



## **DPSST Use of Force Presentation for the 2020 Joint Committee on Transparent Policing and Use of Force Reform**

### **Overview of Basic Police Training in Oregon**

The Basic Police Training Academy is a 16-week, 640 hour, full-time, residential program serving all newly hired public safety officers in the state. All officers hired by a public safety agency come to the same basic training, whether it is Portland Police Bureau, the Malheur County Sheriff's Office, or the Oregon State Police. Following basic training, officers must complete a subsequent field training process with their agency before becoming certified.

Both a high-level overview of the program and the complete student material is available for review on the DPSST website. If you review the student material, you will see how the topics are integrated throughout the 16-weeks and not simply stand-alone concepts.

[https://www.oregon.gov/dpsst/CPE/Pages/curriculum-facilitator-development.aspx#curriculum\\_overviews](https://www.oregon.gov/dpsst/CPE/Pages/curriculum-facilitator-development.aspx#curriculum_overviews)

DPSST began a complete revision of our 16-week Basic Police training program in 2017. Due to the large scope of this project, the revision has been divided into four phases over the course of four years. A series of workgroups consisting of public safety, community members, community partners, research partners, and subject matter experts identifies and develops the topics to be included in training. The revision process has begun to scale back the number of topics provided to new recruits in an effort to focus more attention on the "need to have" topics. As we have increased focus on skills training, we have also increased focus on interpersonal skills and how these all function together.

The revised training program is designed and delivered based on academic research in addition to legal standards established through state and federal law. The program strives to provide training in a way to best develop a new officer's problem-solving and critical-thinking skills. The revision has leaned heavily on the 2015 President's Task Force on 21<sup>st</sup> Century Policing Final Report, as well as the subsequent Evidence-Assessment. An incomplete list of these sources is provided at the end of this document.



Lum, C., Koper, C. S., Gill, C., Hibdon, J., Telep, C. & Robinson, L. (2016). *An evidence-assessment of the recommendations of the President's Task Force on 21st Century Policing-Implementation and research priorities*. Center for Evidence-Based Crime Policy, George Mason University. International Association of Chiefs of Police.

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President's Task Force on 21st Century Policing. (2015). *Final Report of the President's Task Force on 21st Century Policing*. Office of Community Oriented Policing Services. Retrieved from [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf)

Phase 1 was implemented in February 2018 and focused on developing an officer's sense of self and engaging in basic interactions with the public. This included the addition of new courses including Emotional Intelligence, Implicit Bias, Legitimacy and Procedural Justice, and Community Competency. Phase 1 also included a greater focus on developing effective communication skills. Communication is a key element in all aspects of policing and sets the foundation for de-escalation and "anti-escalation". The program is designed around research on officer behaviors (metrics) that are likely to lead to a positive outcome in a given encounter.

Vila, B., James, S., & James, L. (2018). How police officers perform in encounters with the Public. *Policing: An International Journal*, 41 (2), 215-232.

Vila, B., James, S., & James, L. (2016). Novel process for developing metrics that measure what police do. Interservice/Industry Training, Simulation, and Education Conference.

[https://www.researchgate.net/profile/Stephen\\_James8/publication/311584015\\_Novel\\_Process\\_for\\_Developing\\_Metrics\\_That\\_Measure\\_What\\_Police\\_Do/links/584f1a0208aecb6bd8do26e7.pdf](https://www.researchgate.net/profile/Stephen_James8/publication/311584015_Novel_Process_for_Developing_Metrics_That_Measure_What_Police_Do/links/584f1a0208aecb6bd8do26e7.pdf)



Phase 2 was implemented in February 2019 and built on the foundation officers built in phase 1. Threads established in phase 1 (empathy, legitimacy, resiliency) were pulled through legal and skills training. Phase 2 enhanced the focus on constitutional rights, behavioral health and other critical foundational topics. Additionally, phase 2 included a complete revision of application training. Recruits now participate in weekly scenarios where they get to practice applying the knowledge and skills they have learned in the classroom. Previously, this type of training did not begin until halfway through the academy. Beginning application training in week one, provides recruits opportunity to improve foundational skills before moving on to more complex problem-solving.

Phase 3 is under development and will be implemented in 2020. The phase 3 focus is on conducting criminal investigations. This includes specialized investigations such as child or elder abuse, sexual assault, and domestic violence. New topics will include human trafficking and threat assessment. Investigation topics also include trauma informed approaches, supporting victims of crime, and interviewing skills.

Phase 4 will include a revision of the Field Training Manual, to ensure it aligns with the training provided during the basic academy.



## Use of Force Training at the Basic Police Academy

The Oregon Department of Public Safety Standards and Training's Use of Force program is a comprehensive, evidence-based program that integrates classroom instruction, "live" force-on-force scenarios, and interactive video scenarios. Our evidence is drawn from the most current constitutional case law rulings, peer-reviewed research, and governmental statistical data. At the center of the program are the concepts of Objective Reasonableness, based on the Totality of the Circumstances, and officer decision making.

The Use of Force program is structured around federal constitutional legal rulings. This is due to the fact that the United States Supreme Court and the Ninth Circuit Court of Appeals have created a large body of law that tells officers what is, and, what is not considered reasonable force. More importantly, these rulings tell us *why* they ruled one way or another. Constitutionally protected rights are at the heart of the Use of Force program.

The foundational United States Supreme Court Case *Graham v Connor* (1989) illustrates the case specific and objective factors that determine the "reasonableness" of an officer's actions.

*Because "the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application,"...however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.*

*Graham v Connor, US Supreme Court – 1989*

Objective factors, such as *why* an officer is attempting to arrest a person or if that person is threatening to harm to the officer or others, are the observable facts that the courts have asked officers to think about when making decision to arrest a person or use force during that arrest.



The court also acknowledged the confusing and chaotic nature of some of these police encounters, understanding that officers may not always make the “best” decisions, as long as they are reasonable based on the totality of the circumstances.

*The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.*

*The Fourth Amendment is not violated by an arrest based on probable cause, even though the wrong person is arrested, nor by the mistaken execution of a valid search warrant on the wrong premises.*

*With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: "Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers," Johnson v. Glick, 481 F.2d, at 1033, violates the Fourth Amendment. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation.*

*Graham v Connor, US Supreme Court – 1989*

This does not mean that the DPSST Use of Force program is satisfied with, or only trains to the “minimum standard”. The Objective Reasonableness standard is the baseline that the rest of the training program is built upon. A significant amount of the training time, especially the reality-based scenario program, is spent on developing the decision-making skills of the recruits.

This decision-making training is developed and evaluated throughout the 16-week training process. In the Use of Force program, it begins with new officers watching and breaking down videos of actual, real-world, use of force situations. It then continues as we have officers participate in “live” scenarios as both the suspect/subject, and as the officer. This gives students an opportunity to participate and evaluate situations from both perspectives. New officers also participate in video simulator training.



This allows instructors to pause scenarios in real time to give the student immediate feedback and correct mistakes as they occur. It also allows for the students to watch a frame by frame breakdown of the event after it occurred so they can better evaluate points where they could have made different or better decisions.

However, this desire to have officers always make optimal decisions and use the least amount of force is not the actual goal of the Program. The goal of the program is to teach the students the techniques, principals and procedures that are *more likely* to lead to desirable outcomes (See: Vila, B., James, S., & James, L. *How police officers perform in encounters with the Public*). The distinction is important because a misunderstanding of the goals of “good” decision making versus the standard of objective reasonableness can cause confusion when discussing Use of Force constitutional law, and decision-making training.

*Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment. In the heat of battle with lives potentially in the balance, an officer would not be able to rely on training and common sense to decide what would best accomplish his mission. Instead, he would need to ascertain the least intrusive alternative (an inherently subjective determination) and choose that option and that option only. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves. It would also entangle the courts in endless second-guessing of police decisions made under stress and subject to the exigencies of the moment.*

*Officers thus need not avail themselves of the least intrusive means of responding to an exigent situation; they need only act within that range of conduct we identify as reasonable. The officers here clearly did: It's hardly unreasonable for officers to take arms, knock on the door of an apartment and identify themselves as police when an armed man who, they are told, recently fired shots and is acting "crazy" lurks inside.*

*Scott v Henrich, Ninth Circuit Court of Appeals – 1992*



The question of what is reasonable or unreasonable is an objective one, based on the best information an officer has available. This is where the importance of understanding how the specific facts and circumstances of a situation can change the outcome of what would normally seem like an easy decision.

*Specificity is especially important in the Fourth Amendment context, where the Court has recognized that it is sometimes difficult for an officer to determine how the relevant legal doctrine, here excessive force, will apply to the factual situation the officer confronts." Use of excessive force is an area of the law "in which the result depends very much on the facts of each case,"...*

*Kisela v Hughes, US Supreme Court – 2018*

For these reasons, The Oregon Department of Public Safety Standards and Training does not use a Use of Force Continuum or Matrix. These types of documents or graphics overly simplify what are incredible complicated situations. The legal standards outlined in hundreds of case rulings establish the boundaries of reasonableness, the specific requirements expected within the rules of constitutional law, and the objective facts that court will always consider pertinent in a use of force event.



## **Conclusion**

This summary is only a small segment of the basic police training developed and delivered at the Oregon Department of Public Safety Standards and Training. As this is an incomplete overview of the training program, we are providing many of the resources we have used to develop this, and many more of our training programs. We welcome further conversations and questions about these complex topics and look forward to speaking with the committee in the future.

For additional information, we recently completed a series of live webinars on basic police training and use of force training, and the recordings are available on the DPSST website.

<https://www.oregon.gov/dpsst/cj/pages/informationalfiles.aspx>

Thank you,

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## Resources

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[https://www.researchgate.net/profile/Stephen\\_James8/publication/311584015\\_Novel\\_Process\\_for\\_Developing\\_Metrics\\_That\\_Measure\\_What\\_Police\\_Do/links/584f1a0208aecb6bd8do26e7.pdf](https://www.researchgate.net/profile/Stephen_James8/publication/311584015_Novel_Process_for_Developing_Metrics_That_Measure_What_Police_Do/links/584f1a0208aecb6bd8do26e7.pdf)



## Use of Force

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