the backseat of their police car. The suspect is not secured with handcuffs.
- During the transport, the suspect pulls a handgun from his waistband. After he fumbles with the gun and drops it, the front passenger officer notices he is holding something.
- The officer gets out of the car and opens the backseat door, as the suspect is attempting to put the gun back into his waistband.
- The officer sees the gun and announces it to his partner as he moves in to the backseat to restrain the suspect. His partner recovers the gun from the suspect.
- The first officer restrains the suspect by holding his head down and his arms behind his back, while his partner secures the suspect in handcuffs. Once the suspect is secured in handcuffs, the first officer sits the suspect back up. He appears to strike the suspect with his knee while sitting him up and then appears to grab him by the throat while yelling into his face.
- The first officer then drags the suspect out of the backseat and puts him on the ground.

**Video Link:**

**<http://www.youtube.com/watch?v=gsCWK4XYHV8>**

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (10 minutes)
2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)

**Instructor Notes****Seizure**

- **Legal Authority:** What was the officers' legal authority to be there?
  - + This took place in the back seat of the officers' police vehicle.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - + The officers were providing a courtesy transport to an intoxicated man.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?
  - NO / YES
  - The contact changed from a community-caretaking function to probable cause to arrest the suspect.

**Pre-Force**

- **Tactical Considerations:** What effect did the tactics have on the force used?
- **De-Escalation:** Was de-escalation feasible?
  - + The officer perceived a deadly threat and reacted immediately. De-escalation was **not feasible** at that point.
  - + **However;** once the suspect was in under control, the officer could give him clear commands.
  - + Once the suspect was in custody, the officer failed to control his emotions and continued to use force against the suspect. The officer **did not** de-escalate at the point.



### Force

- **Level of Resistance or Threat Offered by the Suspect: Deadly Threat:**
  - The suspect was accessing a handgun while being transported in the back of a police vehicle. The suspect made no attempt to notify the officers about the weapon. A reasonable officer could conclude that the suspect intended to use the weapon to harm the officer.
- **Force Options Used: Verbal, Physical**
  - **Necessary:** Why was this force option necessary?
    - + The initial force was necessary to address the deadly threat posed by an armed and unsecured suspect in the back seat of the patrol vehicle.
    - + Even after the gun was removed from the suspect, officers still needed to maintain decisive physical control of the suspect until such time as he could be secured and further checked for weapons.
    - + **However;** once the suspect was secured in handcuffs, he appeared compliant and force did not appear to be necessary.
  - **Objectively Reasonable:** Was the force option objectively reasonable?
    - + The initial force was reasonable, in light of the fact that officers were faced with a potentially deadly threat. The officer showed restraint in only physically controlling the suspect, rather than responding with deadly force.
    - + Deadly force would have been reasonable to address the deadly threat posed by the suspect, dependent on the observations of the officer.
    - + If the suspect had the gun protruding from his waistband, but his hand was not on the gun, deadly force may not have been justified.
    - + If the suspect had the gun in his hand or was attempting to pull the gun from his waistband, then deadly force may have been justified.
    - + This was a rapidly-evolving situation. There was not sufficient time to make use of a less-lethal option.
    - + Less-lethal tools would not adequately address the threat posed by a suspect armed with a gun. Less-lethal options take time to deploy, take time to have an effect and take time for officers to assess their effectiveness. If the chosen option is not effective, the officer will then have to transition to another tool. During this time, the suspect could engage the officers with his weapon.
    - + Officers cannot risk a failure of a less-lethal option when faced with a deadly threat.
    - + **However;** the force used after the suspect was restrained **was not** objectively reasonable, as the suspect was compliant and did not appear to be posing a threat at that point.
    - + The video shows that after the suspect was in custody, the officer knelt the suspect in the head as the officer was sitting him up in the seat. The officer then appeared to grab the suspect by the throat and push him back against the seat. It is not clear if the officer was choking the suspect or just pushing him back against the seat. The



officer might be able to justify restraining the suspect, but he would not be able to justify kneeing him or choking him.

- + The video clip ends with the officer violently dragging the limp suspect across the backseat and out of the car. This force was also **not reasonable**, as the suspect appeared to be compliant and not posing any direct threat towards the officers.
- + It was reasonable for the officers to remove the suspect from the backseat, in order to perform a thorough search of the suspect; however, they would to further explain why the suspect needed to be dragged across the backseat and out the far door, rather than removed from the car out of the near door.
- **Proportional:** Was the force balanced to the subject's actions?
  - + The force used to disarm and control the suspect was proportional.
  - + The force used once the suspect was in custody **did not** appear to be proportional. The officer did not decrease his force in response to the suspect's decreased threat.

#### Post-Force

- **Any other issues? (Policy, Equipment, Training, Practices)**
  - A thorough pat-down of the suspect may have located the weapon prior to the transport.
- **How Should the Chain of Command Address Identified Issues?**

**Concept Application Exercise #2****Video of Incident:**

- The incident is captured in a cell phone recording by a witness in a nearby vehicle. The video shows the suspect exiting the building and the ensuing confrontation with police.

**Summary of Incident:**

- Officers respond to a report of a man causing a disturbance and breaking the windows out of restaurant.
- Two officers contact the man as he exits the restaurant. The man is carrying a large metal pipe-bending tool.
- One of the officers attempts a TASER application. The TASER application is not effective. He turns towards the officer who sprayed him and advances on him, while raising the tool as if to swing at the officer.
- The second officer, who is also holding a police dog on a leash, shoots the suspect multiple times. The suspect falls to the ground.
- The first officer draws his weapon and also fires multiple shots at the suspect as the suspect collapses to the ground.
- The suspect is killed.

**Video Link:**

**<http://www.youtube.com/watch?v=Qp8TGMvPuSE>**

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (10 minutes)
2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)





### Instructor Notes

#### Seizure

- **Legal Authority:** What was the officers' legal authority to be there?
  - + The incident took place in a parking lot that was open to the public.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - + The officers were responding to a report of a crime involving significant property damage.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?
  - + NO / NO

#### Pre-Force

- **Tactical Considerations:** What effect did the tactics have on the force used?
  - + By failing to make appropriate use of distance and shielding, the officers placed themselves in a position where deadly force was the necessary to resolve the situation.
    - In order to deploy the TASER, the officer closed to approximately 10-15 feet of the suspect. Though this allowed for a TASER deployment, it also placed the officer in range of the suspect's weapon.
    - When the suspect advanced on that officer and started to raise his weapon, the cover officer had to use deadly force to stop the threat towards the other officer.
    - With distance and shielding available, less-lethal was an option; but in this case, officers placed themselves in jeopardy in order to deploy the less-lethal option.
  - + Officers may have been able to use other means to contain the suspect or to engage him from a distance outside the striking range of his weapon.
  - + Having the K9 officer as the deadly force cover officer limited the ability to use the K9 as a potential force option
  - + From the video, it appears as if officers called the suspect out of the restaurant. If safe to do so, it would have been preferable to await the arrival of more backing officers. This would allow the officers to contain the scene and remove the numerous civilians from the immediate area. This would also allow for the establishment of roles, including less-lethal teams or arrest teams, and give an opportunity to slow down the development of the situation. More time would give more opportunity to employ C.I.T. or other tools and techniques to resolve the situation with a minimal reliance on force.
- **De-Escalation:** Was de-escalation feasible?
  - + When the suspect exited the restaurant, the officers gave him commands.
  - + Due to their close proximity to the suspect the options for de-escalation were limited, especially once the suspect presented a deadly threat to the officers.

#### Force

- **Level of Resistance or Threat Offered by the Suspect:** Deadly Threat



- + The suspect was armed with a metal pipe-bending tool. Once confronted by officers, he quickly turned on them and advanced while raising the tool to his chest, as if in preparation to strike.
- **Force Options Used:** Verbal, Deadly Force:
  - **Necessary:** Why was this force option necessary?
    - Force was necessary to address the threat posed by the armed suspect.
    - The suspect was failing to comply with verbal commands and was presenting an immediate threat to officers.
  - **Objectively Reasonable:** Was the force option objectively reasonable?
    - + YES
    - + At the onset of the incident, the suspect was only carrying the pipe-bending tool and was not posing an immediate threat towards the officers. Deadly force was not reasonable at that point.
    - + Officers attempted to utilize the less-lethal option of a TASER. The TASER deployment was not effective.
  - + The officer who deployed the TASER was in close proximity to the suspect when the suspect advanced on him. The officer was within striking range of the metal tool the suspect was carrying. Officers could reasonably believe that the suspect meant to cause serious injury to the officer when he raised the tool and advanced on the officer.
  - + Once the suspect advanced on the officer, while raising the tool as if to strike, deadly force became a reasonable option to address the immediate deadly threat posed by the suspect.
- **Proportional:** Was the force balanced to the subject's actions?
  - + YES
  - + Officers initially attempted to use less-lethal (O.C.) to control the suspect.
  - + When less-lethal failed, and the threat from the suspect increased, the officers used deadly force to overcome that threat.

#### Post-Force

- **Any other issues? (Policy, Equipment, Training, Practices)**
- **How Should the Chain of Command Address Identified Issues?**

**Instructor Follow-Up:**

- The officers reported that the suspect reached for his waistband after he fell to the ground, before the second volley of shots was fired.
- The officers were found to be legally justified in their use of force and the force was within policy for their department.
- Monterey Park paid \$875,000 to the family of the suspect.

**Concept Application Exercise #3:****Video of Incident:**

- The video is captured on ICV from the backing officer and shows events from the time of his arrival on scene. The primary officer is already on scene and in contact with the suspect. The video captures the use of force. There is no accompanying audio.

**Summary of Incident:**

- Officers contact a man after he is reported to be acting erratically; standing in the roadway and throwing objects at cars.
- The officers order the man to the ground and he complies.
- Once he is on the ground, officers move in to handcuff him. Both officers kneel on the ground beside him and both attempt to place their own handcuffs on him.
- As they attempt to secure him in cuffs, he breaks free and stands up. He swings wild punches and strikes at least one of the officers. He backs away from them and then charges again, punching wildly. One of the officers is knocked backwards.
- The suspect backs away again and one of the officers draws her sidearm and shoots the suspect once.
- The suspect is eventually taken into custody. The suspect dies from the gunshot wound.

**Video Link:**

**<http://www.youtube.com/watch?v=KqdgkGqUW68>**

**In Class Exercise**

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2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)

**Instructor Notes****Seizure**

- **Legal Authority:** What was the officers' legal authority to be there?
  - This occurred on the side of a public roadway.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - The officers had reason to believe the suspect was in need of assistance, based on his reported erratic behavior. His behavior was creating a risk to his safety and to the safety of others.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?
  - NO / YES
  - The contact changed from a community caretaking function to probable cause to arrest the suspect for assaulting the officers.

**Pre-Force**

- **Tactical Considerations:** What effect did the tactics have on the force used?
  - The officers did not utilize contact/cover.
  - Both were attempting to handcuff the suspect and had handcuffs in their hands.
  - Neither officer had physical control of the suspect, beyond holding his wrists behind his back and applying some downward pressure on his back with their arms.
  - The lack of control of the suspect enabled the suspect to break away, scramble to his feet and start fighting the officers.



- **De-Escalation:** Was de-escalation feasible?
  - The officers ordered the suspect to the ground and attempted to secure him in handcuffs.
  - Based on concerns for their safety, based on the suspect's behavior, this may have been a reasonable attempt at de-escalation; **however**,
  - The officers could have called for a CIT officer, if available, upon recognizing the suspect was in mental crisis.
  - **Also**, when the backing officer makes contact with the suspect to secure him in handcuffs, he appears to push the suspect's head into the ground. This is when the suspect starts to resist the officers' efforts to control and restrain him. A different control technique might have enabled the officer to control the suspect, without provoking him.

### Force

- **Level of Resistance or Threat Offered by the Suspect:** Active Static to Aggressive Assaultive
- **Force Options Used:** Verbal, Physical, Deadly
  - **Necessary:** Why was this force option necessary?
    - Initially, force may not have been necessary, dependent on the reasons the officers had to take physical control of the man and secure him in handcuffs.
    - Once the suspect attacked the officers, force was necessary to stop his attack.
  - **Objectively Reasonable:** Was the force option objectively reasonable?
    - The reasonableness of the force involved with the initial handcuffing attempt would be based on the reasons the officers could give to support the need to restrain the suspect. Based only on the video, it is not clear what reason the officers had to handcuff the man, though it is possible that other facts gave the officers reason to be concerned for their safety. The officers may also have decided to secure the suspect in handcuffs prior to an involuntary committal.
    - When the second officer moved in to handcuff the man, he pushed the man's head into the ground. This **may** have been necessary to control him, but no apparent threat from the suspect is obvious on the video.
    - **However**; pushing the man's head into the ground appeared to a catalyst for his sudden resistance to the officers.
    - Once the suspect tried to escape the hold of the officers, physical force was reasonable in order to restrain him.
    - Once the suspect broke free of the officer's hold and started assaulting them, force was also reasonable to overcome his resistance and take him into custody.
    - The initial response of the officers was to punch the suspect. This was reasonable.
    - Shooting the suspect appears to be not reasonable based on the video evidence.
      - The suspect was shirtless and appeared to be unarmed.
      - The officers outnumbered the suspect.
      - The suspect was smaller than both the officers.



- Neither officer had been incapacitated and both were still capable of physically fighting the suspect.
- When he was shot, the suspect had disengaged from the officers and was retreating from them.
- Less-lethal would have been a permissible option, based on the suspect's assaultive behavior.
- Both officers were equipped with TASERS and the female officer also had O.C.
- Once the officers had fended off the suspect's initial assault and his attention was divided between them, one of the officers may have been able to deploy a less-lethal option.
- After the shooting, the second officer eventually deployed his TASER.
- **Proportional:** Was the force balanced to the subject's actions?
  - NO based on the video evidence
  - The force ultimately used by the officers was not proportional to the resistance offered by the suspect.
  - The suspect was not presenting a deadly threat at the time deadly force was used.

#### Post-Force

- **Any other issues? (Policy, Equipment, Training, Practices)**
- **How Should the Chain of Command Address Identified Issues?**

- The shooting by the female officer was determined to be justified.
- The actions of the backing officer were investigated by the department. The backing officer applied his TASER to the suspect 12 times over a 5 minute period; with some of those applications made after the suspect was handcuffed. He said he didn't realize the suspect had been shot and he thought the suspect was trying to reach into his pockets.

**Concept Application Exercise #4:****Video of Incident:**

- The incident is captured on the body-camera of the officer who is pursuing the suspect. The recording captures the entire incident, including audio.

**Summary of Incident:**

- An officer attempts to stop a man. The reason is not clear from the video.
- The man runs from her and the officer pursues him.
- The officer becomes separated from her partner.
- The officer catches up to the suspect and warns him that she will apply a TASER if he does not stop. She orders him to the ground and takes hold of his arm. The suspect refuses to get on the ground, shakes off her hold of him and then advances on the officer. The officer backs away from the suspect. As she is backing up, it sounds like the he threatens to give her a "whooping".
- The suspect resumes his flight.
- The officer catches up to him again and again takes hold of him and orders him to the ground. The suspect refuses and the officer applies a TASER drive stun. The suspect falls to ground, but then is able to grab the officer's TASER from her.
- The officer backs away and the suspect gets to his feet as the officer's partner arrives on scene. The backing officer appears to attempt to use his TASER, but it does not affect the suspect. The backing officer throws his TASER to the ground. The suspect begins chasing the officers, while activating his TASER repeatedly.
- The backing officer eventually is able to tackle the suspect to the ground and take him into custody.

**Video Link:**

<http://www.youtube.com/watch?v=-nR2Kjl5oJ4>

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (10 minutes)
2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)



4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)

### Instructor Notes

#### Seizure

- **Legal Authority:** What was the officers' legal authority to be there?
  - This took place in an alley and parking lot that were apparently open to the public.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - UNKNOWN:
  - The video does not give a reason for the contact.
  - However, upon being given a command to come to the officer, the suspect immediately takes flight. The suspect ignores multiple commands to stop, which could give the officer probable cause for Obstructing, dependent on a lawful purpose for the initial contact.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?
  - NO / NO

#### Pre-Force

- **Tactical Considerations:** What effect did the tactics have on the force used?
  - Initially, the female officer was without backup. It is not clear from the video whether she was working without a partner, or whether she left her partner in the car while she chased the suspect. She may have also located the suspect as part of an area check, and attempted to detain him.
  - However, having a cover officer would have been preferable before making contact with the suspect. A cover officer would have given her more options for dealing with the suspect.
  - The officer could have chased after the suspect and kept other officers updated on his location, while attempting to avoid a physical engagement until her backup had arrived.
  - **Instead;** the officer engaged the suspect on her own.
  - **However;** when she engaged him, she failed to gain decisive control of him. She had her TASER in one hand, and took hold of his sleeve with her other hand. Grabbing his sleeve was not effective for actually controlling his arm and her TASER kept her from using both hands to control him.
  - In this case, the TASER would have been more useful as a stand-off weapon in "dart" mode, as that would have allowed her to give herself an advantage of engaging the suspect from a distance, rather than at contact range, where the suspect could overpower her.





- Dependent on the circumstances of the original contact, a TASER application might not have been justified during her initial foot pursuit of the suspect. Flight alone would likely not support the use of a TASER. With that in mind, having her TASER in hand limited her options for dealing with the suspect at either a lower or higher level of force. She was not able to physically control the suspect with only one free hand. She would also not have been able to immediately draw her weapon to address a suddenly presented deadly threat from the suspect.
  - Unless necessary for immediate defense of herself, it would have been preferable to have a cover officer prior to attempting a less-lethal deployment.
- **De-Escalation: Was de-escalation feasible?**
    - YES
    - The officer gave the suspect multiple commands throughout the incident. She warned him she would use a TASER on him.

### Force

- **Level of Resistance or Threat Offered by the Suspect:**
  - Verbal, Active Egressive, Aggressive Assaultive
  - The suspect ran from the officer twice.
  - The suspect verbally confronted the officer when he was cornered; possibly threatening to "whoop" her. The suspect advanced towards the officer while saying this.
  - The suspect armed himself with the officer's TASER and chased both officers while activating the TASER in "drive stun" mode.
- **Force Options Used:**
  - **Necessary:** Why was this force option necessary?
    - In order to make this arrest, force was necessary.
    - The suspect had refused to comply with commands and had fled from the officer.
    - The suspect had shaken off the officer's hold when she attempted to gain control of his arm.
    - The suspect had threatened to assault the officer and advanced on her, as if he intended to assault her.
    - Once the suspect had possession of her TASER and was chasing the officers, both officers needed to use force to defend themselves.
  - **Objectively Reasonable:** Was the force option objectively reasonable?
    - YES:
    - The officer started at a very low level of force, when she took hold of the suspect's jacket sleeve. Once he shook off her hold, turned on her, and advanced on her while threatening her, it was reasonable for her use a higher level of force to gain control of the suspect and protect herself.
    - **However;** at the time she applied the TASER, she had hold of the suspect's arm and it appeared as if he was only pulling away from her. That force might **not** be



reasonable given our policy, absent some justification by the officer that the suspect created a threat of harm to her or someone else at that time. The officer would need to be able to explain why she needed to use a higher level of force to subdue the suspect.

- The force used by the backing officer was reasonable.
- His TASER was set up in “drive stun” mode, so he was not able to effectively engage the suspect without exposing himself to a “drive stun” from the suspect.
- The officer saw an opportunity to take physical control of the suspect. He threw the suspect to the ground and took physical control of him.
- Upon confronting the TASER-armed suspect, the female officer drew her gun. The backing officer had his TASER in hand, but threw it to the ground. He may have drawn his gun, but the video is not clear.
- Officers were faced with a TASER-wielding suspect. The use of deadly force against a TASER-armed suspect may be objectively reasonable.
- In this case the TASER was in “drive stun” mode, and not equipped with darts. In this mode, the TASER will generally not incapacitate, but will cause intense localized pain. This intense pain would make it difficult for an officer to defend against a suspect’s physical assault.
- There were two officers on scene. It is not likely the suspect would be able to deploy the TASER against both officers at the same time. However, if one officer’s ability to engage the suspect is reduced, the ability of the second officer to effectively engage the suspect is also reduced.
- The backing officer is also equipped with a TASER, to which he could attach a cartridge. He could then attempt to engage and incapacitate the suspect from a distance, out of range of the suspect’s TASER.
- Officers would need to be able to explain how they were at risk of serious physical harm or death from the TASER-armed suspect in order to support the use of deadly force.
- **However;** under the circumstances of a tense, uncertain and rapidly-evolving situation such as this, officers might not have the time or ability to evaluate the exact level of harm they face from the TASER-wielding suspect; other than recognizing that a TASER is a weapon with the ability to incapacitate. The threat assessment will partly be based upon an officer’s familiarity with the TASER system and their experience with its use.
- **Proportional:** Was the force balanced to the subject’s actions?
  - The officers increased the level of their force in response to the suspect’s actions.
  - Once the suspect had been disarmed, the officers transitioned back down to physically controlling the suspect.

#### Post-Force

- **Any other issues? (Policy, Equipment, Training, Practices)**



- Engaging the suspect in a foot pursuit without backup may have put the officer in a situation in which it was more likely she would have to use force to control the suspect.
- Failing to take decisive physical control of the suspect likely contributed to the necessity to use a higher level of force to eventually gain control of the suspect. Failing to control the suspect emboldened him and allowed the incident to escalate to the point he was able to take the TASER away from the female officer.
- Consideration should be given to the setup of the TASERs. In this department, it appears to be standard practice to carry the TASER without a cartridge attached. **How does this affect the officer's deployment of the TASER?**
  - With the cartridge attached, officers can engage a threat at a distance without taking additional time or attention away from the suspect.
  - With no cartridge attached, an officer can use "drive stun" mode against a close threat, without having to take the time to detach the cartridge.
  - However, with a suspect at a distance, an officer may have sufficient time to make the transition from "drive stun" mode to "cartridge".
- **How Should the Chain of Command Address Identified Issues?**



Day Two: Hours 4-8

**Concept Application Exercise #5:**

**Video of Incident:**

- The incident was captured by a witness. The recording starts after the officers have made contact with the suspect inside the store.

**Summary of Incident:**

- Officers are dispatched to a report of a man acting strangely in a restaurant. He had barricaded himself in the restroom, flooded the restaurant floor, broken a sign, damaged a counter and was mumbling to himself and "scaring" the employees.
- When officers contacted the man inside the restaurant, he complied with commands to get on the ground, but he would not put his hands behind his back.
- Officers attempted to take the man into custody, but he resisted their efforts. Officers were able to secure one handcuff on the man's wrist, but then he got up from the floor.
- An officer applied a TASER, but it did not incapacitate the suspect. He broke free from the officers and began punching and swinging wildly at them.
- The suspect resisted a total of four TASER applications, but officers were eventually able to take him into custody with the arrival of more officers.

**Video Link:**

**<http://www.policeone.com/attack/articles/7087962-Video-Crazed-man-dies-after-resisting-TASER-attacking-cops/>**

**In Class Exercise**

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2. Group discussion of incident. (10 minutes)
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5. Exercise Debriefing. (5 minutes)

**Instructor Notes:****Seizure**

- **Legal Authority:** What was the officers' legal authority to be there?
  - + The officers were dispatched to the call inside this restaurant. The restaurant was open to the public and the employees requested assistance with the suspect.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - + The officers had probable cause to believe the suspect had intentionally damaged property in the restaurant.
  - + The officers also had a community caretaking function, as it was reasonable for them to believe that the suspect was in crisis; either mental crisis or some chemical impairment, such as narcotics.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?
  - + NO / NO

**Pre-Force**

- **Tactical Considerations:** What effect did the tactics have on the force used?
  - + Ordinarily, officers should use contact/cover roles to designate responsibilities. In this case both officers were engaged in the attempt to physically restrain and handcuff the suspect.
  - + Based on the suspect's size and apparent strength, officers may have felt it was necessary for both of them to be physically engaged with the suspect in order to better control him.
  - + However, one of the officers had his TASER in hand, so his ability to physically control the suspect was limited.
  - + Officers may have wanted to consider waiting for additional backup, based on the suspect's size, apparent strength and signs of crisis. The suspect was compliant and under control, so officers may have had time to wait, depending on the response time of backing units.
  - + When the TASER failed to work after four deployments, officers may have needed to consider other options.
  - + Officers failed to use the CREST model
- **De-Escalation:** Was de-escalation feasible?
  - + The officers were calmly talking to the suspect and had the suspect under verbal control. They clearly explained he was under arrest. The suspect had complied with their commands to get on the ground and on his stomach.
  - + The suspect was not presenting an immediate threat prior to their attempt to take him into custody. Based on the high probability that he was suffering a mental or chemically-induced crisis, officers may have attempted further de-escalation before attempting take the suspect into custody.



- + It may have de-escalated the situation to wait for further backing officers to arrive. The suspect may have complied, or he still fought with officers, they might have been able to control him more quickly.

### Force

- **Level of Resistance or Threat Offered by the Suspect:** Active Static to Active Egressive to Aggressive Assaultive
  - **Force Options Used:** Verbal, Physical, Intermediate (TASER)
  - **Necessary:** Why was this force option necessary?
    - + The suspect had responded to the verbal commands of the officers.
    - + The next step was to take him into custody, requiring physical control of the suspect
    - + The suspect resisted their physical control by rising up and pulling away from their attempts at handcuffing. The suspect increased his resistance to include striking the officers with his fists and the handcuff that was still secured to his wrist.
  - **Objectively Reasonable:** Was the force option objectively reasonable?
    - + YES
    - + Officers were not able to physically control the suspect, due to his superior strength and possibly altered mental/physical state.
    - + When it became apparent that they would not be able to control him, officers attempted to control him with a TASER.
    - + The TASER was ineffective and the suspect escalated to Aggressively Assaulting the officers.
    - + When he began striking the officers with the handcuff attached to his wrist, he increased his resistance to Aggressive Deadly Assault.
    - + Being struck in the head and face with a handcuff could cause serious injury to the officer, including being blinded.
    - + With the TASER applications ineffective and no other reasonably effective alternatives to stop the suspect's assault, officers may have had to use deadly force to stop the suspect.
    - + The officers continued to attempt TASER deployments. With the arrival of more backup, the officers were able to physically control the suspect and take him into custody.
  - **Proportional:** Was the force balanced to the subject's actions?
    - + This force was not proportional to the resistance once the suspect began attacking the officers
    - + The officer's increased their force in response to the suspect's increasing resistance.

### Post-Force

- **Any other issues? (Policy, Equipment, Training, Practices)**
- **How Should the Chain of Command Address Identified Issues?**

**Instructor Follow-up:**

- The suspect showed signs of distress after being taken into custody. He was taken to a hospital for treatment and died.
- One officer required stitches for a cut to his ear.
- Another officer suffered lacerations to his hands.
- The suspect's behavior during the attempts of the officers to arrest him is consistent with a person possible suffering from excited delirium.

**Concept Application Exercise #6****Summary of Video:**

- The video is recorded on a bystander's phone. The video starts after the officer has the suspect on the ground, after they have been struggling for some time. The video captures the physical and verbal interaction between the officer and the suspect.

**Summary of Incident:**

- An officer has probable cause to arrest a man for assault after the man has been involved in a physical fight with a cab driver. The man flees from the officer and then resists arrest when the officer catches up to him. The officer and man end up on the ground.
- The officer does not have backup.
- The officer struggles with the suspect on the ground for over a minute, until the suspect gains control and pins the officer to the ground on his back. The suspect then rakes his hand across the officer's eyes and holds his head against the ground while punching him repeatedly in the head.
- The officer pulls his gun and shoots the suspect twice; killing the suspect.

**Video Link:**

**[http://www.youtube.com/watch?v=itPY54C\\_guM](http://www.youtube.com/watch?v=itPY54C_guM)**

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (10 minutes)
2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)

**Instructor Notes****Seizure**

- **Legal Authority:** What was the officers' legal authority to be there?
  - + This took place on a public street and sidewalk.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - + The officer had probable cause to arrest the suspect for assault.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?
  - + NO / NO

**Pre-Force**

- **Tactical Considerations:** What effect did the tactics have on the force used?
  - + Engaging the suspect without backup may have created a situation that required more force to successfully resolve.
  - + A backing officer would have provided the officer with more options and possibly allowed him to control the suspect with a lower level of force. A backing officer would have made it more feasible and tactically sound to employ a less-lethal option, if appropriate.
- **De-Escalation:** Was de-escalation feasible?
  - + The officer gave the suspect clear instructions to put his hands behind his back.





### Force

- **Level of Resistance or Threat Offered by the Suspect:** Active Static to Active Egressive to Aggressive Deadly Assault
  - **Force Options Used:** Verbal, Physical Control, Deadly Force
  - **Necessary:** Why was this force option necessary?
    - + The suspect had demonstrated that he was not going to comply with the officer.
    - + If the officer was going to take him into custody, force was going to be necessary.
  - **Objectively Reasonable:** Was the force option objectively reasonable?
    - + YES
    - + The officer was focused on gaining physical control of the suspect's hands so he could place him in handcuffs. The officer was using a low level of force to accomplish this, with no success.
    - + The officer gradually increased his efforts to control the suspect, but the suspect was able to overpower him.
    - + Once the suspect had overpowered him and had him on the ground, the officer was at an extreme disadvantage. The officer was not able to defend himself from the suspects attack.
    - + The suspect had the officer's head and body pinned to the ground and he was delivering forceful blows to the officer's head.
    - + Less-lethal would have been permissible to stop the suspect's assault. **However;** the suspect made a transition to Aggressive Deadly Assault before the officer would have had time to react and deploy a less-lethal option. Employing a less-lethal tool at that point would increase the risk to the officer, as it would be harder to physically defend himself while occupied with accessing and utilizing a less-lethal tool.
    - + The officer had no other options beyond deadly force at that point.
  - **Proportional:** Was the force balanced to the subject's actions?
    - + No to YES, the officer is not using sufficient force to control the suspect in the beginning and does not escalate his force once the suspect makes a facing movement
    - + Initially, the officer started with a very low level of force and only increased his force in an effort to overcome the suspect's aggression.
    - + We do not know how skilled the officer was in defensive tactics, he may not have actually known how to defeat what appeared to be a more skilled subject

### Post-Force

- **Any other issues? (Policy, Equipment, Training, Practices)**
- **How Should the Chain of Command Address Identified Issues?**

#### Instructor Follow-up:

- The suspect was killed by the officer's gunshots.
- The officer said he was starting to black out when he shot the suspect.



- The officer suffered a broken eye socket, a fractured cheek-bone, a cut over his eye requiring stitches, and loss of feeling in the side of his face.

### **Concept Application Exercise #7**

#### **Video of Incident:**

- This incident is captured on ICV. The recording shows the officer pulling the suspect into the backseat of the car and spraying him with OC Spray.

#### **Summary of Incident:**

- Officers are attempting to put a suspect in the back seat of the car. The suspect refuses to sit in the car and demands officers wipe his face, as he has been sprayed with O.C.
- An officer gets into the backseat of the car to pull the suspect in. He first takes hold of the suspect's shirt, but then grabs the suspect by the hair.
- The officer pulls the suspect into the car by his hair and the suspect falls across the back seat.
- After the suspect is in the car, the officer applies O.C. to the side of the man's face.

#### **Video Link:**

#### **ICV of transport**

#### **In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (10 minutes)
2. Group discussion of incident. (10 minutes)
3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)



### Instructor Notes

#### Seizure:

- **Legal Authority:** What was the officers' legal authority to be there?
  - The incident took place on a public roadway, inside a police vehicle.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - The suspect was under arrest and the officer was assisting the arresting officer with securing the suspect in the backseat of the police car.

#### Pre-Force:

- **Tactical Considerations:** Did the tactics have an effect on the force used?
  - NA
- **De-Escalation:** What steps did the officers take to de-escalate the situation?
  - The officers were giving the suspect clear instructions; that he should get in the car and put his legs inside the car.
  - **However;** the officers were yelling at the suspect and engaging in heated dialogue with him. The officers appeared to be frustrated and angry with the suspect. They did not address his request for O.C. decontamination or explain how they would address it at a later, and more appropriate, time.

#### Force:

- **Level of Resistance Offered:** Active Static Resistance: The suspect was tensing up his body and legs and refusing to allow officers to put him in the backseat of the car. The suspect was a large man, and it was difficult for officers to control him throughout this incident.
- **Force Option Used:** Verbal, Physical, Intermediate Force (O.C.)
  - **Necessary:** Was the force necessary?
    - + The suspect was refusing to comply with verbal commands.
    - + Officers were initially not able to force him into the car.
  - **Objectively Reasonable:** Was the force objectively reasonable?
    - + After failing to push the suspect down into the car from his standing position outside the car, he was eventually pulled in by his hair. The officer grabs his hair



and pulled the suspect's head in to the backseat area. Once his head was pulled in, the suspect fell in through the doorway and across the backseat.

- + Due to his size and strength and his demonstrated intent and ability to resist, utilizing a hair hold to get the suspect in to the car was reasonable.
- + It would have been difficult for officers to hold on to the suspect in another manner or to get him in to the car otherwise.
- + Once he was in the car, the suspect hooked his legs and wedged his feet in the door to avoid officers being able to put him in to the backseat.
- + The officer in the backseat applied O.C. to the side of the suspect's face.
- + At the time of the O.C. application, the suspect was still not completely under control. He still had his feet out of the car and appeared to be struggling against the officer's hold. He tried to raise his head as he was going to sit up about the time the officer sprayed him with the O.C.
- + Given the suspect's size and continuing resistance, the officer was in a dangerous position in the back seat of the car with the suspect.
- + **However;** once the suspect was in the backseat, the officer who pulled him in could have exited back out the other door. Due to his size, it was not likely that the suspect would be able to quickly get out of the vehicle in order to assault the officers. The officers outside the vehicle could likely restrain the suspect's legs and get them in to the car, or prevent the suspect from getting out of the car.
- + Absent other circumstances, the use of O.C. may not have been reasonable.

- **Proportional:** Was the force proportional to the subject's actions?
  - a. The officers started at a lower level of force and increased that force to overcome the suspect's resistance. Once the suspect was controlled and contained within the police vehicle, the officer disengaged and stopped using force.

**Post-Force:**

- **Any other issues (Policy, Equipment, Training, Practices)**
- **How should the chain of command address this incident?**

**Instructor Follow-up**

- A suspension of 10 days was the initial disciplinary recommended for the officer. The police chief decided to terminate the officer. The matter went to arbitration and the officer was re-instated, with a one-day suspension for a policy violation regarding the reporting of the force.

**Concept Application Exercise #8:**

**Video of Incident:** The incident is captured by a camera person who is filming the officer. The recording covers the initial contact, through the arrest of the suspect.

**Summary of Incident:**

- An officer contacts a known suspect in a vehicle outside a store. The officer attempts to remove the man from the car and place him under arrest.
- The man resists the officer's attempts to arrest him. The officer sprays the man in the face with O.C.
- The officer breaks free from the officer and tries to run away.
- The officer chases him and takes him to the ground.
- Once the officer has the suspect on the ground, he can see that the suspect has a very large fixed-blade knife in a sheath on his belt.
- The officer attempts to control the suspect's hands, as the suspect tries to reach for his waistband. The officer finds that the suspect has an empty gun holster on his belt.
- The officer is able to control the suspect with the assistance of two bystanders.

**Video Link:**

**<http://www.youtube.com/watch?v=yhpNpE0b-y4>**

**In Class Exercise**

1. In small groups, work together to come to a consensus on your review of the incident using the incident review guide. Prepare to present your viewpoints to the group as a whole. (10 minutes)
2. Group discussion of incident. (10 minutes)



3. Work together in your same small group and prepare an outline to present this incident to the use of force review board. (10 minutes)
4. Group discussion of presentations to use of force review Board. (10 minutes)
5. Exercise Debriefing. (5 minutes)

### Instructor Notes

#### Seizure

- **Legal Authority:** What was the officers' legal authority to be there?
  - This took place in the parking lot of a business that was open to the public.
- **Lawful Purpose:** What was the officer's lawful purpose?
  - The officer was attempting to make an arrest of the suspect. The reason is not specified in the video clip.
  - The suspect resists the arrest and flees from the officer, giving the officer further probable cause to arrest him.
- **Scope/Progression of Seizure:** Was the scope exceeded? / Did the contact change?
  - NO / NO

#### Pre-Force

- **Tactical Considerations:** What effect did the tactics have on the force used?
  - The officer contacted the man without backup.
  - There was no reason apparent from the video to take the man into custody without backup available.
  - If the officer had utilized a backing officer, it is possible that the suspect may not have resisted the arrest, and if he had, then the officers would have been better able to gain control of him.
- **De-Escalation:** Was de-escalation feasible?
  - The officer attempted de-escalation throughout this incident
  - He gave the suspect clear verbal commands from his initial attempt to place him in handcuffs up to the eventual arrest of the suspect.

#### Force

- **Level of Resistance or Threat Offered by the Suspect:** Active Static to Active Egressive



- **Force Options Used: Verbal, Physical, Intermediate (O.C.)**
  - **Necessary:** Why was this force option necessary?
    - + The officer attempted to physically control the suspect, as he made the first attempt to place handcuffs on him.
    - + The suspect resisted the physical control and attempted to flee.
    - + The suspect was not compliant and the officer had no other means to take him into custody.
  - **Objectively Reasonable:** Was the force option objectively reasonable?
    - + The officer made the decision to handcuff the suspect while the suspect was seated in a car.
    - + The suspect pushed his way out of the car and was wrestling with the officer in an attempt to break the officer's hold on him.
    - + As his efforts to physically control the suspect were failing, it was reasonable for the officer to apply intermediate force in the form of O.C.
    - + The O.C. did not prevent the suspect from fleeing, but the officer was able to chase him down and take him to the ground.
    - + At that point, the officer focused on controlling the suspect's hand and keeping him pinned to the ground. He enlisted the assistance of two bystanders to assist him with restraining the suspect.
    - + As the suspect was being restrained on the ground, it became apparent to the officer that the suspect was armed with a large fixed-blade knife. The suspect also was resisting the officer's efforts to control his hands and was reaching for his waistline repeatedly. The officer found that the suspect had an empty gun holster on his belt, but the officer was not sure where the gun was at that time. The suspect also had a screwdriver poking out of a pants pocket.
    - + With the fact that the suspect was armed and was continuing to actively resist, the officer may have considered using deadly force.
    - + If the officer loses control of the armed suspect, he could be in immediate danger and possibly unable to prevent the suspect from using those weapons against him.
  - **Proportional:** Was the force balanced to the subject's actions?
    - + The officer started at a low level of force, but increased in response to the suspect's increased resistance. Once he felt he had the suspect under control, the officer lowered his level of force and focused on physically controlling the suspect.

#### Post-Force

- **Any other issues? (Policy, Equipment, Training, Practices)**
  - The officer started removing items from the suspect before he had him under control. He removed the fixed-blade knife from the sheath and threw it on the ground behind



him, but still within a few feet of the suspect. This made it harder for the officer to keep track of the knife during the continued struggle and made it accessible to someone else or the suspect.

- It would likely be a better practice to leave the weapons secured and appropriately deal with any attempt by the suspect to access those weapons.
- **How Should the Chain of Command Address Identified Issues?**





## Experiential Debrief

- What did we cover?
- What did you do?
- What did you learn?
- What are the important concepts of this training?
- Were the focus skill sets achieved?
- What was similar to your expectations or past experience?
- What was different from your expectations or past experience?
- Why is this training important?
- How can you apply this training to your job?