

# Use of Force and De-escalation Options for Gaining Compliance

*GPSTC Police Legitimacy, Procedural Justice, and  
Community Relations Curricula*

## Online Training Course

### Program of Instruction



Georgia Public Safety Training Center  
Instructional Services Division  
February 2017

# Use of Force and De-escalation Options for Gaining Compliance

5 hours

## Purpose

The purpose of this Program of Instruction is to provide other training entities a reference document related to the design of, and resources used in, the GPSTC Police Legitimacy, Procedural Justice, and Community Relations Curricula.

## Instructional Goal

The instructional goal for Use of Force and De-escalation Options for Gaining Compliance is to provide officers with a review of use of force concepts and to introduce de-escalation techniques as a tool for reducing the need to use force. Special emphasis is placed on officer safety from both a physical and legal perspective.

## Intellectual Property Notice

GPSTC requested and obtained written permission to use the copyrighted materials referenced and used throughout this program of instruction and in our online training.

However, agencies who wish to use these same copyrighted materials are **solely responsible for obtaining copyright waivers and/or permissions to use** these same resources from the copyright holder. The waivers provided to GPSTC do not extend to any other entities.

## Evaluation Plan

A written examination should consist of 20 multiple-choice questions designed by the agency instructor. The questions must follow the prescribed method of test development according to POST Uniform Academy Rules and Regulations.

The quality and effectiveness of this course should also be evaluated through feedback from course participants using course evaluation forms, observation by instructional supervisors, and feedback from graduates.

## Unit 1: Legal Considerations in the Use of Force

### Terminal Performance Objective

Given an encounter with a non-compliant or violent subject, the officer will apply an objectively reasonable level of force to stabilize the situation, in accordance with state and federal statutes and current case law.

### Enabling Objectives

- 1.1 Review constitutional standards for the use of force.
- 1.2 Apply a review of statutory and case law to use of force cases.
- 1.3 Identify force options and explain situations in which their deployment may be reasonable.
- 1.4 Explain the need to articulate clearly the facts related to a use of force.

### Topical Outline

- I. Constitutional Standards
  - A. Regardless of public perception of recent cases, there has been no shift in legal standards related to the use of force.
    1. Excessive force is force that is not reasonable.
    2. Over 90% of excessive force complaints are unfounded.
  - B. Force
    1. Graham v. Connor
    2. Tennessee v. Garner
    3. Scott v. Harris
    4. 4<sup>th</sup>, 8<sup>th</sup>, 14<sup>th</sup> Amendments to the U.S. Constitution
  - C. 4th Amendment

- D. To constitute a 4th Amendment seizure of a person, there must be either:
  - 1. The application of force, however slight; or
  - 2. Submission to an officer's "show of authority" to restrain the subject's liberty.
- E. The application of physical force to restrain movement or to arrest is sufficient to constitute a seizure.
- F. Force may reasonably be used to:
  - 1. Compel compliance with lawful commands.
  - 2. Overcome physical resistance by a subject.
  - 3. Prevent escape or restrain a subject for purposes of an arrest based on probable cause.
  - 4. Detain or restrain a subject during an investigatory stop based on articulable reasonable suspicion.
  - 5. Preempt a risk of injury to the officer or others (self-defense or defense of others).
  - 6. Achieve other legitimate law enforcement purposes when mere presence and verbal commands fail.
- G. Scott v. Harris
  - 1. Even though an automobile was involved, Graham was used as the test.
  - 2. An attempt to terminate a dangerous pursuit that does not violate the Fourth Amendment even when it places the fleeing motorist at risk.

H. Factors in 8th and 14th Amendment Claims of Excessive Force

1. Need for force.
2. Need v. amount used.
3. Extent of injuries.
4. Extent of threat to safety of staff and inmates.
5. Efforts made to temper the severity of the response.

II. Statutory and Case Law Review

A. Justification

1. "Where a defendant raises the affirmative defense of justification and testifies to the same, the burden is on the state to disprove that defense beyond a reasonable doubt."

-Anderson v. State, 262 Ga. 7 (1992)

B. Relevant State Statutes

1. §16-3-20
2. §16-3-21
3. §16-3-24.2
4. §17-4-20(b)
5. §15-12-71
6. §17-7-52

C. Vehicle Pursuits

1. OCGA §40-6-6 (d)(2)
2. OCGA §40-6-6 (d)(3)

3. Where the action of the officer is reasonable (using due regard), their pursuit cannot be the proximate cause of damage resulting from a pursuit.

D. Officers and the Grand Jury

1. Officer must be given 20 days notice.
2. Testimony will be transcribed and may be released if an indictment or presentment is not recommended.
3. Officer's statement subject to cross-examination and rebuttal.
4. Civil grand jury may review cases to determine if there is sufficient question as to the lawfulness of the officer's actions.

III. Pre-Attack Indicators

A. Factors and Special Circumstances

1. Age
2. Sex
3. Size
4. Skill Level
5. Prior Knowledge of Offense(s) (i.e. obstruction)
6. Multiple Officers/Subjects
7. Intensity of the physical altercation
8. Environmental conditions (i.e. heat, cold)

B. Pro-Active Use of Force

1. Generally less force used.
2. Less injury to suspect.
3. Less injury to officer.
4. Quick decision = less force later.

C. Pre-Attack Indicators Include:

1. Clenching
2. Glancing at officer's weapon
3. Target glance
4. Eye contact
5. Bladed/fighting stance
6. Flanking
7. Abnormal breathing
8. Posturing
9. Nervous movement
10. Body grooming

IV. Force Options

A. Types of Force

1. Non-Deadly Force: Force that is not likely to cause death or serious bodily harm.
  - a. To defend yourself or someone else from a third party using unlawful force (non-deadly force) against you or the other person.

2. Deadly Force: Force that is likely to cause death or serious bodily injury.
  - a. To protect yourself or someone else from death or serious bodily injury.
  - b. To prevent the commission of a forcible felony.

B. Non-Deadly Force Options

1. Hands-on control techniques
  - a. Control and Restraint Options (aka "Takedowns").
  - b. Active Countermeasures
2. Chemical agents
3. Impact weapons
4. Electric control devices
5. Must be able to articulate the need for force to control and/or restrain the subject.
6. Once the subject stops resisting, the officer must stop applying force.

C. Deadly Force

1. O.C.G.A. 17-4-20(b) authorizes the use of deadly force by a Sheriff or Peace Officer who is appointed employed or appointed, and who is in compliance with the POST Act (Title 35, Chapter 8), when he or she reasonably believes:
  - a. The subject possesses a deadly weapon;
  - b. The subject poses an immediate threat of physical violence to the officer or others; or
  - c. There is probable cause to believe the suspected felon has committed a crime involving the infliction or threatened infliction of serious physical harm.



2. Deadly Force Options
  - a. Firearms
  - b. Knives
  - c. Strikes to the head
  - d. Patrol vehicle
  - e. Grappling, wrestling, martial arts
  - f. Any available object or method
3. Verbal Warnings Required only “When Feasible.”
  - a. Primary explanation by Supreme Court for verbal warnings is provided in Tennessee v. Garner – only “when feasible.”
  - b. Although an officer may choose to do so, warnings are not mandatory in circumstances where a suspect poses an imminent deadly threat to the officer or others.
4. Armed Suspect Moving to Obtain a Tactical Advantage
  - a. The suspect can:
    - i. Shoot while running.
    - ii. Shoot from behind cover at exposed officers.
    - iii. Proceed unseen to have opportunity to attack perimeter officers by surprise.
    - iv. Take a hostage, if the opportunity is available.
      - ii. Force entry into adjacent locations occupied by innocent and uninvolved people.
      - iii. Exit the scene and escape, perhaps to harm others some other time or some other place.

V. Articulation

A. Use of Force Reports

1. Investigator is looking for objective facts and personal perception of the officer.
2. Should be written in chronological order.
3. Use of force will be analyzed using the objective reasonableness standard.
4. Must be accurate and complete.

B. Articulation

1. Conclusions vs. Facts
2. Examples
  - a. Poor: "I handcuffed and frisked the suspect for officer safety."
  - b. Better: "I handcuffed and frisked the suspect because he had a bulge in his jacket, and he would not keep his hands out of his pockets after being told to do so."

C. Set the Scene and Context of the Event

1. What was the situation that brought the officer in contact with the subject?
2. Establish time, date, and location.
3. Establish lawful authority for being present at the scene.

D. Physical Setting

1. What was the level of visibility (dark, bright, hazy, etc.?)
2. What noises were present?
3. Any unusual odors, relevant to the situation?
4. Did the officer detect anything through touch?

E. Identify any Other People Present

1. Other officers
2. Victims
3. Civilian witnesses
4. Suspects

F. Officer's Perception of the Situation

1. How many people present?
2. What emotional characteristics were those people exhibiting?
3. Any violent activity taking place?
4. If so, what was the nature of that activity?

G. Subject's Physical Appearance

1. Did the subject appear to be aware of the officer's presence?
2. Did the suspect take any action to avoid contact with the officer?
3. Was the suspect in a state of anger or acting out of control?

H. Sequence of Events

1. What did the officer say to the subject?
2. What did the subject say to the officer?

3. What actions did the subject take to initiate a physical response by the officer?
  4. How did the officer perceive this action to be a threat?
- I Exactly what Force was Used
1. Force option used by the officer.
  2. If an instrument or weapon was used, and how it was employed.
- J. Injuries Sustained by the Subject and/or Officer
1. Photographs or other records of the event.
  2. Specific details of type and extent, using medical terms.
  3. In the officer's perception, what caused the injury?
  4. Any and all medical treatment administered to both the subject and the officer.
  5. Attach reports from the hospital or EMTs.
- K. Damage to Property
1. Officer's property
  2. Subject's property
  3. Other property
- L. Consequences of the Incident
1. Document and catalog any physical evidence collected.
  2. Include copies of incident and arrest reports.

## Unit 2: De-escalation Options for Gaining Compliance

### Terminal Performance Objective

Given an encounter with a non-compliant, non-violent subject, the officer will employ de-escalation techniques to stabilize the situation, in accordance with the concepts included in the GPSTC Police Legitimacy, Procedural Justice, and Community Relations Curricula.

### Enabling Objectives

- 2.1 Define de-escalation as it applies to law enforcement.
- 2.2 Identify signs and symptoms of an emotionally disturbed person.
- 2.3 Compare and contrast the benefits and disadvantages of de-escalation.
- 2.4 Identify the factors in the decision to attempt de-escalation.
- 2.5 Describe techniques for de-escalating a potentially dangerous situation.
- 2.6 Identify some pitfalls of de-escalation.

### Topical Outline

- I. De-escalation in Law Enforcement
  - A. Successful Uses of De-Escalation
  - B. Potential for De-escalation
    1. Mental Health Crisis
    2. Personal Crisis
    3. Developmental
    4. Disabilities
    5. Victims and witnesses
    6. Arrestees

7. 3rd Parties

II. Emotionally Disturbed Persons

A. Emotionally Disturbed Person Defined

1. Demonstrating symptoms of Mental Illness;
2. Under the influence;
3. Experiencing medical problem;
4. Experiencing extreme situational stress.

B. Emotionally Disturbed Persons

1. May or may not have a mental illness, developmental disability, or addictive disease.
2. May or may not have a history of unusual behavior.
3. Does have diminished capacity.

C. Verbal Cues

1. Illogical thoughts;
2. Unusual speech patterns;
3. Verbal hostility or excitement;

D. Behavioral Cues

1. Physical appearance;
2. Bodily movements;
3. Seeing, smelling, or hearing things that cannot be confirmed;
4. Confusion or unaware of surroundings;
5. Lack of emotional response;

6. Inappropriate emotional reactions;
7. Causing injury to self;
8. Nonverbal expressions of sadness or grief.

E. Environmental Cues

1. Decorations;
2. Waste matter/trash;
3. Childish objects.

F. Reading Assignment: *Survive Encounters with EDPs*

Accessed: <http://www.policemag.com/channel/patrol/articles/2002/10/officer-survival.aspx>

III. Benefits and Disadvantages of De-escalation

A. Benefits

1. Less chance of injury.
2. Better chance for necessary force to succeed.
3. Increased officer safety.
4. Increased positive community relations.
5. May reduce liability and complaints.

B. Disadvantages

1. Requires more time and resources.
2. Decreased officer safety.
3. Manipulative suspects can take advantage of officers who let their guard down.

#### IV. Factors in Decision to De-escalate

##### A. Factors to Consider

1. Medical conditions;
2. Physical limitations;
3. Language or communication barrier;
4. Drug interaction or influence of substances;
5. Mental impairment;
6. Developmental disability;
7. Behavioral crisis;

##### B. Decision Point

##### C. Factors Needed for De-escalation

1. Safety
  - a. Pre-attack indicators;
  - b. Presence of weapons;
  - c. Distance;
  - d. Presence of victims or bystanders;
  - e. Backup or lack of backup;
  - f. Containment.
2. Environment
3. Time



D. Benefits

1. Allows adrenaline to subside;
2. Allows for more police resources to arrive;
3. Allows officer to formulate a plan;
4. Time to evacuate any 3<sup>rd</sup> parties.

E. Disadvantages

1. May empower the subject;
2. Allows emotional and physical fatigue to set in.
3. Can make officer complacent.
4. Resources are not unlimited.

F. When De-escalation Isn't Working

1. Threatening to harm;
2. Opportunity to transition to force option;
3. Not risk-free;
4. Continually assess safety.

G. The Hidden Factor: Confidence

1. Training;
2. Equipment;
3. Experience;
4. Fitness.

## H. Documenting De-escalation

1. "I attempted to de-escalate the subject but..."
  - a. "the environment was too \_\_\_\_\_." or,
  - b. "the subject refused to engage."
2. "I stopped de-escalating when \_\_\_\_\_."

## V. De-escalation Techniques

### A. Tactical Disengagement

1. Temporary retreat.
2. Creates time and distance.
3. Allows officer to reassess options which may include:
  - a. Permanently walking away from the situation.
    - i. Not every encounter requires law enforcement intervention.
    - ii. If no laws have been broken, no person or property is in danger, and the only thing that will be harmed by a permanent disengagement is the officer's ego, walking away can sometimes be the most effective way to handle the situation.
  - b. Re-engaging to de-escalate.
  - c. The use of force.

### B. Active Listening

1. Key to de-escalation;
2. Fundamental communication skill;
3. Honest effort to empathize, comprehend entire message and understand underlying emotions.

4. Goals of active listening.
5. Lowers emotional response.
6. Establishes rapport.
7. Gather information.
8. Encourage behavior change.
  - a. Diffuse intense emotions;
  - b. Create a more positive interaction;
  - c. Obtain voluntary compliance.
9. Active Listening Skills
  - a. Model and mirror
  - b. Open-ended questions
    - i. Cannot be answered in one-word.
    - ii. Convey sincere interest.
    - iii. Limit feelings of interrogation.
    - iv. Allow subject to vent.
    - v. Allow subject to feel respected.
  - c. Minimal encouragers
  - d. Effective pauses
  - e. Paraphrasing
    - i. Subject will usually listen so as not to be misquoted.
    - ii. Assists accuracy.
    - iii. Uses empathy.

- iv. Keeps conversation on track.
- v. Shows you were trying to solve problem.

10. Reading Assignment: *Six Reasons that Tactical Disengagement and Redeploy is Not Running Away*

Accessed: <http://policeofficersafety.blogspot.com/2014/11/six-reason-that-tactical-disengagement.html>

C. The Implied Threat of Force

1. May be beneficial during initial stages;
2. Should be de-emphasized if a barrier to communication;
  - a. “Let’s try to work through this together.”
3. Citizens may have their own biases toward police.
  - a. May not be justified, but still presents a barrier to open communication.

D. Mental Disorder

1. “Clinically significant disturbance in an individual’s cognition, emotion regulation, or behavior that reflects a dysfunction in the psychological, biological, or developmental processes underlying mental functioning. Mental disorders are usually associated with significant distress or disability in social, occupational, or other important activities.”
2. Interacting with Persons with Mental Illness
  - a. Collect as much information as possible.
  - b. Take your time.
  - c. Eliminate noise and distractions
  - d. Ask permission first.
  - e. Treat with dignity and respect.
  - f. Keep distance and respect personal space.

- g. Talk slowly and quietly, and explain your intentions/actions.
- h. Introduce yourself and others.
- i. Explain in a firm, but gentle, voice that you want to help.
- j. Ask how you can help.
- k. Develop a sense of working together.
- l. If fearful of your equipment, explain that it enables you to perform your job, which is to help the public and them.
- m. Give choices whenever possible.
- n. Do not deceive.
- o. Do not challenge.
- p. Do not tease or belittle.
- q. Do not forget the pain and fear they are experiencing.
- r. Do not violate personal space.
- s. Do not forget to ask about medications used.

E. E.A.R. Model

- 1. Engage
  - a. Gain trust/rapport.
  - b. Focus on physical health.
  - c. Use “You” statements to communicate observations.
  - d. Avoid “You” statements that imply judgment.
- 2. Assess
  - a. Continuous process.

- b. Gather information.
  - c. Officer safety still priority #1.
  - d. Sources of information
    - i. Subject.
    - ii. Family, friends.
    - iii. Co-workers.
3. Resolve
- a. Leave?
  - b. Referral?
  - c. Arrest?
  - d. Transport for mental health evaluation?
  - e. Transport for medical treatment?
- F. Forecasting
- G. The Loss Model
1. Loss of Reality
- a. Observable Characteristics
    - i. Frightened;
    - ii. Confused;
    - iii. Difficulty concentrating and/or communicating;
    - iv. False belief;
    - v. Paranoid;
    - vi. Self-neglect.

- b. De-escalation Goal
  - i. Ground the person in the here and now.
  - ii. Cut through fear and confusion.
- 2 Loss of Control
  - a. Observable Characteristics
    - i. Hostile;
    - ii. Manipulative;
    - iii. Impulsive;
    - iv. Destructive;
    - v. Confrontational;
    - vi. Present themselves as the victim.
  - b. De-escalation Goal
    - i. Let them vent.
    - ii. Use empathy and patience.
    - iii. Model and mirror appropriate behavior.
- 3. Loss of Perspective
  - a. Observable Characteristics
    - i. Anxiety;
    - ii. Physical discomfort;
    - iii. Restlessness;
    - iv. Rapid Speech;
    - v. Grandiose Ambitions;



- vi. Extreme moods (highs or lows).
  - b. De-escalation Goal
    - i. Calm them down by letting them vent.
    - ii. Use active listening skills.
- 4. Loss of Hope
  - a. Observable Characteristics
    - i. Sad;
    - ii. Emotional;
    - iii. May have experienced a recent loss;
    - iv. Helplessness;
    - v. Withdrawn;
    - vi. Fatigue;
    - vii. Suicidal talk or gestures.
  - b. De-escalation Goal
    - i. Instill some hope.
    - ii. Seek professional help.
- H. LAST Model
  - 1. Lethality
  - 2. Availability
  - 3. Specificity
  - 4. Timing

- I. De-escalating Angry or Difficult Citizens
  1. Acknowledge frustration.
  2. Show empathy.
  3. Apologize without accepting blame.
  4. Don't argue.
  5. Give choices.
  6. Distance yourself from negative.
  7. Personalize the positive.
  8. Do not answer abusive questions.
  9. Answer all legitimate questions.
  10. Minimize the subject's negative behavior.
  11. Set limits.
  12. Rationalize.
  13. Leave.
- J. De-escalation Pitfalls
  1. Avoid
    - a. Compromising officer safety;
    - b. Judging the subject;
    - c. Rushing;
    - d. Giving advice too soon;
    - e. Allowing ego to get in the way.

## Unit 3: Lessons Learned

### Terminal Performance Objective

Given a recent event, the officer will apply lessons learned, in accordance with information taught in the de-escalation options unit of this course, state, and federal statutes, and current constitutional case law.

### Enabling Objectives

- 3.1 Analyze a recent case using the Graham v. Connor standard.
- 3.2 Analyze the time, safety, and environmental factors of a situation to determine if de-escalation would have been a viable option.
- 3.3 Identify the legal issue associated with the use of force.

### Topical Outline

- I. Practical Exercise
  - A. Students must analyze a minimum of two recent cases to identify the time, safety, and environmental factors present that tell the officer is de-escalation would have been a viable option; the legal issues associated with the use of force in the case reviewed; and whether the officer's actions were objectively reasonable under the Graham v. Connor standard.
  - B. The following cases are used in the GPSTC online course. The GPSTC requested and obtained written permission to use these copyrighted materials in our online training.

However, agencies who wish to use these same materials are **solely** responsible for obtaining copyright waivers and/or permissions to use these same resources from the copyright holder. The waivers provided to GPSTC do not extend to any other entities.

1. Case Study-Wilson v. Miller  
Accessed: <https://casetext.com/case/wilson-v-miller-21>

2. Glendale, OH – Suspect on the Highway  
Accessed: <https://www.calibrepress.com/2016/04/new-bodycam-glendale-ohio-roadside-shoot/>
3. Case Study- Davidson v. City of Opelika  
Accessed: Davidson v. City of Opelika, No. 16-10857 (11th Circuit Court of Appeals, Jan., 17, 2017).
4. Case Study- Prevatt v. City of Gainesville  
Accessed: Prevatt v. City of Gainesville, No. 16-11081 (11th Circuit, Aug. 8, 2016).

## Instructional Guide

*This block of instruction could be enhanced by the use of additional videos, a practical exercise, role-playing, or demonstration.*

## Instructor References

*The instructor should identify current references for this block of instruction, including, but not limited to, the Peace Officer Reference Text, the Georgia Criminal and Traffic Law Manual, and the Georgia Criminal Procedure Manual for Peace Officers, as amended.*

*The following references were used in the original development of this course.*

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Mixon v. City of Warner Robins, 209 Ga. App. 414, 434 S.E.2d 71, (1993).

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Montoute v. Carr, 114 F.3d 118 (Ga.) (11<sup>th</sup> cir. 1997).

Official Code Georgia, annotated §§15-12-71, 16-3-20, 16-3-21, 16-3-24.2, 17-4-20, 17-7-52.

Patrick, U. W., & Hall, J. C. (2010). *In defense of self and others: Issues, facts & fallacies, the realities of law enforcement's use of deadly force*. Durham, NC: Carolina Academic Press.

Police Executive Research Forum (PERF). (2015). *Re-engineering training on police use of force*. Washington, DC: Police Executive Research Forum.

Plumhoff v. Rickard, No. 12-1117 (2014).

Prevatt v. City of Gainesville, No. 16-11081 (11th Circuit, Aug. 8, 2016). Scott v. Harris, No. 05-1631 (2007)

Robinson v. State, 221 Ga. App 865 (1996). Tennessee v. Garner, 471 U.S. 1 (1985).

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Whitley v. Albers, 475 U.S. 312 (1986).

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Wilson v. Miller, No. 15-14570 (11<sup>th</sup> Circuit, May 24, 2016).