

Principles of Use of Force

San Diego County
Probation Department
DPO CORE

Introductions Instructor and Student

- Name
- Originally from San Diego County
- Previous L.E. experience or time with the County
- Formal training experience

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Objectives

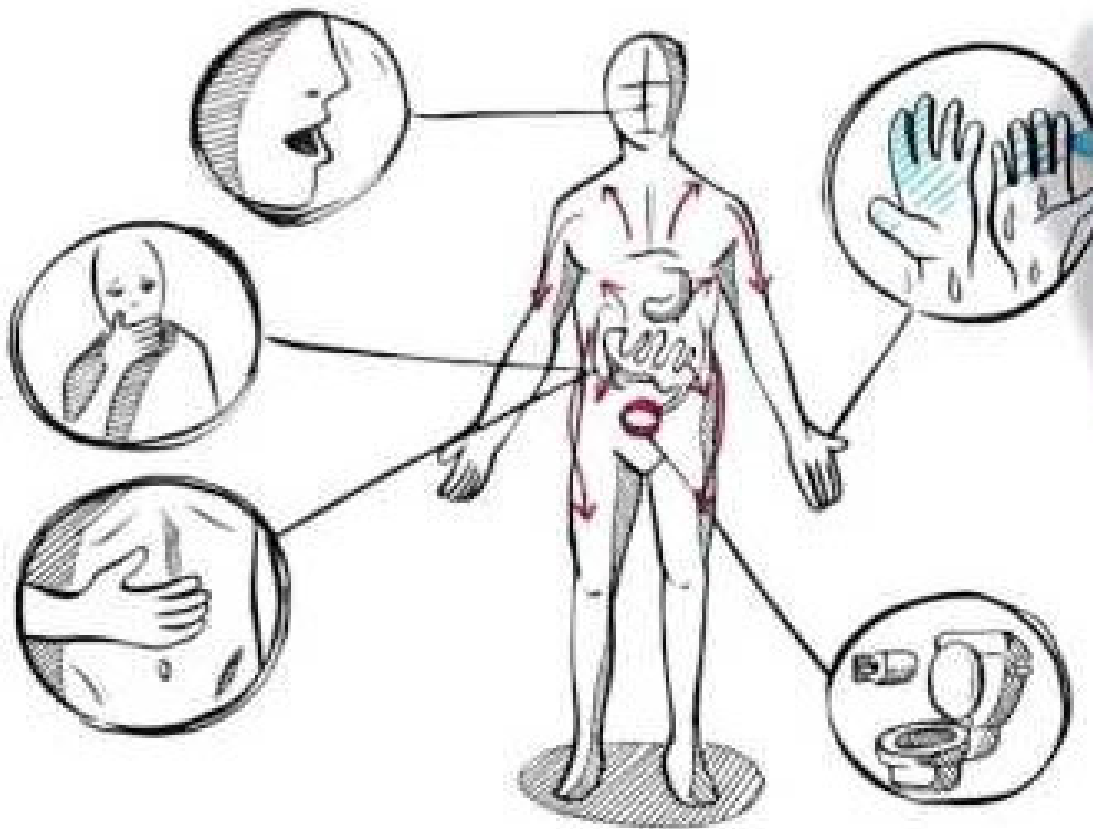
- Identify the Legal framework for the Use of Reasonable Force
- Identify the categories of Force Options
- Describe less lethal and lethal Force Options
- Describe actions that would constitute reasonable and excessive force
- Identify factors which should be considered prior to using force
- Describe intervention methods for de-escalating problematic situations
- Identify the psychological/physiological factors that affect a person threatened with danger
- Identify assaultive and pre-assaultive behavior
- Identify Key Elements which need to be covered during a debrief and documentation

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Fight Flight Freeze



An Officer's Reactions Before and During an Event

Physiological

- ▶ Adrenaline released
- ▶ Increased Heart Rate
- ▶ Increased Blood Pressure
- ▶ Pupils Dilate
- ▶ Breathing Increases but shallow
- ▶ Hearing Increases, but can also cause auditory exclusion
- ▶ Pain Receptors Dull
- ▶ Large Muscle Groups activate – Gross Motor
- ▶ Fine Motor Skills diminish

Psychological

- ▶ Nervousness/Anxious
- ▶ Increased Focus on threat
- ▶ Difficult to focus on small menial tasks
- ▶ Scared
- ▶ Brain is trying to Orientate to the situation/stimulus
- ▶ Perceptual changes-time slows

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An Officer's Reactions After The Event



Withdrawal from
adrenaline rush



Jumpy



Altered perception
of level of danger



Thin-skinned



Flashbacks to
previous trauma



Confidence in
one's abilities




Development of
instinctive reaction


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Legal Framework Use of Force

Penal Code:
PC830.5,
PC835(a), PC832



Case Law:
Graham v.
Connor



Department
Policies and
Procedures

Law Enforcement Authority

Policy 100

PC830.5

- 1. Conditions of parole, probation, mandatory supervision, or post release community supervision by any person in this state on parole, probation, mandatory supervision, or post release community supervision;
- 2. The escape of any inmate or ward from a state or local institution;
- 3. The transportation of persons on probation, mandatory supervision, or post-release community supervision;
- 4. Violations of any penal provisions of law which are discovered while performing the usual or authorized duties of employment;
- 5. The rendering of mutual aid to any other law enforcement agency.

Use of Force 300.1.1

- The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

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Primary Objective in Using Force

- Gain Control
- Overcome Resistance
- Prevent Escape
- Protection of Self
- Protection of Others

Force shall never be applied as punishment, discipline, retaliation, or treatment.

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Penal Code Section 835a

(b) Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape or to overcome resistance.

(d) A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or to prevent escape or to overcome resistance. For the purposes of this subdivision, “retreat” does not mean tactical repositioning or other deescalation tactics.

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Penal Code Section 835a

- (e) For purposes of this section, the following definitions shall apply:
- (1) “Deadly force” means any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.
- (2) A threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.
- (3) “Totality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.

When it Comes to Force

- When can we use Force?
- How much Force can we use?
- Where is the Playbook?
- Policy 300 – Use of Force 300.1
- Policy 302 – Handcuffing and Restraints
- Policy 303 – Control Devices and Techniques

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Reasonable Officer Standard

Whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting the officer without regard to the underlying intent or motivation.

Would another officer, with the same or similar training and experience, facing the same or similar circumstances, act in the same or similar way with the same or similar judgment.

Judged through the eyes of the officer on scene

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Basic Factors or Test of “Objective Reasonableness”

Graham risk prioritized by Chew v Gates (most important to least):

- Immediate threat - beware “*possible*” threat fallacy
- Actively resisting seizure/arrest
- Circumstances tense, uncertain rapidly evolving (pace of events)
- Severity of the crime at issue
- Attempting to evade seizure - by fight or flight from serious event

Additional Basic Factors:

- Availability of alternative methods of capturing, controlling, restraining, or subduing subject
- What officers knew about subject’s health, mental condition, or other relevant frailties

Court Review As Additional Factors

- Providing verbal directives and an opportunity to comply
- Reasonable opportunity to comply with directives prior to each force application
- Given time to “recover from the extreme pain experienced/gather themselves”
- Evaluate what other tactics, if any, were available to effect the arrest
(Less Intrusive Measures)

What is the Foreseeable Risk of Injury = Which force option(s) to utilize

CONTINUOUSLY ASSESS !!!

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Officers Should Consider:

Immediacy and severity of the threat to the officers or others

▶ Policy and Procedure

▶ Use of force strategies available/ resources

▶ Force as a last resort (LRA)

▶ Force must be reasonable and necessary to control the situation, effect an arrest or prevent an escape

▶ Force is to be utilized as a defensive measure

▶ All uses of force will be thoroughly documented

▶ What other options are available/utilized

▶ Foreseeable injury?

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Critical Thinking

In any given situation, circumstances may dictate which force option strategy to use. Officers should exercise good judgement in determining the appropriate option(s) for a given situation and must be able to: Articulate their reasons for choosing the option(s) used.

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Immediate Action???

- Does the situation require an immediate action/response?
 - Yes – Then respond accordingly while using good tactics/available force options/sound judgment
 - No – Then do we have time?
 - Time to re-position, seek cover, attempt to de-escalate, extract collaterals, request additional/appropriate resources, etc.
 - This includes time to come up with a tactical plan/communicate with team
 - If unable to de-escalate, articulate subject(s) unwillingness/un-responsiveness to participate in attempts

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Break



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Department Policy 300.1

- ▶ While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every employee of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

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300.2.1 – Duty to Intercede

- Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

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300.6 – Medical Considerations

- Prior to booking or release, medical assistance shall be obtained for any person(s) who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious.
- Any person exhibiting signs of physical distress after an encounter should be continuously monitored until they can be medically assessed.
- Any person exhibiting signs consistent with Excited Delirium may be at an increased risk of sudden death or in-custody death. This should be treated as a medical emergency.
- Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable.

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The Force Fraction

TOC

= 835²

OR

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-
- Use of Force needs to be:
 - Objectively Reasonable under the Totality of the Circumstances

5 Graham Factors



Immediate Threat to Officers or Others



Active Resistance



Split-Second Decisions



Severity of the Crime



Attempting to Evade/Escape

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5 – Use of Force to



Effect an
Arrest



Overcome
Resistance



Prevent
Escape



Defense of
Self



Defense of
Others

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8 – Officer Subject Factors

- Prior Contacts
- Number of Officers vs. Subjects
- Age, Size, Relative Strength
- Special Knowledge/Skills
- Injury/Exhaustion
- Mentally Ill/Under the Influence
- Environmental Factors
- Proximity to Potential Weapons

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3 – Levels of Force

- Deadly Force
- Intermediate Force
- Non-Deadly Force

Consensual Contacts



Consensual Contact: Face-to-Face contact with a person under circumstances which would cause a reasonable person to believe they are free to leave or otherwise not cooperate. Officers don't need justification to talk with that person other than they are in a place they have a right to be.



Actions: Requesting Information, Interviewing witnesses at the scene, conversing casually, disseminating information, etc.



Re-actions: If people refuse to cooperate, the officer may not require them to do so. People must be allowed to leave unless the officer has obtained/developed information justifying a detention.

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Reasonable Suspicion

- Specific and articulable facts and circumstances that would lead a reasonable officer to suspect that a crime has been, is being, or is about to be committed.

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Detentions



Detention: A temporary detention or stop is an assertion of authority by a peace officer that would cause a reasonable person to believe they are not free to leave. *A lawful detention requires reasonable suspicion of criminal activity.*



Ways to make it a detention: Physical restraint, unequivocal verbal commands, or other conduct by an officer



Length of Detention: Must be temporary and last no longer than is necessary to resolve the reason for the stop.



A detainee is not obligated to answer any questions an officer may ask. The refusal alone does not provide PC for escalating to an arrest.

Probable Cause

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

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Arrest



Arrest: Taking a person into custody for the violation of a crime based on probable cause.



Probable Cause
Established
Through:

Direct investigation or
reports

Circumstantial evidence

Second-hand statements
from reliable sources



PC is required before an arrest is made and is based on the totality of the circumstances.

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PC 841

- Requires any person making an arrest must convey certain information to the individual being arrested at the time of the arrest:
 - 1. Intent – Tell them they're being arrested
 - 2. Cause – State the reason for the arrest (warrant, PV, etc.)
 - 3. Authority – A non-uniformed officer must show I.D.

A uniformed officer satisfies this requirement, but need I.D. on you per Policy

4th Ammendment



Right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures...



Requires probable cause and describes the persons/place/items to be searched/seized



An arrest is considered a *full seizure* of a person under the 4th because it takes away a person's liberty.

Amendments

- 14th Amendment: Officers must apply the law equally to all people regardless of race, creed, nationality, religious preference, or national origin.
- 8th Amendment: Excessive bail, fines, or cruel and unusual punishment inflicted.
- 5th Amendment: Persons cannot be compelled to be a witness against themselves in a criminal case...cannot be deprived of life, liberty, or property without due process of law. Miranda Warning.

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Penal Codes

- PC148 – Person willfully resists, delays, or obstructs any peace officer in the discharge or attempt to discharge any duty while the officer was on duty and the person knew or reasonably should have known they were a peace officer.
- PC69 – Person willfully and unlawfully attempting by threats or violence to deter or prevent a peace officer from performing a lawful duty and using force or violence to resist an executive officer.

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Still With Me?



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Subject's
Actions/
Levels of
Resistance

Compliant

Passive/Non-Compliant

Actively Resistant

Assaultive

Life Threatening

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Compliant

- Subject: Offers no resistance
- Possible Force Options:
 - - Mere professional appearance
 - - Nonverbal actions
 - - Verbal requests and commands
 - - Handcuffing and control holds

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Passive Non- Compliant

- Subject: Does not respond to verbal commands. Can be conveyed through verbal and non-verbal cues indicating the subject's attitude, appearance, and physical readiness to resist. Subject offers no physical form of resistance.
- Possible Force Options:
 - Officer's strength to take physical control, including lifting/carrying.
 - Pain compliance control holds, takedowns and techniques to direct movement or immobilize a subject.

Active Resistance

- Subject: Physically evasive movements to defeat an officer's attempt at control. This can include bracing, tensing, running away, or verbally/physically signaling an intention to avoid or prevent being taken into or retained in custody.
- Possible Force Options:
 - Control holds and techniques to control the subject and situation.
 - Use of personal body weapons to gain advantage over the subject .

Assaultive

- Subject: Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person.
- Possible Force Options:
 - Use of devices and/or techniques to secure compliance and ultimately gain control of the situation.
 - Use of personal body weapons in self-defense and to gain advantage over the subject.

Life Threatening

- Subject: Any action likely to result in serious bodily injury or death to the officer(s) or others.
- Possible Force Options:
 - Utilizing firearms or any other available weapon or action in defense of self and others to stop the threat. This can include impacting vital areas to immediately stop the threat. Chokes are prohibited.

Force Transition

- Officer's should escalate or de-escalate their level of force or response given the actions of the subject.
- This includes movement, escalation, or de-escalation from the application of one force type to another in conjunction with the “objectively reasonable” standard.
- Force situations are dynamic and require an officer to continually assess the suspect's actions to ensure a proportionate response.

Pre-Assaultive Indicators



Pre-Assaultive Indicators

-
- ▶ Overt Threats
 - ▶ Non-Compliance
 - ▶ Removing Clothing: *ExD or 11-5*
 - ▶ Scanning
 - ▶ Tactical Maneuvering (multiple subjects):
triangulation, distraction
 - ▶ Furtive Communication (multiple subjects)
 - ▶ Mental Alteration: *diminished capacity to think clearly (DUI, 11-5, ExD, off psych meds)*
 - ▶ “Boiling Point” Physiology
 - a) Blading into boxer’s stance
 - b) Quickened breathing & flared nostrils
 - c) Pupil dilation from adrenaline dump
 - d) Clenched fists
 - e) Excessive animation, like the flinging of arms
 - f) Profuse sweating

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De-Escalation

- How do we de-escalate?
- Verbally, Physically, Tactically

Reasoning with a highly agitated person is usually not possible. De-escalation is aimed at reducing the level of arousal so that discussion/reasoning becomes possible.

Verbal de- escalation



Remain calm



Speak calmly



Keep vocabulary
simple



Be respectful



Explain what you are
doing and why



Use MI—
validate/recognize
how someone feels



Show
empathy/compassion

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Physical de- escalation



Position of Advantage – Encourage the subject to take a seat



Keep a neutral facial expression. A calm demeanor



Do not point or shake your finger



Maintain distance



Keep hands in front of your body (Be mindful to not have your hands on your force option)



Avoid Crossed arms, hands in your pockets, or arms behind the back

Tactical de- escalation

Isolation-remove audience

Separate multiple subjects

Too many officers in a room

Moving subjects inside (if applicable)

Giving subject water

One on one conversation

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Force Option Categories

Force Option	Foreseeable Injury
Non-Deadly Force	Force which creates a minimal risk of injury
Intermediate Force	Force which has a significant risk of injury
Deadly Force	Force which has a substantial risk of serious bodily injury or death

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Officer Response/Force Options

- Professional/Officer Presence
- Verbal Commands
- Mechanical Restraints
- Empty Hand Tactics/ Personal Body Weapons
- Control Holds/Escorts
- Pain Compliance
- O.C.
- Impact Weapons
- Lethal Weapons

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Non- Deadly Force Options

Professional/Officer Presence

Verbal Commands

Mechanical Restraints

Empty Hand Tactics

Empty Hand Tactics/Personal Body Weapons

Control Holds/Escorts

Pain Compliance

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Intermediate Force Options

- O.C.
- Taser CEW
- Baton
- Impact Weapons
- Improvised Weapons
- Blocking/techniques to gain advantage over the subject

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Deadly Force Options

- Firearm
- Strikes to specific target areas likely to cause GBI or death (neck, spine, groin, kidneys, heart, throat)
- Available weapons or action in defense of self or others to stop the threat

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Draw From the Hat

- Draw from the hat
- Identify roles for each person at the table (subject, officers with reasonable force, officers conducting excessive force)
- Act out for group
- Other table groups need to identify the subject's actions, which force response was reasonable and why, and which force response was excessive and why.

Winning – How can we get there?

- Training – Physically and Mentally
- Scanning
- Tactical Breathing
- When, Then thinking
- Mindset
- Physical Fitness
- Mental Rehearsals

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-
- Was the force legal?
 - Was the force reasonable?
 - Was the force within department policy?
 - Evaluate the tactics

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Nothing is Routine



Immediate Action???

- Does the situation require an immediate action/response?
 - Yes – Then respond accordingly while using good tactics/available force options/sound judgment.
 - No – Then do we have time?
 - Time to re-position, seek cover, attempt to de-escalate, extract collaterals, request additional/appropriate resources, etc.
 - This includes time to come up with a tactical plan/communicate with team.
 - If unable to de-escalate, articulate subject(s) unwillingness/un-responsiveness to participate in attempts.

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The Three Fights

- You vs. the system/Admin – Know your policies and procedures
- You vs. the Suspect – Be ready to win
- You vs. You – What kind of condition am I in? Am I confident in my skills and abilities?

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How Many Fights is he Fighting?



How Many Fights is he Fighting???



4th Fight



Media



Social Media



Public Perception



Family/Friend Perception after a Use of Force

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Health Hazards



Exposure to:

Blood-Borne pathogens
Saliva/Sweat
Universal Precautions
Force Option crossfire



Injury:

Scrapes, burns, bruising, weapons,
needle sticks, etc.



Stress:

Mental, physical, emotional

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Debrief and Documentation

- **Debrief**

- Who, what, where, when, how, and why
- What went well, what did not, why
- Could we have taken a better approach
- How can we do better next time
- Is additional training needed
- Constructive criticism
- Communication
- Round table

- **Documentation**

- Who, what, where, when, how, and why
- What did the subject do?
- What would have happened if the subject continued their actions?
- What did you do to counter the subject's actions?
- Injuries/Medical Attention
- Possible complaints/ Damage
- Pictures/ Evidence