

*Municipal Police Training Committee
Recruit Academy Firearms*

***Municipal Police Training Committee
Recruit Firearm Manual***
Version 1.1



Sgt. William Leanos

*Municipal Police Training Committee
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This manual is intended for use with the MPTC recruits who will be attending firearms during their training at the regional Academies. Recruits will be expected by the end of this program to qualify with their duty weapon qualifying with a minimum score of 80%. During the session of training recruits will under go tactical training, low light training, close quarter battle training, and fundamental marksmanship. Each area is described in this manual for students to refer to during the firearms training.

During the 6 session course recruit that appear to have troubles in certain areas of the curriculum, will be assisted in that specific area. The assistance will be documented by the instructor and be part of the recruit permanent record.

Recruit will be required to sign off on the *Safety Procedures and Rules* each day after review by the instructors and recruits.

References:

- Municipal Police Training Committee 8 Day Basic Firearms Instructor Guide
- Massachusetts State Police Basic Firearms Training program for Municipal Recruits
- FLETC Firearms Instructor Program
- International Association of Law Enforcement Firearms Instructors, Firearms Training Standards for Law Enforcement
- MPTC Defensive Tactics, Use of Force Model
- MPTC Jim Ring Firearms Instructor Program
- US Department of Justice FBI , FBI Officer Safety Resources
- The OSHA Lead Standard (29 CFR 1910.1025)
- Copied from:
<http://www.ballistics-experts.com/Law%20Enforcement/Ammunition/Caliber%20Selection.htm>

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Session I <i>Classroom</i>	Session II <i>Range</i>	Session III <i>Range</i>	Session IV <i>Range</i>	Session V <i>Range</i> Low Light	Session VI <i>Range</i>
Use of Force	Safety Review Sign Off Sheet Basic	Safety Review By Recruits Sign Off Sheet	Safety Review By Recruits Sign Off Sheet	Safety Review By Recruits Sign Off Sheet	Safety Review By Recruits Sign Off Sheet
Safety	Marksmanship Skill From low Ready	Warm up Drill	Remedial With Student that are having trouble	Remedial With Student that are having trouble	Remedial With Student that are having trouble
Nomenclature	Basic Marksmanship Skill From Holster	Remedial With Student that are having trouble	MPTC Qualification with Movement	MPTC Qualification with Movement	MPTC Qualification with Movement
	MPTC Static Qualification	Movement Drills	Cover vs. Concealment	Multiple Targets/Moving Targets Flash Light Techniques	Top Gun Tournament Elimination
		Transition Drills CQB Drill	Cutting the Pie Shooting Positions Support Side Shooting MPTC Qualification with Movement Both		
Understanding Marksmanship Dry Fire Skills	Movement Explanation ID Trouble Areas Clean Break & Dow Range	MPTC Qualification with Movement ID Trouble Areas Clean Break & Dow Range	Strong and Support Sides ID Trouble Areas Clean Break & Dow Range	Color Perception Drills ID Trouble Areas Clean Break & Dow Range	ID Trouble Areas Clean Break & Dow Range
Clean Break & Dow Range Review Lead Safety After Shooting	Review Lead Safety After Shooting	Review Lead Safety After Shooting	Review Lead Safety After Shooting	Review Lead Safety After Shooting	Review Lead Safety After Shooting

Session I

Classroom Safety Protocols

Before any training will take place;

- Trainees will bring their bags with them to the training area along with their firearm in a “locked container” for transport.
- A bag check will be mad of all equipment by all staff instructors of every trainee to be sure there is no “Live Ammunition” in the training area
- A clearing area will be designated and established at every academy where all weapons will be taken to be sure they are safe and unloaded
- Staff instructors shall check every weapon in the class room to be sure they are “Safe and Unloaded”.
- If any trainee leaves the designated training area, upon return, the trainee will be checked for “Live Ammunition” by a Staff Instructors
- Staff instructors Shall Not Carry Live Ammunition in the Training Area
- A sign will be posted outside the training area “No Live Ammunition in the Training Area”

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The first area that must be covered before any firearms handling is the Use of Force as it pertains to firearms. There are only a few cases that must be reviewed concerning “**Deadly Force**” and “**Fleeing Felons**”. In this section of the manual we will look at the following cases that relate to:

- Use of Force
- Fleeing Felon
- Deadly Force

The pertinent cases that will be looked at that cover the above categories are;

- Commonwealth vs. Klein
- Julian vs. Randazzo
- Tennessee vs. Garner
- Graham vs. Connor

We must review the definitions of the *MPTC Use of Force Model Reference Guide* and the totality triangle when we look at Deadly Force as it pertains to Law Enforcement. Unfortunately there are no black and white answers to some situation that could occur so we must rely on case laws and department policy and procedures as guide lines when law enforcement officers decision to use deadly force.

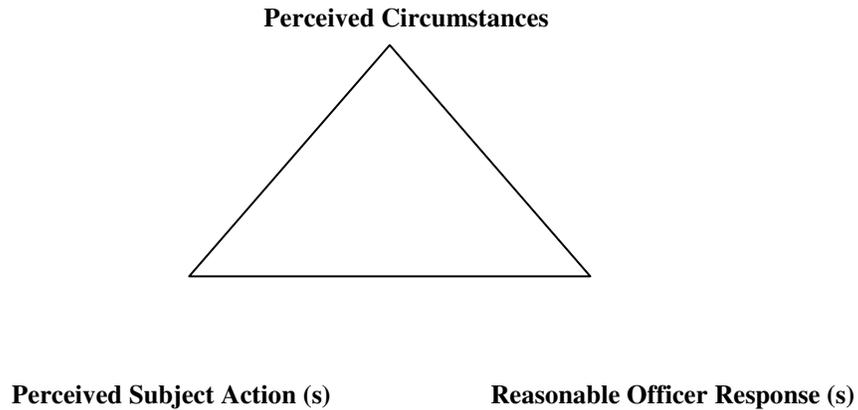
The *totality triangle* is a tool used by law enforcement officers who must make split second decisions under high stress conditions when determining to use deadly force. Remembering that this is a use of force and that it can flow up as well as down we are only looking here at the upper most limits. In the *Use of Force Model Reference Guide* there are three definitions we must look at in relation to Deadly Force in the *totality triangle*. At the corners of the triangle are perceived circumstances, perceived subjects actions, and reasonable officer response.

These three elements make up the triangle and definitions of each are below;

- **Perceived Circumstances** - the officer’s perspective of the severity of any crime, the existence of an immediate safety threat to the officer or others, and the degree of compliance / non-compliance from the subject; culminating in its identification on the Use of Force Model.
- **Perceived Subject Action (s)** - the subject action (s) as perceived by the reasonable officer that designate the subject at one or more of the Use of Force Model’s compliant / non-compliant categories.
- **Reasonable Officer Response (s)** - the “balanced” response (s) appropriate for the reasonable officer’s selection from the Use of Force Model’s identified response categories, in order to maintain or gain subject compliance and control.

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These are the three elements that which must be considered in determining whether an application of force was *objectively reasonable* as determine under *Graham vs. Connor*.



We must look at some other definition here in the model as it related to use deadly force under the *perceived subject action* falls:

Assaultive (Serious Bodily Harm / Death)

The officer’s attempt to gain lawful compliance has culminated in the perception of an attack or the potential for such an attack on the officer or others. The officer makes the *reasonable assessment* that such actions by the subject could result in serious bodily harm or death to the officer or others.

If a law enforcement officer perceives the subject actions as to be *assaultive (serious bodily harm)* then a reasonable officer response maybe *deadly force*.

Deadly Force –

Includes assaultive countermeasures designed to cease an assault which is lethal or could cause great bodily harm on the officer or others. These tactics could include the use of a firearm, lethal strikes, etc.

Deadly force as defined:

DEADLY FORCE: Is the degree of force likely to result in death or serious physical injury. The discharge of a firearm toward a person constitutes the use of deadly force.

Serious bodily injury defined:

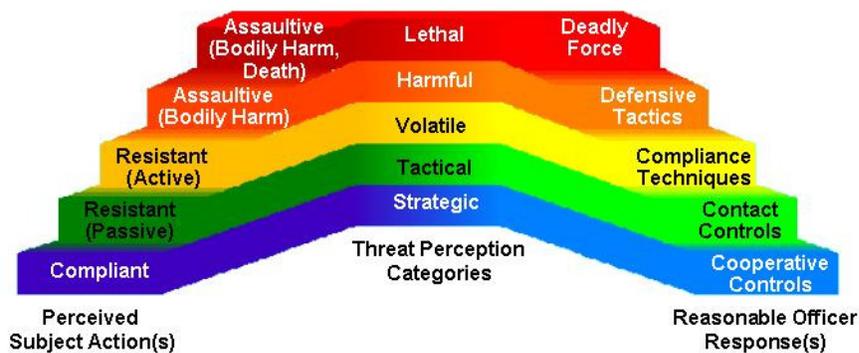
SERIOUS BODILY INJURY: A bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long term loss or impairment of the functioning of any body part.

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And finally the threat perception categories are color coded for tactically applied and color adapted correlation of the Threat Perception Categories on the Use of Force Model. The category that we are looking at is Lethal the most upper limits.

Lethal –

Highest level on the Use of Force Model correlates to the most intense color in the Threat Perception Color Code ©, red. Although this potentially lethal degree of threat is most infrequent, it remains most crucial for the continuation of officer safety and security.



When an officer applies deadly force he/she must keep in mind the reasons of the offence that determine the use of such force. With the above definition and Use of Force model and a little help from case law we will try and give you guide line when Deadly force maybe used. You will also have to see where your *Department Policy and Procedure* fits with in the guide line of the MPTC use of force model. We must first look at a Supreme Court case of Tennessee v. Gardner with regards to fleeing felons.

Tennessee v. Garner

471 U.S. 1

U.S. Supreme Court 1694

March 27, 1985

In Tennessee v. Garner, 105 U.S. Supreme Court 1694 (1985), decided on March 27, 1985, The United States Supreme Court addressed the subject, The use of *deadly force* by police. In that case the court decided that:

1. Apprehension by use of deadly force is a seizure subject to the Fourth Amendment's reasonableness requirement.
2. Deadly force may not be used unless it is necessary to prevent escape and the officer *has probable cause to believe that the suspect poses a significant threat of death of serious physical injury to the officer or others.*
3. The Tennessee statute, under authority of which a police officer fired a fatal shot, was unconstitutional insofar as it authorized use of deadly force against an apparently unarmed, non-dangerous, fleeing suspect.

Facts of the Case:

At about 10:45PM, on October 3, 1974, the Memphis police were dispatched to answer a "Prowler Inside" call. Upon arriving at the scene, they saw a woman standing on her porch and gesturing toward the adjacent house. She told the police that she had heard glass breaking and that "they" or "someone" was breaking in next door. One police officer, Leslie Wright, radioed the dispatcher to say that they were on the scene, while his partner, Elton Hymon, went behind the house. He (Hymon) heard a door slam and saw someone run across the back yard. The fleeing suspect, Edward Garner, stopped at a 6 foot high chain link fence at the edge of the yard. With the aid of a flashlight, Hymon was able to see Garner's face and hands. He saw no sign of a weapon and, though not certain, was "*reasonably sure*" and "*figured*" that Garner was unarmed. He thought Garner was 17 or 18 years old and about 5'5" or 5'7" tall. While Garner was crouched at the base of the fence, Hymon called out, "Police! Halt!" and took a few steps toward him. Garner began to climb over the fence. Convinced that if Garner made it over the fence he would elude capture, Hymon shot him. The bullet hit Garner in the back of the head. Garner was taken by ambulance to a hospital, where he died on the operating table. Ten dollars and a purse taken from the house were found on his body.

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Issue:

Was the use of deadly force justified to capture a *fleeing felon* where the subject *poses no immediate threat* to the officer and *no threat to others*, notwithstanding a Tennessee statute and departmental policy allowing such action.

Decision:

“The Tennessee statute is *UNCONSTITUTIONAL*.....”

Where a police officer has probable cause to believe that a criminal suspect *poses a threat of serious physical harm* either to the *officer* or to *others*, it is not unconstitutionally unreasonable to prevent escape *by using deadly force*: thus, if the suspect *threatens the officer* with *a weapon*, or there is *probable cause* to believe that he *has committed* a crime involving the *infliction* or *threatened infliction* of serious physical harm, *deadly force may be used*, if necessary, *to prevent escape*, and if, *where feasible*, some warning has been given.

A police officer responding to a nighttime burglary call could not reasonably have believed that the fleeing suspect, who was young, slight of build and unarmed, posed any threat. The fact that the suspect, who was fatally shot, was a suspected burglar could not, of itself, automatically justify the use of deadly force to affect his apprehension.

Although an *armed burglar* would present a different situation, the fact that an unarmed suspect has broken into a dwelling at night does not automatically mean that he is physically dangerous, do as to justify the use of deadly force in effectuating his apprehension.

Summary:

In this decision the Court is saying that the use of deadly force to prevent the escape of *all felony suspects, whatever the circumstances*, is constitutionally unreasonable. The justices state, “**It is not better that all felony suspects die than that they escape.**” Where the suspect *poses no immediate threat* to the *officer and no threat to others*, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so.

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The Supreme Court takes into account, with the rendering of this decision, the realistic possibility of felony suspects alluding arrest and thereby escaping trial, punishment, etc. However, they have applied a “*balancing test*” between the “*government’s interest in effective law enforcement*” and that of the “*reasonableness*” of the intrusion upon the suspect’s rights; in this case, the apprehension by the use of deadly force (Fourth Amendment).

The justices opine that it is unfortunate when a suspect, who is in sight, escapes. However, “the fact that the police arrive a little late, or *are a little slow afoot*, does not always justify the killing of the suspect”. A police officer may not seize an unarmed, non-dangerous suspect, by shooting him dead.

This case is extremely important in that it has found the so-called “*fleeing felon rule*” to be unconstitutional; notwithstanding the fact that the culprit may make good his/her escape. However, the Court has not turned its back upon officer safety, or that of the public. It states “*Where the officer has probable cause to believe that the suspect poses a threat or serious physical harm, either to the officer or to others, it is not unconstitutionally unreasonable for said officer to use deadly force.*”

Thus, if the suspect threatens a police officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, *deadly force may be used if necessary*, to prevent escape: and if, *where feasible*, some warning has been given. (Full unedited case in appendix)

If we apply the Totality Triangle of *reasonableness* in this case we find that when the officer arrives on scene it was not reasonable to use deadly force to stop a fleeing felon although departmental policy stated to the contrary. If we were to change the facts of the case a little;

If an Officer were to arrive on scene and be threaten with a weapon and believes that there is probable cause to believe that the suspect poses a threat or serious bodily harm either to the officer or others, then the officer can reasonable believe his/her life or others were in immanent fear they could use deadly force under the *MPTC Use of Force Model*.

Next we need to look at the Massachusetts Case Commonwealth vs. Klein and rights of private citizens to use deadly force arresting a fleeing felon and the *Model Penal Code for citizens 3.07* which explains the right of the average citizen to apprehend *a fleeing felon*.

Commonwealth v. Klein
372 Mass. 823
Supreme Judicial Court
June 22, 1977

Main Point of Case:

The rights of a private citizen to use deadly force in arresting a felon are enumerated in s 3.07 of the Model Penal Code.

Facts and Procedural History:

On August 1, 1973, the defendant, a local dentist, shot and wounded two men who had broken into a drug store across the street from his home. Under the cover of night, two individuals, Napoleon LaDue and John Savageau, went to Sims Drug Store on Allen Street on Springfield to steal money and cigarettes. After hearing the smash of a window, the defendant called the police and went outside with a pistol to confront the two burglars. LaDue then heard shot coming into the store and ran to the back of the room; after the shots ceases, the two individuals emerged from the drug store. As Savageau exited through the broken front door, LaDue once again heard shots being fired from across the street. Not knowing who was shooting at them, the two individuals ran alongside the building to a set of railroad tracks running behind the drug store. According to LaDue, he was struck by one bullet in the elbow and another in the side as he retreated down the alleyway to the railroad tracks.

Two pairs of officers rushed to the scene. One set found Savageau and LaDue, both wounded, at the railroad tracks while the other pair investigated the scene around the drug store. The investigating officers noticed the front door of the drug store broken, a bullet hole in the lower corner thereof, cigarettes strewn about the sidewalk, a tire iron beside the broken door, a stone inside the door, and a pool of blood inside the store. As these officers were making their observations, the defendant appeared and informed them that he had reported the break-in after he has seen the two individuals break the door to the drugstore. Klein then informed the officers that he came from his house armed with a Luger and told them to stop or he would shoot. According to Klein, one of the two individuals then threw cigarettes at him and he fired two shots, hitting one of the two men. As Klein was returning to his house, he heard a loud noise from the drug store and turned to see the two men emerging; Klein then steadied himself against a tree and fired seven additional shots at the individuals as they ran alongside the building.

At trial, not only did the testimonies of the two individuals conflict sharply with that of Klein, but Klein's own testimony also significantly diverged from the statements he made to the police officers immediately following the incident. On the witness stand, Klein claimed that he had fired the warning shots and shouted to the two individuals to put their hands up and stay where they were. Klein was found guilty of assault and battery with a dangerous weapon at a jury trial conducted at the Superior Court level. Although review was sought in the Appeals Court, the Supreme Judicial Court, acting under its own initiative, ordered direct appellate review to address the issue of *whether or not the defendant was justified in using deadly force to make a citizen's arrest.*

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Holding:

Establishing the *Model Penal Code s 3.07* as the law of Massachusetts with respect to the *right of a citizen to use deadly force in arresting a felon*, the Supreme Judicial Court applied this ruling progressively so as to exempt the defendant from retroactive application of this law.

Reasoning: Finding that the trial judge properly charged the jury by informing them that an Defining “deadly force” as force intended or likely to cause death or great bodily harm, the Court established that Klein used such force when he fired his pistol at LaDue and Savageau. In light of this initial conclusion, the Court proceeded to address the defendant’s claim that he was entitled to a direct verdict at the lower court level on grounds of self-defense individual is entitle acquittal on a self-defense with a dangerous weapon claim only “when the person using the weapon had a reasonable apprehension (gear) of great bodily harm and a reasonable belief that no other means would suffice to prevent such a harm”. Based on this jury charge, the Court reasoned that the jury then acted reasonably in assessing the evidence presented before them in concluding that the defendant was not entitled to a self-defense claim in light of the disclosed fact that Klein shot the two individuals as they were running away from him.

The Court then addressed the issue of the defendant’s right to use deadly force in making a citizen’s arrest of two individuals attempting to flee from the commission of a felony. Accepting the defendant’s contention that the Commonwealth had never clearly set the limit of an arresting citizen’ right to use deadly force, the Court evaluated such a limitation in light of **Section 3.07 of the Model Penal Code** which states the following:

(1). *Use of Force Justifiable to Affect an Arrest:*

Subject to the provisions of this Section and Section 3.09, the use of force upon or toward the person of another is justifiable when the actor is making or assisting in making an arrest and the actor **believes** that such force is **immediately necessary** to affect a lawful arrest. (Emphasis added)

(2). *Limitations on the Use of Force...*

(a). The use of **Deadly Force** is not justifiable under this Section unless:

1. the arrest is for a **felony**;
2. The person affecting the arrest is authorized to;
 - a. act as a peace officer or is assisting a person
 - b. whom he believes to be authorized to act as a peace
 - c. officer;
3. The actor believes that the force employed creates;
 - a. **no substantial risk of injury to innocent persons**;

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4. The actor believes that:
 1. The crime for which the arrest is made involved conduct including the use or threatened use of deadly force; or
 2. There is substantial risk that the person to be arrested will cause death or serious bodily harm if this apprehension is delayed.

Viewing the facts at hand in light of this Model Code provision, this Court upheld the lower court judge's jury charge and subsequent ruling which essentially found that the shootings were not justified since the defendant used deadly force to prevent the flight of persons who has committed crimes concerning only property rights.

However, the Court then proceeded to address the issue of whether or not the defendant should have known the potential if his behavior being "criminal" in light of the circumstances surrounding him. Since applying the standards of the Model Penal Code to a private citizen who was making an arrest was a matter of first impression in the Commonwealth, the Supreme Judicial Court decided that this defendant's assertion of "justification" beyond reasonable doubt was not met by the Commonwealth and the defendant was therefore found not guilty on both indictments. Setting aside the prior verdicts, the Supreme Judicial Court reversed the lower court's ruling.

Comment:

The question of whether the same limitations apply to arrests by peace officers was left open by the Supreme Judicial Court. (Full unedited case in appendix)

Julian v. Randazzo, and Another

380 Mass. 391

Supreme Judicial Court

April 15, 1980

Main Point of Case:

In a tort action by the plaintiff who was mistakenly shot by a police officer as the officer was pursuing an individual suspected of committing a felony, there was no error in the judge's instructions with respect to the question whether the officer was justified in using deadly force to effect an arrest where the judge referred to s 120.7 of the Model Code of Pre-Arrest Procedure (1975)

Facts and Procedural History:

On July 5, 1976, two Medford police officers received a radio report of a hold-up in Malden. Shortly thereafter, these officers began a pursuit of three suspects in a Chevrolet Corvette. Over the course of a high-speed chase several shots were fired by the suspects at the officers' patrol car. At an intersection in Cambridge, the suspects' vehicle spun-out and stopped; the suspects then exited the vehicle and fled on foot. The patrol car ran into the Corvette and the officers similarly took to a foot pursuit of the suspects. Officer Randazzo, the defendant, fired his gun twice. The plaintiff, an innocent bystander, was struck in the elbow by a bullet. A little later, both officers approached the plaintiff, pointed their guns at the plaintiff, and told him not to move; after a neighbor convinced the officers that the plaintiff was a bystander and not a suspect, the officers continued their pursuit.

The plaintiff brought an action in tort against both officers as defendants for assault, assault and battery, false imprisonment, and "negligent denial of medical care". In the District Court, a jury returned verdicts in favor of the defendants and the plaintiff appealed to the Appeals Court on a challenge to the admission into evidence of a police investigation report as well as the instructions given by the District Court judge to the jury on the use of deadly force by a police officer. The Supreme Judicial Court, on its own initiative, ordered direct appellate review.

Holding:

Although the Supreme Judicial Court upheld the plaintiff's evidentiary argument and reversed the judgments, it did not find the lower court judge's jury charge on the matter of an officer's use of deadly force to be improper.

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Reasoning:

The case was reversed because the jury was allowed to consider a police report which the court ruled was improperly admitted as evidence at the District Court level. However, the matter of present interest is how the Supreme Court looked upon the trial judge's charge to the jury concerning the use of deadly force by a police officer.

Adopting the same standard as the Court had articulated in Commonwealth v. Klein, 372 Mass. 823 (1977), the Randazzo Court adopted s 120.7 of the Model Code of Pre-Arrestment Procedure (1975) which is essentially the same as s 3.07 of the Model Penal Code which was applied to a private citizen's use of deadly force in Klein. Those provisions of s 120.7 espoused by the Court are the following:

A law enforcement officer authorized to make an arrest....may use such force as is reasonably necessary to effect the arrest....The officer may use deadly force for these purposes only if:

- 1) The arrest is for a felony; and
- 2) The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
- 3) the officer reasonably believes that:
 - the crime for which the arrest is made involved conduct including the use or threatened use of

Deadly Force; or

- there is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed. (emphasis added).

The Court found this charge by the trial judge to be an accurate and legal assessment of an officer's right to use deadly force. Under such a charge, Officer Randazzo's use of deadly force in light of the given circumstances was therefore lawful

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The three above cases demonstrate the use of deadly force and under what conditions are necessary when applied to a fleeing felon;

- the felony involved the use or threatened use of deadly force; and
- the felon's escape would result in imminent death or serious bodily injury to the officer or another if apprehension was delayed.

Again there are no hard and fast rules or black and white answers to the decisions to use deadly force under stressful conditions, every scenario is different. Law enforcement must rely on proper training by their departments and guide lines of that of a reasonable officer's perception when confronted with such challenges. With proper recruit training and continuing in-service training from department's law enforcement officer who are confronted with difficult situations will become better adapted when they must use their firearms.

Center Mass

When an Officer uses his/her firearms they must be sure of their target and what's beyond. Once he/she has made the decision to use their firearms there is no calling the bullet back. But when the officer needs to shoot he/she must shoot for the most available "center mass"

When a police officer uses his/her weapon, he should aim for an area commonly referred to as **center mass**. Contrary to popular belief, **center of mass** is not always going to be the chest area located directly above the sternum. The mass is the target area available for the officer to shoot at; **center of mass** is the center of that area. (i.e., if the suspect is shooting from a parked motor vehicle through the driver's window **center mass** may be the throat area or even the head because that is the most available target area).



Shoot to Stop the Threat that the Officer Perceives

SHOOT TO STOP vs. SHOOT TO KILL

When using deadly force, a police officer is legally justified in shooting to **STOP** an individual who is using or threatening to use (imminent) deadly force. A police officer is NOT justified in shooting to kill an individual; he is legally justified in shooting to stop the imminent threat.

A police officer does NOT shoot to kill or to wound, he shoots to STOP. A wounded suspect or a dead suspect may be the result, but the police officer is only justified in shooting to stop imminent threat.

When a police officer uses his firearm, as allowed by law, three things may occur.....

1. The officer will miss, hopefully this will not happen, but there is a definite possibility of this occurrence.
2. The suspect will be wounded and will survive.
3. The suspect will be killed as a result of being shot.

No matter what the personal feelings of the officer, he/she has no control over what happens to the suspect once his/her weapon has been discharged. Although there is a much greater possibility that a person with a chest wound will die as opposed to a person with a leg wound, the result is definitely beyond the officer's control

A combination of factors will result in the final determination as to whether a person who has been shot will live or die. These factors include, but are not limited to.....

- specific shot placement
- age of suspect
- health of suspect
- will to survive
- availability of medical care

WHEN IS A SUSPECT STOPPED?

A suspect is stopped when he is effectively prevented from using or threatening the use of deadly force. This determination can only be based on the totality of circumstances involved in the incident. A police officer is **NOT** required to count his/her shots.

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EXAMPLE #1: A police officer in a self defense situation, at a distance of ten (10) feet from his assailant, fires two (2) shots. The suspect is hit and falls to the ground. The suspect's firearm slides fifteen (15) feet from him/her.

This is an easy example of a suspect being effectively stopped. The officer must stop firing and now has a duty to aid the victim. An officer continuing to shoot after the suspect has been effectively stopped puts the officer in a position of attempting to kill the suspect.

EXAMPLE # 2: A police officer in a self defense situation, at a distance of twenty-five (25) feet from his assailant, fires two (2) shots. The suspect falls to one knee with his firearm still in hand.

This is an easy example of a suspect, after being shot, still reasonably being a threat of using deadly force. The officer is justified in shooting until the suspect is no longer in such a position.



Safety

Cardinal Rules of Firearms Safety

No matter what range you are on or what environment you are in the cardinal rule of firearms safety are always the same. The number one rule IS; ***TREAT ALL WEAPONS AS LOADED WEAPONS.***

Four Cardinal Safety Rules

The rules below apply to all firearms in all situations. These four rules are the building blocks of firearms safety.

1. **Treat all weapons as loaded weapons.**

Everyday an innocent person is seriously hurt by a reportedly “unloaded weapon”.

2. **Never point any weapon at anything you are not intending to shoot.**

Firearms are lethal tools that destroy people and things.

3. **Keep your finger off the trigger until you are ready to shoot.**

4. **Know your target and what is beyond it.**

Be aware of those areas and individuals beyond the target area. Target Identification is especially important in reduced light situations.

Safe Weapons Handling

Indexing Finger;

When handling any weapon the trigger finger should always be index along the frame until you have made the decision to fire at your target. It will take minimal time away to transition from the frame of the weapon to the trigger. By keeping the finger indexed officers can avoid the startle effect which could cause a sympathetic reaction of pressing the trigger when not intending to.



Muzzle Discipline;

Although the picture to the right shows a patrol rifle, take note of the finger indexing on the frame and the muzzle / barrel of the weapon is point to the low reading position. We need to think of that barrel / muzzle like a laser. Where ever it points it will cut right through anything. So in the low ready or neutral position, weapon pointed at the ground in front of you, finger indexed along the frame, you must be always aware of your surrounding and be cognizant of where your muzzle of the weapon is at all times. This must become second nature to you, “muzzle discipline”. Whether you’re on the range, on the street, or in your home, muzzle discipline along with proper finger indexing is importance to firearms safety.

Home Safety;

Home safety is just as important, because for students this maybe their first experience with firearms. Student's department's policies and procedures will dictate when they can and can't take duty weapons home. And in some cases students may all ready have there own personal firearms. Massachusetts is very clear on the safe keeping of firearms in the home. MGL 140 -131L states;

Chapter 140: Section 131L. Weapons stored or kept by owner; inoperable by any person other than owner or lawfully authorized user; punishment

Section 131L. (a) It shall be unlawful to store or keep any firearm, rifle or shotgun including, but not limited to, large capacity weapons, or machine gun in any place unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.

(b) A violation of this section shall be punished, in the case of a firearm, rifle or shotgun that is not a large capacity weapon, by a fine of not less than \$500 nor more than \$5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment, and in the case of a large capacity weapon or machine gun, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment.

(c) A violation of this section shall be punished, in the case of a rifle or shotgun that is not a large capacity weapon and such weapon was stored or kept in a place where a person under the age of 18 who does not possess a valid firearm identification card issued under section 129B may have access without committing an unforeseeable trespass, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment.

(d) A violation of this section shall be punished, in the case of a rifle or shotgun that is a large capacity weapon, firearm or machine gun was stored or kept in a place where a person under the age of 18 may have access, without committing an unforeseeable trespass, by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for not less than two and one-half years, nor more than ten years, or by both such fine and imprisonment.

(e) A violation of the provisions of this section shall be evidence of wanton or reckless conduct in any criminal or civil proceeding if a person under the age of 18 who was not a trespasser or was a foreseeable trespasser acquired access to a weapon, unless such person possessed a valid firearm identification card issued under section 129B and was permitted by law to possess such weapon, and such access results in the personal injury to or the death of any person.

(f) This section shall not apply to the storage or keeping of any firearm, rifle or shotgun with matchlock, flintlock, percussion cap or similar type of ignition system manufactured in or prior to the year 1899, or

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to any replica of any such firearm, rifle or shotgun if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition.

While you are a recruit and will be attending the academy you must have a permit to carry a firearm to attend the MPTC recruit academy. When recruits attend the firearms week you must be aware of MGL 140 – 131C.

Most weapons that Law Enforcement carry are large capacity weapons which require a class A permit issued by their department. When transporting a weapon to the range for firearms week the student must keep that weapon under their direct control. Student can not leave a large capacity weapon in their motor vehicle for the purpose of securing it.

Chapter 140: Section 131C. Carrying of firearms in a vehicle

Section 131C. (a) No person carrying a loaded firearm under a Class A license issued under section 131 or 131F shall carry the same in a vehicle unless such firearm while carried therein is under the direct control of such person. Whoever violates the provisions of this subsection shall be punished by a fine of \$500.

(b) No person carrying a firearm under a Class B license issued under section 131 or 131F shall possess the same in a vehicle unless such weapon is unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container. Whoever violates the provisions of this subsection shall be punished by a fine of \$500.

(c) No person possessing a large capacity rifle or shotgun under a Class A or Class B license issued under section 131 or 131F shall possess the same in a vehicle unless such weapon is unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container. Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000.

(d) The provisions of this section shall not apply to (i) any officer, agent or employee of the commonwealth or any state or the United States; (ii) any member of the military or other service of any state or of the United States; (iii) any duly authorized law enforcement officer, agent or employee of any municipality of the commonwealth; provided, however, that any such person described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or possess the weapon so carried or possessed and is acting within the scope of his duties.

(e) A conviction of a violation of this section shall be reported forthwith by the court or magistrate to the licensing authority who shall immediately revoke the card or license of the person so convicted. No new such card or license may be issued to any such person until one year after the date of revocation.

When students take their firearms home for the first time and for the rest of their careers they should not turn their duty weapon into a conversation piece to be shown to their spouse, friends or especially children--not only theirs, but neighborhood children as well. There are some suggested guideline that should be looked at;

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Most children have toy guns, and when they play "Soldier", no one gets hurt. They are used to seeing their favorite TV show person get up and be back on the show next week. And most today have interactive games they either play on the computer or some type of play station.

1. First, educate them

- Safe handling
Do the same as we have done in this manual for you
- Not to touch guns unless supervised.
Remember that children are curious, and must be supervised and taught the correct way to look at a firearm and should never be allowed unless supervised. .

2. Second, take precautions

- Put guns in an inaccessible place
With proper gun locks or security devices and only you and your spouse should know the combination or where the key is kept.
- Lock up all guns
This must be done to stay in compliance with MGL 140 Sec. 131L
- Lock guns and ammunition in separate places
This is a good practice and added security with respect to children

3. You must establish priorities if you intend to keep your firearm at home

- Home Defense
- Protection of child
- Are you required to take your firearms home
- For sporting use

4. Irresponsible adults

- Those who are incapacitated (due to mental illness, alcohol, medicine, etc.) should not have access to firearms.

5. Develop your priorities based upon your situation.

- (A single officer who lives alone and only has a service revolver is different from a married officer with three children, a shotgun, a service revolver, and an off-duty gun.)

Lead Safety:

Lead safety is just as important as safe firearms handling. With handling firearms comes residue of lead that is fired from it and there are precaution that must be taken. The following document comes directly from **Mass. Division of Occupational Safety**



Introduction

Potentially dangerous exposures to lead can occur in both indoor and outdoor police firing ranges. Range instructors and range cleaners are at greatest risk. This alert provides guidance for those who work in, use and maintain indoor firing ranges, to protect them from the hazards of lead.

How does lead affect the body?

Adults can be exposed to lead by breathing in lead dust or fumes or by ingesting lead dust. There are many symptoms or signs that suggest a problem with lead, but they can also be symptoms of other illnesses. It is also possible to have lead poisoning without noticing any symptoms. Therefore, if you work around lead, you should regularly see a doctor for blood testing, whether or not you are experiencing the following symptoms:

Early Signs and Symptoms of Lead Poisoning

- Fatigue Headache
- Uneasy Stomach
- Poor Appetite
- Sleeplessness
- Metallic Taste
- Irritability
- Nervousness
- Reproductive Problems

Later Signs and Symptoms

- Memory Problems
- Nausea
- Weight Loss
- Weak Wrists/Ankles
- Constipation
- Kidney Problems
- Aches/Pain in Stomach Muscle
- Joint Pains

What are the sources of lead exposure at a firing range?

- In conventional ammunition,
 - Both the primer and the core of the bullet contain lead.
- Exposure to lead dust occurs
 - During loading of ammunition,
 - Target shooting, gun cleaning
 - Firing range maintenance.
- Inadequate or poorly designed ventilation,
- Improper range cleaning procedures,
- Eating drinking and smoking in an area where lead is used
- Lack of proper hygiene

All of the above can contribute to high lead exposures. Lead exposure can occur in both indoor and outdoor ranges. If an outdoor range is used the exposures are reduced.

You can take it home with you!

High levels of lead dust in ranges that are not properly designed, ventilated, or maintained can settle on:

- Bodies, Clothes, Shoes of shooters and other range occupants.
- The dust can then be carried to their cars and homes, where it can be a hazard to their families.
- Young children are more sensitive to the effects of

Do law enforcement personnel become lead-poisoned?

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The following are examples of the many cases of over-exposure to lead at law enforcement firing ranges that have been documented in Massachusetts and elsewhere.

1. The ventilation in a new firing range was blowing contaminated air toward the shooters. The maximum air lead levels exceeded twice the limit set by the U.S. Occupational Safety and Health Administration (OSHA).
2. Air lead concentrations of police firearm instructors at an outdoor range were measured. **When copper-jacketed ammunition was used, the lead levels were well below the OSHA limit;** when non-jacketed bullets were used, the lead exposure was 4 times the OSHA limit.
3. Blood lead levels and air lead concentrations were measured at an outdoor police firing range. When non-jacketed bullets were used, air concentrations were 9-10 times the OSHA limit. Range instructors had blood lead levels up to more than twice the recommended limit. After jacketed ammunition was introduced, both air and blood lead levels came down to safe levels.
4. The blood leads of police trainees using an indoor range were measured before and after a 4-week period. Blood leads increased from an average of 7 mcg/dl (micrograms per deciliter) to over 40 mcg/dl. The National Institute of Occupational Safety and Health (NIOSH) recommends that blood lead levels remain below 25mcg/dl. Air lead exposures were up to 60 times the OSHA limit.
5. Three firearms instructors of a state corrections department had blood lead levels over 40 mcg/dl. Investigation revealed that shooting over an approximately 2-hour period resulted in air lead concentrations of 2–4 times the OSHA limit. Significant amounts of lead-contaminated dust were found in several range locations.

How can I minimize lead contamination at a firing range?

The best way to prevent lead exposures at firing ranges is to use ammunition that is free of lead components.

- Some ammunition is made with copper or nylon jackets that eliminate the hazard from the lead core of the bullet by enclosing the lead.
- However, to fully eliminate the lead hazard, the primer must also be lead-free.
- There is now ammunition on the market that is completely “lead-free” and has a non-lead core and a non-lead primer.

When conventional ammunition is used, the following precautions must be taken:

1. Ventilation/Engineering Controls:

- Provide an effective exhaust ventilation system:
- Airflow pattern that takes contaminated air from the breathing zone of the shooter and moves it down the firing range where it is effectively removed.
- Poorly-designed ventilation systems and ranges with too many obstructions can be ineffective and cause re-circulation of contaminated air to the area behind the firing line.
- Periodically measure the airflow to be sure that the ventilation system is operating as designed.
- Range instructors usually have the highest exposures to lead.

2. Backstops / Indoor Ranges

- Install escalator backstops, granulated rubber traps and their variations, which minimize dust levels and are easy to clean.
- Avoid the use of angled backstops with sand traps, which can generate a large amount of airborne lead dust and require frequent cleaning.

3. Housekeeping

- Ranges should be cleaned daily or after each use to minimize the buildup of lead.
- To clean the range, use an industrial grade vacuum cleaner equipped with a high-efficiency (HEPA) filter. HEPA filters trap fine particles of lead. Lead dust is not trapped effectively by other types of vacuum filters. **NEVER DRY SWEEP RANGES.**
- Wet methods, using any household detergent, can also be used to minimize lead dust.
- Even countertops, gun cleaning trays and target rails can be contaminated with lead.
- Proper cleaning or disposal of contaminated mops and cloths must be considered.
- Proper personal protective equipment such as respirators and protective clothing is needed for range cleaners.

4. Training

- Shooters, instructors and maintenance staff must all be trained in the hazards of lead and the precautions needed to protect themselves.
- Training should be given before employees are exposed to lead, and then annually. Information that may be useful in training is available in the appendixes of the OSHA Lead Standard

5. Personal Protective Equipment

- During range cleaning, a HEPA (N100)-filtered respirator, disposable protective clothing and shoe coverings are recommended.
- There respirator must be properly fitted and a medical screening for respirator uses should be done

6. Personal Hygiene

- Showers, washing facilities and changing rooms should be provided and used.
- Hands and faces must be washed after shooting.
- Range instructors and range cleaners should shower and wash their hair at the end of their shift.
- The changing room should have separate lockers for contaminated protective clothing and street clothes.
- Contaminated clothing and shoes should be properly disposed of or cleaned.
- Any lead-contaminated clothing should be washed separate from other laundry items.
- Eating, drinking and smoking must be prohibited in any area that could be contaminated with lead.

How can I tell how much lead I am exposed to?

Blood Lead and Medical Monitoring

- Police officers and others who are frequently exposed to lead must have periodic medical exams and blood lead and other medical testing.
- At a minimum, range instructors and range cleaners should have their blood tested once every 6 months or after qualification periods or periods of high exposures.
- One National Institute of Occupational Safety and Health (NIOSH) document recommends that blood testing be done on every person who works in or uses the range more than 3 hours per month.
- NIOSH recommends that blood lead levels be kept below 25 micrograms per deciliter (mcg/dl).

The Division of Occupational Safety is currently making blood lead testing available free of charge to range instructors and range cleaners.

Who regulates lead exposure in police department firing ranges in

Massachusetts?

While private sector employees are covered by OSHA Standards, public sector employees in Massachusetts are not. The Division of Occupational Safety, in accordance with MGL Chapter 149 section 6, is charged with inspecting workplaces in Massachusetts and determining what procedures and practices are required to protect workers. As a matter of policy, our office references OSHA regulations, as well as other consensus standards, when we determine whether proper procedures are being followed to protect workers. **Our office recommends that the OSHA Lead Standard for general industry (29 CFR 1910.1025) be followed as a minimum.** By following the OSHA standard you will be considered to be in compliance with Chapter 149, section 6.

Blood Lead Testing Available through Division of Occupational Safety

As part of its initiative to reduce lead exposure at Massachusetts police Departments, the Division of Occupational Safety is offering blood lead tests

FREE of Charge to firing range instructors and firing range maintenance personnel.

Who & Where

1. A licensed physician or other healthcare provider acting under the direct supervision of a licensed physician must order the blood lead test.
2. The order must include the employee's name as well as the employer's name and address on the physician's letterhead.
3. Once the order is obtained, you may set up an appointment and bring this order to the DOS laboratory to have your blood drawn and tested for lead.
4. Alternatively, you may send drawn blood in a green-top tube along with the physician's order directly to the DOS lab for free analysis.
5. Lead results are sent to both the physician and to you.
6. To obtain more details and or to set up an appointment for this service, contact the DOS laboratory at 617-969-7177.

Some individuals may wish to have their blood tested through their primary care physician or through an occupational health service. For a list of health care facilities that have physicians that are board-certified in occupational medicine, contact the DOS lead registry at the same phone number.

Where can I get more information and assistance?

☐ The OSHA Lead Standard (29 CFR 1910.1025)
www.osha.gov

☐ The National Institute for Occupational Safety and Health (NIOSH)
www.cdc.gov/niosh.

☐ The Division of Occupational Safety www.mass.gov/dos

☐ The **Division of Occupational Safety** (DOS) offers free on-site consultations. The DOS consultant will provide you with written materials, review the procedures that you will need to implement, provide ventilation testing and air monitoring as needed, and issue a detailed written report. There are no fees for this service, nor are there fines or penalties associated with the initial discovery of non-compliance. However, you will be required to comply with the more critical recommendations made by the consultant.

☐ For information on environmental lead management for outdoor firing ranges, call or write to: National Shooting Sports Foundation, 11 Mile Hill Rd., Newtown, CT 06470; tel.(203) 426-1320 <http://www.rangeinfo.org/>; or contact the Massachusetts Department of Environmental Protection's Lead Shot Initiative at (617) 348-4056 or http://www.mass.gov/dep/files/pbshot/pb_shot.htm

Mass. Division of Occupational Safety
Occupational Hygiene/Indoor Air Quality Program
1001 Watertown St., West Newton, MA 02465
Tel: 617-969-7177; Fax: 617-727-4581

Required Range Equipment

The following explanation of equipment is required for Recruit Academy Firearms Training week. All personnel shall become familiar with it prior to the start of live fire exercises.

1. Gunshot Trauma / First Aid Kit

In a location that can be found easily by all and identified prior to the start of all firearms training. EMT's or paramedics should be identified prior to start of training.

2. Automatic Electronic Defibrillators

(i.e., AED's If available, also found easily)

3. Range Injury Action Plan

Is intended for use in emergencies (i.e., accidental shooting, heart attack, personal injury). Communications to be used for injury action plan. Whether a radio or phone

4. Weapons Clearing Area Designated;

An area, weather a clearing station or area on somewhere on the range. They are intended for the proper loading and unloading of weapons while on the range.

5. Eye Protection

Plastic eye protectors - personal corrective glass, side panels,
EYE PROTECTION MANDATORY. Eye protection worn while on the range and cleaning all weapons.

6. Hearing Protection

Noise Levels Produced by Firearms Discharges Effect Hearing.

7. Soft Body Armor

Soft body armor is required to be worn while on the firing whether you are participating or not. Soft body armor is required to be worn by all personnel

Range Rules

**These safety rules, procedures and regulations that
Are expected to be followed by all shooters throughout
firearms training.**

SAFETY IS EVERYONE'S RESPONSIBILITY!

1. Keep weapon pointed in a safe direction at all times.
2. Do not handle any weapons while anyone is downrange.
3. Never draw the weapon with your finger on the trigger.
4. Never bend over on the firing line until the line has been declared "safe".
5. Obey all commands from Range Master
6. Never holster any weapon cocked in the single-action mode or with your finger on the trigger.
7. Dry fire is only performed under the guidance of the firearms instructors. DO NOT dry fire unless instructed to do so.
8. **"The finger remains off of the trigger and outside the trigger guard** until the weapon is on target and that the officer has determined the use of deadly force is imminent" (i.e., Trigger Finger Management).
9. Unsafe acts or unsafe behavior on the range will not be tolerated.

Do not take live ammunition into the cleaning area.

I have and reviewed and understand all of the above Range rules. I will comply with these rules and conduct myself as a professional and responsible police officer.

Signature: _____ Date: _____

Range Training Safety Rules

Range commands and common terms.

1. **Low Ready Pistol Position** – a relaxed controlled position. The shooter will be facing the target area with the weapon held firmly with a two-handed grip; the barrel is pointed downrange from a hip level position.
2. **Cease Fire...Cease Fire!** – Command to immediately stop shooting. Relay the “cease fire” command, come to “ready pistol” and await further instructions.
3. **Prepare Magazines** - Place ammunition into your MAGAZINE according to instructions.
4. **Load your Weapon!** - Insert a prepared magazine into the weapon magazine well, tap on the magazine bottom and tug on the magazine floor plate.
5. **Make Street Ready-** Work the action of your weapon, causing a cartridge to be fed into the chamber. Decock (if appropriate).
6. **Administrative Unload** - Release the magazine into your non-shooting hand. Place this magazine in your pocket. Perform a Clearing Procedure.
7. **Press Check /Pressure Check** - Carefully retract the slide of the weapon rearward, visually inspecting to ensure that a live round has been chambered.
 - a. **NOTE:** Press checks are **ONLY** performed upon initial loading of the weapon, **NEVER IN CONJUNCTION WITH ANY OF THE RELOADS.**
8. **Make Weapon Safe** – Perform administrative unload , lock slide to the rear, look at chamber and feel chamber, look at chamber feel chamber and wait for instructions

Range Safety Guidelines

1. No firearm will be removed from its holster unless given permission by the range officer
2. All holsters will remain secured at all times during training unless told to remove the firearm by the range instructor. This includes during any qualification or tactical training course
3. All firearms will be inspected by the range instructor before participation in any firearms training.
4. All firearms will be cleaned at the conclusion of any live-fire firearms training and once a week at a minimum
5. Firearms will be pointed only in the direction of the students intended target unless they are in the “low ready” position with the firearm pointed slightly below the target, under the student’s field of vision.
6. The trainee will not place their finger on the firearms trigger unless they intend to fire the firearm. If the student is in the “low ready” position the trigger finger will be held along the trigger guard.
7. The trainee will never draw or re-holster with their finger on the trigger.
8. All participants in a training event are eligible to call a “cease fire” command if they observe a safety hazard.
9. Shooting will stop immediately upon a “cease fire” command
10. All reasonable commands of the range instructor will be followed immediately.

I have and reviewed and understand all of the above Range Safety Guidelines. I will comply with these guidelines and conduct myself as a professional and responsible police officer.

Signature: _____ Date: _____

Semi-automatic / Autoloader/ Self loader/ Nomenclature:

A firearm in which the gas pressure and / or the blow back recoil force from a fired round is used to unlock the mechanism, to extract and eject the empty shell casing, and to reload by stripping (or releasing) and feeding another cartridge from the magazine into the chamber. The trigger must be released and pressed again for each successive shot.

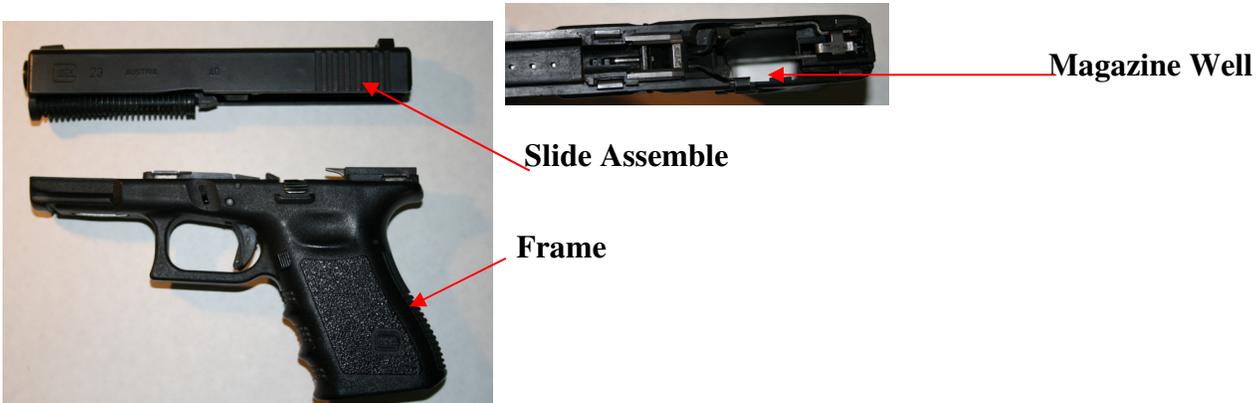


For the purpose of this manual we will talk in generic terms when describing the major components of the firearm. We understand there are many manufactures of firearms. Manufactures will sometime use their own descriptions when identifying the different components of their weapon. Please refer to the manufactures information if you would like the correct terminology of your weapon.

Major Components

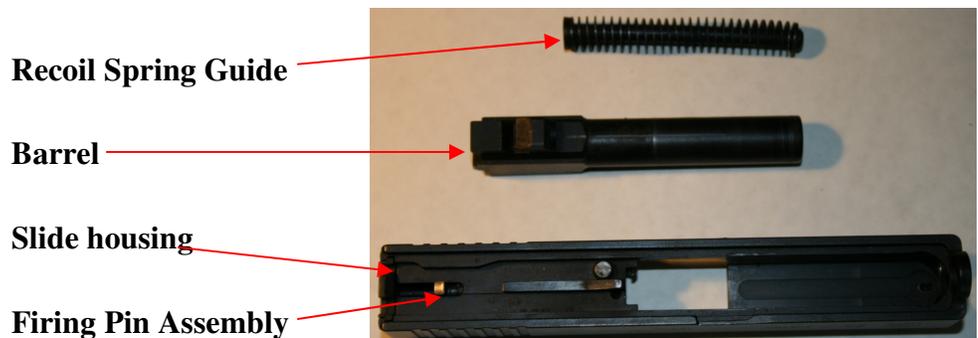
Frame:

This is the major body that usually houses the trigger assembly, and the magazine well is located inside of the pistol grip.



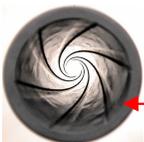
Slide Assembly:

The component on top of the frame some time called the upper half. It usually houses the barrel, recoil spring & guide, firing pin, & extractor.



Barrel:

The barrel guide the bullet and stabilities its trajectory. Inside the barrel are lands and groves called rifling. Care should be taken not to damage the barrel or used as a cruch.



Rifling

Recoil Spring & Guide:

The guide rod, will guide the slide assembly as the weapon recoils. The spring returns the weapon back into battery after the slide has move to it furthest point when the round has been fired.

Magazine:

The magazine holds the ammunition supply

Disassembly of Weapon for Care and Cleaning

Properly maintaining a handgun is an obvious step for any law enforcement officer. Care and cleaning is necessary to ensure that his/her weapon will work safely and effectively when called upon. During the care and cleaning process officers should be inspecting for any excessive wear or damage. An improperly maintained or un-maintained weapon will be come unreliable to the officer. The firearm is a tool an officer relies upon as well as fellow officers rely upon to work properly when necessary. Most all departments, it is the responsibility of the officer to care and clean for their duty weapon under field strip conditions, (major component broken down). To go beyond the field strip components will usually take a certified armoror to insect and care for. **Your “Life” and your partners “Life” depend upon you to make sure your weapon is functioning and working properly**

Disassembly may vary depending on the type and manufacture. Refer to your department policy and procedure when disassembling your weapon. There are however some come issues and we will discuss them here.

Safety Clearing Procedures

When disassembling any weapon **SAFETY** is the first priority.

- Administratively remove the magazine from the weapon
 - While weapon is still in the holster depress the magazine release and remove the magazine
 - **IMPORTANT** There will still be a round in the chamber at this point
- Pointing the muzzle in a **SAFE DIRECTION**.
 - Safe direction shall mean; An area that is ballistically secure. In most academy's there will be a bullet trap to point the weapon into. If there is no bullet trap then you can use your bullet proof vest or a bucket of sand to point the muzzle into. Remember that most modern homes are not made out of ballistic materials.
- Clearing the chamber of your weapon
 - Pointing the muzzle in a **SAFE DIRECTION** and your **FINGER OFF THE TRIGGER INDEXED ON THE FRAME** pull the slide to the rear three times.
 - **IMPORTANT NOTE:** if the rounds keep extracting from the weapon as you pull the slide to the rear **TAKE THE MAGAZINE OUT and start over!**
 - After pulling the slide to the three times there should be only one round extracted. After pulling the slide to rear several times lock the slide back and visually (look into the chamber) and physically check (stick your finger in the chamber) the weapon to be sure it is safe and unloaded.

We are now ready to field strip the weapon

Field Strip the Weapon

The actual process of field striping may vary greatly depending on the model of the firearms you have. Follow the manufactures procedure for specific weapons. The Glock Manufacture make you press the trigger before disassemble. This weapon needs to be check for safety a minimum of three times.



Cleaning the Weapon

Equipment you will need

- Lint – free cleaning cloths
- Gun cleaning patches in the caliber of your firearm
- Cleaning rod for the specific caliber
- Solvent specifically designed for use with firearms
- Oil specifically designed for use with a firearm
- Barrel brush for the caliber you are cleaning
- Brush with nylon bristles
- Cotton swabs and pipe cleaners

Procedure:

1. Wipe down all components
 - Remove as much as you can of the old oil and all powder buildup, thick and caked-on carbon buildup.
 - Wipe the inside of the magazine well, ejector, guide rails, and area around the chamber. Wipe these areas until the patches are clean
2. Apply solvent on all dirty components.
 - Most handgun manufactures design components (even the polymer) to be safely used with any solvent. Be sure to check with manufactures specification on solvent to be avoided
3. Let the solvent soak in for a couple of minutes
4. Scrub the whole gun with a nylon brush. This works in the solvent on the weapon and loosens up the build-up areas on the weapon. Pay attention to small areas, rails, Connors, etc. The most common area with carbon deposits is in the chamber area.
5. Wipe down the whole weapon (inside and out) with a solvent soaked lint free cloth. Look for any areas turning the cloth dark. Clean those areas that turn the cloth dark again
6. Use a bore brush to break any buildup free from the barrel. Br sure not to reverse direction with the brush in the barrel. Push the brush all the way through the

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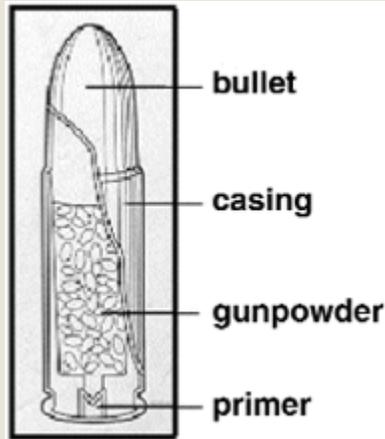
barrel (letting the bristles change direction outside the barrel) then reverse and pull it back all the way through

7. Swab the barrel with a cloth soaked with solvent. Repeat until the cloth comes out clean. Then swab it with a clean dry patch. Finally, swab the barrel with an oiled patch. This coat of oil will protect your barrel from rust
8. Oil all the components requiring lubrication. Often the manual for the weapon will have specific areas needing oil. If you look at the weapon you will see where the wearing parts, this is a good indication of where lubricate should be applied.
 - Be sure to lubricate area around rotating parts, such as the base of the hammer or trigger assembly.
 - Don't forget to oil the guide rails and grooves in which they ride.
9. Re-assemble the weapon and perform a function test. (Are all the part back where they belong?)
10. Wipe down the whole gun and remove any excess oil. A very light coat of oil on the exterior of metal parts will prevent rusting by preventing moisture saturation.

Warning

- Keep oil away from the openings into the firing pin housing (oil is a collector of dirt and powder buildup. Build up around your firing pin can prevent it from firing)
- Wash your hands after handling the weapon and cleaning supplies
- Always clean your weapon in a well ventilated area. Fumes from solvent or oils can be unhealthy if inhaled
- Keep oil away from your ammunition. The oil can penetrate the primer and cause the ammunition not to fire.
- **NO AMMUNITION IN THE CLEANING AREA**

Anatomy of a Pistol Cartridge



Bullet :

A single projectile fired from a firearm. Some mistakenly consider the entire round of ammunition to be the bullet, in actuality it is only the tip of the round.

Casing :

Usually made of brass and contains the powder charge, the primer and the bullet. Before development of the metallic cartridge, the term was used to mean a roll or case of paper containing powder and shot. Centerfire metallics include all pistol and rifle cartridges that have primers in the center of the base.

Gun powder :

The general term for any chemical compound or mixture used in firearms that burns upon ignition. The gases produced by this rapid combustion propel the bullet down the bore. One major type is black powder, which is a mixture of charcoal, sulfur and saltpeter. It's used in older cartridges. Another major type is smokeless powder, which is principally used in modern ammunition. It's a granular nitrated chemical compound.

Primer :

The collective term for the chemical primer compound, cup and anvil. When the primer is struck, it ignites the powder charge.

Pistol Cycle of Operation



The cycle of operation of the semiautomatic pistol is described as **FEED, FIRE, EXTRACT & EJECT**

We will break it down further:

- **Firing:**
Firing pin of the weapon hits the primer ignites the powder, the powder burns and fires the bullet out the barrel
- **Unlocking:**
Unsealing the breech end of the barrel and unlocking the barrel from the slide.
- **Extracting:**
Pulling the spent cartridge case from the chamber.
- **Ejecting:**
Pushing the spent cartridge out of the ejection port.
- **Cocking:**
Returning the firing mechanism to the cocked position ready to fire another round.
- **Feeding:**
Placing another round in the path of the slide
- **Chambering:**
Moving the round from the magazine to the chamber
- **Locking:**
Sealing the round in the chamber and locking the breach end of the barrel into the slide

Understanding Marksmanship Fundamentals

Suggested Equipment Setup (Review):

Before we start to understand marksmanship fundamentals we must take a look at the way your duty belt is set up with regards to holster and magazines. If your department has a specific way they want you to wear your issued equipment, then instructors will not criticize or comment. Instructors will suggest to those who have no requirements or who are wearing it for the first time or those who seem to be having trouble, proper ways to set your equipment.

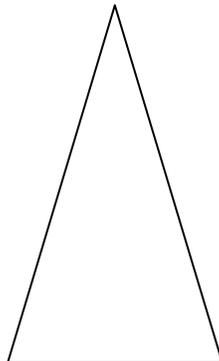
Stance:

There are many shooting positions commonly referred to as stance, shooting platform, or shooting hold. Rather than argue the semantics we need to attend to the practical factors. The fundamental concern is how the human body is configured as a firing platform. The advantage of one stance, position or hold over another is up to the individual shooter. They all have advantages and disadvantages.

“Stance” = Balance + Stability + Mobility

- The ***ISOSCELES*** :

Body is squared off stance facing the target, feet shoulder width apart, arms straight out in front of the shooter with the elbows locked, resembling an ***ISOSCELES TRIANGLE***. This position will allow the shooter more stability and balance and maximum use of soft body armor. A disadvantage to the isosceles is that mobility may be a problem while shooting on the move, and also a good defensive stance / interview stance.



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- The **WEAVER**:

A bladed body stance with commonality of training the firearm held in a locked arm position with the off arm bent up supporting the shooting hand. With the deep strong side back the shooter has good balance and good defensive stance for reaction time. A disadvantage to weaver is mobility, and exposing your side to the threat, which has least amount of soft body armor.

- The **Modified Isosceles (H&K)**:

Here we have the best of both worlds when it comes to shooting platforms. Similar to the isosceles, but support side is a half step back. This allows the shooter to shoot on the move and still have a good defensive stance / interview stance. This will still allow maximum amount of soft body armor exposed to the threat. Here we have good balance, mobility and satiability



By taking that half step back on the strong side we allow the hands to be equal distance from the shoulders. By now having equal hand lengths to the target the position become more adept for point shooting or flash front site picture.

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Establishing the Grip:

The portion of a firearm designed to be grasped by the shooting hand in the normal operation. The grip is established with the draw of the weapon from the holster. *This called the five step draw.*

1. **GRIP :**
Weapon hand firmly establishes the shooting grip on the weapon with trigger finger straight along the side of the holster. The retention devices (snaps) are undone as the grip is established.
2. **DRAW :**
Weapon is drawn far enough up so the muzzle is clear of the holster.
3. **ROTATE:**
The muzzle is rotated 90 degrees to the horizontal and now points towards the threat (The threat may be engaged at any time here on in as this is the traditional "hip shooting" position.)
4. **TOGETHER :**
The weapon is brought upward to the center of the chest as the support hand comes up and behind the weapon from the other side forming your two hand hold.
5. **UP:**
The weapon, now supported by both hands, is brought up to eye level and the sight picture obtained. Fire if the situation dictates.

- Shooting hand high on the back strap of the firearm.
- The trigger finger should be placed to make the easiest press of the trigger, usually about the first joint.
- Pressure with both hands on the grip must be equal.
- Thumb of the support hand alongside the thumb-piece, over the tip of the strong thumb.
- This is important, if the support thumb crosses the back strap an injury will occur when the slide recoils back.
- Notice that there is a canter approximately 30 degrees to the support hand. This allows more of the support hand palm to come in contact with firearm frame. And will allow a better rap of the fingers around the strong hand.

The grip that an officer uses on his/her firearm should make



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the firearm an extension of his/her arms not a handle or piece of equipment. Proper grip begins with drawing the firearm. The grip the officer uses to draw the firearm will be the same that they use when shooting. Therefore, the grip must be firm, with the trigger finger along the frame, and the firearm's barrel aimed in a direct line from the shooter's arm without any hand, wrist, arm, or elbow adjustments.

Once the officer has accomplished the proper grip, it should be committed to muscle memory through constant drawing and engaging a target. This will become reflexive to the student and will lead to natural point shooting / point shooting.

Point shooting is importance to the officer when Close Quarter Battle (CQB). If we look at the Uniform Crime Report statistics;

Law Enforcement Officers Feloniously Killed (Uniform Crime Report 2005)

- **55 L.E. Officers killed separate incidents**
- Average age of officers 37 years
- Averaged years served 10 years
- 15 of 55 were handling traffic pursuits
- 8 handling arrest situations
- 8 ambushed
- 7 answering disturbance calls
- 7 answering suspicious person calls
- 4 during invocative activities
- 3 tactical situations (high risk entry)
- 2 handling mentally deranged
- 1 will they had custody of prisoner for transport

50 of the 55 victim officer Offenders used firearms

- 42 were slain with handgun
- 5 with shotgun
- 3 rifle
- 5 used a vehicle as a weapon

NYPD Analysis of Police Combat Released 1981

From Sept 1854 to Dec 1979

- 254 officer died from wound received in an armed encounter
- **90 percent of the cases were less than 15 feet**

Sight Alignment:

Before we can talk about point shooting we need to understand the importance of sight alignment. There are the fundamental of proper sight picture. Once you understand them point shooting and flash front site picture will be come natural.

Sight Picture / Sight Alignment



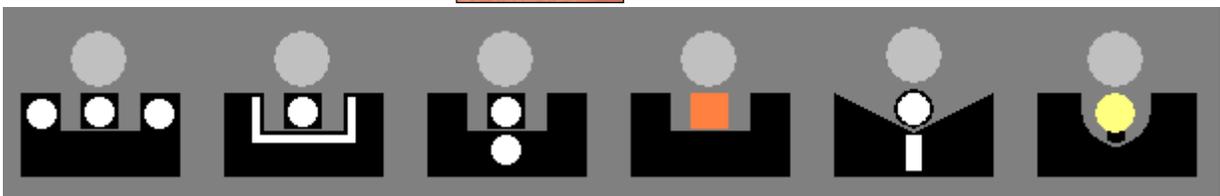
Sight alignment is one component of proper sight picture or proper use of the firearm's sight. The front sights are properly aligned with one another as viewed by the shooter.

Sight Picture is the appearance of a firearm's sights to the shooter's eye as aligned against the target with standard open sight configuration consisting of a post front and a notch rear sight

1. The sights themselves will be aligned so that the top of the front sight is level with the top of the rear sight notch.
2. The sides of the front sight are equidistant

from the sides of the rear sight notch.

3. The top of the front sight will rest just under the point on the target which the shooter intends to hit.
4. The shooting eye will focused on the front sight.



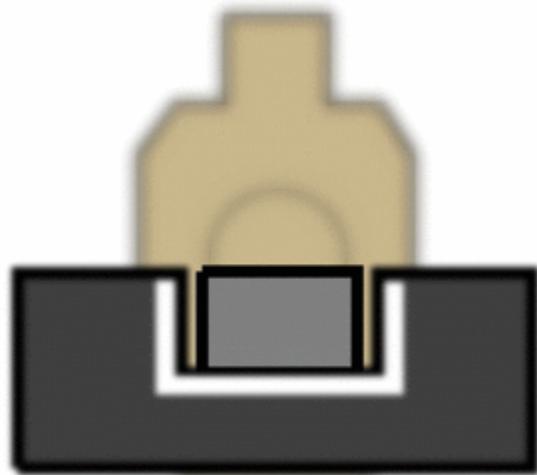
6 - O'Clock Holds

The 6-O'clock hold is impractical for Law Enforcement purposes or self defense shooting, where the subject has no bullseye inscribed on them by which the shooter can tell how low to aim in order to hit the intended point.

- Less than 7 Yards shooter should reference sights (Flash Front Sight / Point Shoot)
- More than 7 yards shooter must place more emphasis on sights

Sight Picture

- Focus on the front sight only, clean & sharp
- The rear sight should be slightly out of focus,
- The target should be blurry.



The key to effective sighted fire is the ability to consistently reproduce the same sight picture again and again. Most officers have bad habits of looking to see where they hit the target. We call this eye sprinting to the target which changes your focus and lead to changing your sight picture.

Trigger Control

Strong hand usually the index finger should be placed on the trigger no furthering than the first knuckle about a ¼ of an inch. Too much finger will cant the firearm to left for a right handed shooter and left for a left handed shooter.

Trigger Manipulation:

Step One, Trigger Press:

Trigger manipulation must work in conjunction with sight picture. This is where most new shooters have trouble. When shooter is manipulating the trigger, the first pad of the trigger finger must press smoothly straight to the rear. The shooter must keep their attention focused on the front sight during the trigger press, they must work together.

Step Two, Follow Through:

Trigger Manipulation includes follow through. When pressing the trigger straight to the rear the firearms will discharge. Continue to press straight back and hold pressure back for a moment. The shooter must think of this as letting the bullet exit the barrel. We know it happens instantly but to understand *follow through* the shooter must think that it takes time for the bullet to exit the barrel and we want to give it that time. **Trigger Press**



Follow Through

Step Three, Trigger Reset:

When shooting multiple rounds the shooter should not disengage their finger from the trigger. After follow through, (holding the trigger to the rear), release the trigger, keeping your finger on it. Let it travel forward to *reset*. The trigger does not need to travel all the way forward and back you will (You hear and feel the click), remember to keep focus on the front sight.



Reset

Verbalization:

Verbalization is the key component of officer survival and situational control. It is also an important part the 5 step draw process. Officer may say nothing during high-stress engagements. If more than one officer is present, multiple officers may give commands/directions at the same time, creating confusion. The key to verbalization is simplicity. If feasible, give simple commands in a clear loud voice. Repeat these commands slowly until compliance is achieved or other means of control are required. If there is more than one officer present, the contact officer (initiating officer) should be the only one to issue commands. As in defensive tactic contact cover may change depending on the situation.

Scan & Holster:

Prior to recovering to the holster a scan for additional threats should be done. FBI statistics show that in nearly half of all deadly force engagements, there is more than one opponent. **Remember; Quick on the draw, but slow to holster.** Before you holster you need to look left and behind and right and behind. We want to look 360 degrees scanning for additional threats. After you feel the area is clear then you can re-holster in reverse order of the draw.

When re-holstering, support hand should be in the high guard position to fend off attacker. Re-holstering should be done with one hand, all security devices engaged.



Extreme Close Quarter Battle

Up to now we have been talking about two handed shooting. It would be impractical and to use two hands in some tactical situations. ECQB deadly force encounter will dictate some type of defensive tactic. If a firearm is being used at the close distance it will be with one hand techniques. Notice in the picture to the right that the officer is performing a block of some type and drawing to engage the deadly force threat. The weapon is cantered to eliminate the slide from being hug up on piece clothing. Punching out is not realistic at these distances with two hands; firearm is kept close to the body. You could end up in a struggle for your firearms.

Dominant Eye Test:



Placing your hands placed as shown in the picture to the right. With both eye open. Focus on an object through the hole in your hands. Continue to focus with both eyes open and pull you hand to directly to your face. Your dominate eye will take over when your hands close to your face.

This will be your dominate eye to shoot from when target shooting.

When point shooting, both eyes will be open focusing on your target. Both eyes will obtain a flash front sight picture when the weapon comes up to your eyes. This will become natural point shoulder shooting over time. This is more realistic when conditions of high stress occur at distances less than 15 feet. We will discuss more of the natural point shooting later in this the manual.

Dry Fire Skills

Dry Fire Skills:

One of the best ways students can do to improve their proficiency with their firearms is to practice. Dry firing is an economical way to become familiar e with your firearms. Dry fire practice is done with an **unloaded and safe firearm**. Dry fire practice allows you to concentrate on sight alignment and your trigger control without having to be at the range. This and economical way to practice your shooting fundamentals with out going to the range. World class shooters will dry fire their weapon 10 times to the 1 live round. The saying of “perfect practice make practice perfect” and dry firing can assist with that perfect target. .

The objectives of dry firing are to improve shooting skills. Those skills include;

- Stance
- Grip & Draw
- Sight alignment
- Sight picture
- Trigger Press
- Trigger follow through
- Trigger reset
- Scan and re-holster

The first and foremost concern with dry firing exercises is **SAFETY**. The following drill should not be performed until the student has made his/her weapon safe. Students should double and triple check their weapons to make absolutely certain they are safe and clear.

- There must not be any live ammunition in the area that students intend on performing dry fire exercises.
- The area used to perform dry fire exercises will required some type of back stop
 - Back stop in the class room should be a wall that bullets will not penetrate
 - A ballistic vest should be used to point the weapon at, student can hang their vest on a wall
 - If a range is being used , weapons should be pointed at the back stop

Reset Drill (Dry Fire)

Safety First- Be sure the weapon is unloaded, clear and safe, triple check.
Be sure of your back stop, Use your body armor if necessary



Achieve good stance, grip, sight alignment, sight picture. The front sight must be clean and sharp and in focus. Continue to focus on the front sight and press the trigger to the rear. You will hear the hammer drop, *CONTINUE TO HOLD* the trigger to the rear. (*FOLLOW THROUGH*)



You will need to manually cycle the weapon to reset the hammer. Notice that the trigger is still pressed to rear while the weapon is being manually cycled. A second student can cycle the weapon for you so your grip won't change; you are continuing to focus only on the front sight while the manual cycle of the weapon. If you are by your self the support hand can cycle the weapon.



Slowly allow trigger to move forward keeping trigger finger inn contact. Trigger will move forward to a point where you will hear and feel it “click”. That “Click” is reset of the trigger. You do not have to let the trigger travel any further forward. The trigger can be pressed again. And the process can be repeated.

CAUTION:

For those weapons that have a magazine safety, use orange dummy rounds. Do not have live ammunition in the area that you will use to do this drill.

Range 3000 / MILO:

If the Student has availability of a Range 3000 or Milo system or any other firearms simulator system, this is an excellent way to perform basis firearms skills drills. They are usually called *Skill Builder Drills*.

Loading & Unloading Magazines:

Recruits will use dummy rounds and load magazines.

Magazine Reload Drills / Changing Magazines

There are three types of magazine reload procedures (change magazine) we will talk about these separately.

- Administrative reload
- Tactical reload
- Combat load

Administrative Reload & Unload:

An administrative reload is performed while the firearm is in the holster. Students will push the magazine release and remove the magazine from the weapon while it is secured in the holster. This reload can be used when on the firing line, when students need to top off their magazines, the magazine can be safely removed and topped off or a fresh magazine. This is the safest way to load / top off magazines from the weapon with out removing the firearm from the holster.

This procedure should be used when unloading to make the weapon safe. Removing the magazine is the first step when preparing to make safe and clear weapon.



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Tactical Reload:

The tactical load is used when it is tactically safe. The preferred method is from behind cover. The tactical reload is one to be done when there is a lull in the situation. Under stressful condition counting rounds is not practical. We must start to think of the idea of heavy or light. When training repeatedly with your weapon you will begin to feel the difference between a fully loaded weapon, half loaded, and almost empty weapon.

The concept of not throwing those rounds away is one of tactical advantage. When the weapon is light you will remove a fully loaded magazine from your pouch, drop the light magazine in your hand with full magazine. Place the full magazine in the weapon and the light magazine on your person, pocket, waist band, some place other then your magazine pouches. Magazine pouches are for fully loaded magazines.



Combat Reload:

The combat reload is a fast reloads usually done when the weapon is run dry of ammunition. The weapon goes to lock back, release the empty magazine let it drop to the ground and reload with a fully loaded magazine.



All the above drills should be practice dry with orange dummy rounds.

IMPORTANT:

This performed with a **SAFE AND CLEAR WEAPON**. Triple check the weapon to be sure that the weapon is safe and clear. **NO LIVE AMMUNITION IN THE TRAINING AREA!**

Session II on Range

Safety Brief:

Cardinal Rules of Firearms Safety

- 1. Treat all weapons as loaded weapons.**
- 2. Never point any weapon at anything you are not intending to shoot.**
- 3. Keep your finger off the trigger until you are ready to shoot.**
- 4. Know your target and what is beyond it.**

You will see and hear these rules through out your life not just as a Law Enforcement Officer but during any time you may have to handle a firearm. They are the basic for all firearms training and handling and should be engrained into your mind as well as your families. You will be required to recite these and write them out during your firearms training week.

Loading & Unlading Area

This will be an area designated by the range master where the student can go and safely make or check that their weapon is “Street Ready”. This also an area the student can go to safely unload their weapon. The area will be designated prior to the start of training and students will advise the range master of his/her intentions.

Designated EMS Equipment & Related Equipment Brief

This area will have the necessary equipment to deal with emergency conditions in the unlikely event of a mishap. The highest level of emergency personnel should be identified to the range master who will take charge of emergency situations and direct personnel to specific details. At the designated area there should be communication equipment for notification of emergency care to respond. At this area there should be a copy of the incident action plan for all to follow in case of emergencies. Equipment should include;

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- **Gunshot Trauma / First Aid Kit**
In a location that can be found easily by all and identified prior to the start of all firearms training. EMT's or paramedics should be identified prior to start of training.
- **Automatic Electronic Defibrillators**
(i.e., AED's If available, also found easily)
- **Range Injury Action Plan**
Is intended for use in emergencies (i.e., accidental shooting, heart attack, personal injury). Communications to be used for injury action plan. Whether a radio or phone

Personal Range Safety Equipment Brief

All personnel are required to have the proper range safety equipment;

- Hearing protection
- Wrap around eye protection
- Ball cap
- Soft body armor (Required to be worn by all)

-Range Commands

Range commands and common terms.

1. **Low Ready Pistol Position**
2. **Cease Fire...Cease Fire**
3. **Prepare Magazines**
4. **Load your Weapon**
5. **Make Street Ready**
6. **Administrative Unload**
7. **Press Check /Pressure**

NOTE: Press checks are **ONLY** performed upon initial loading of the weapon, **NEVER IN CONJUNCTION WITH ANY OF THE RELOADS.**

8. **Make Weapon Safe**

Live Fire Basic Marksmanship Skill;

Loading Procedures

Student will load their magazines with required rounds as instructed by the range master.

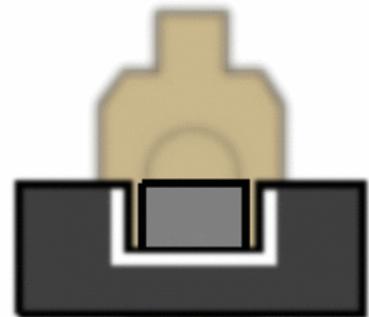
1. Draw weapon from holster
2. Insert loaded magazine
3. Holster weapon snap and secure
4. Administratively remove magazine
5. Add the round back to the magazine (Top Off) that was chambered
6. Administratively load the topped off magazine
7. Tap and tug on magazine to be sure its seated

One Hole Drill:

Students will start at the 3 yard line with the weapon out of the holster at the “Low Ready Position” On the command “UP” Students will have;

- Proper Stance
- Grip
- Sight Picture

When the students come up on target from the low ready position, they need to establish the perfect sight picture, clean and sharp is the front site, they **press** the trigger to the rear and hold to the rear for follow through. When pressing the trigger to the rear continue to focus solely on the front site. The common mistake shooters make are thinking sight picture and trigger press are separate functions not realizing they need to work together as one. A typical response from the average shooter is, after firing the



weapon they lift the eye to see where the round impacted. This is called “eye sprinting”, the students want to see where their rounds go, and they should resist this response. If you eye sprint, focus changes and sight picture changes. By keep focus solely on the front site the shooter will be able to make the rounds touch on the paper. The object is to place two rounds threw the same hole.

This drill allows the students to become familiar with basic marksmanship skills and fundamentals. Through repetitive motion the students will develop mussel memory which is key to instinctive point shooting at close distances.

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This drill starts close and moves back as the student become confident with their skills and understands where sight picture is necessary and at what distances. The key to point shooting and flash front site is repetition and mussel memory. Establishing;

- Stance
- Grip
- Sight alignment
- Trigger press follow through
- Reset.

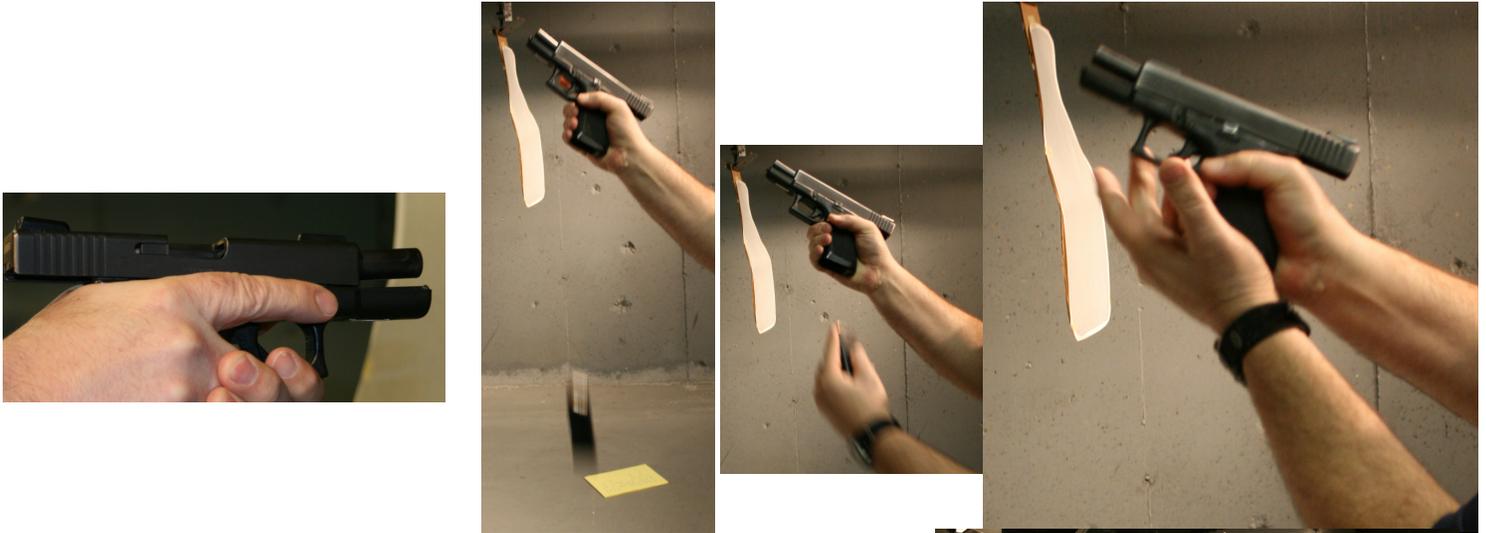
Tactical Reloading Drills:

After practicing the above drill the instructors will add tactical reloads with communication to the drill. A tactical reload, as described in session I, is done when tactically available and the officer has a light magazine, remember we don't count rounds we use the concept heavy and light. After many repetition and time on the range, an officer will know by the weight of their weapon. When performing the tactical reload, use of cover & concealment should be used when available. The tactical reload can be done when a lull in the situation has occurred. In the picture you will see that the officer does not discard the magazine that is light. We always will keep rounds and only discard empty magazines. Notice that the light magazine is placed in the pocket or belt; some where other than the magazine pouch so as not mix up full magazines.



Combat Reload:

The other reload that will be added to the one hole drill will be the combat reload. The combat reload is performed when the weapon locks back or in some malfunction that the magazine needs to be discarded. The empty magazine is dropped to the ground and full magazine is inserted into the weapon. This is the fastest and easiest reload to perform and can be performed from any shooting position.



The sequence of pictures show lock back after the last round is fired, magazine being released from the weapon, new magazine with index finger pointing the way to the magazine well, new magazine being inserted into the weapon and seated, and shooter coming back up on target.

With any reload either tactical or combat there needs to be communication when working with a partners. Communication will inform your partner you are about change you magazine or may be experiencing a problem with your weapon; this communication does not have to be complex but relatively simple. An example of one type of communication is;

- Calling for “Cover”
- Your partner will call “Covering”
- After you have completed the magazine change you will call “Ready”
- Your partner will call “OK”

Malfunction Drill / Stoppage Drills:

A malfunction/stoppage in your pistol means your weapon has failed to do one of the following four things;

- Feed
- Fire
- Extract
- Eject

If your weapon has failed to do one of the above in a stressful environment/gunfight you will need to clear and put the weapon back into working condition as quick, efficiently, and effectively as possible.

There are four basic types of malfunctions or stoppages that the shooter must be familiar with.

- **Failure to feed:**
 - The cartridge has not transitioned from the magazine to the chamber.
- **Failure to fire:**
 - The cartridge did not fire either due to faulty ammunition or because the firing mechanism failed to operate correctly.
- **Failure to extract:**
 - The cartridge remains in the chamber after the action has cycled.
- **Failure to eject:**
 - The cartridge remains in the receiver after being extracted from the chamber.

Stoppages are classified as Phase I, II or III stoppages. You may also hear them referred to as Type I, II or III stoppages.

When a stoppage occurs, the shooter will address it with an “**Immediate Action Procedure**”. This is a standard drill taught to shooters which will quickly clear the problem and bring the weapon back into action. The fundamentals are the same for the rifle as we use for the semi-auto pistol.

Phase I Stoppage:

The Phase I Stoppage is most commonly identified with the click of the firing pin striking an empty chamber when the shooter presses the trigger. The protocol for clearing this malfunction is Tap – Rack – Evaluate,

- **TAP** – hit the bottom of the magazine to insure it is properly seated. This may be the result of the shooter failing to properly insert it to begin with. If the magazine is not properly seated, the slide will not strip the top round out and you will get a click instead of a bang. To prevent this,



the shooter must always check the magazine after inserting it. Whether you call it TAP/TUG or PUSH/PULL, the concept is the same. Insert the magazine firmly and check to insure it is seated by trying to pull it out.

- **RACK/INVERT**– cycle the action to rear and let it return forward under the tension of the recoil spring. Once the magazine is correctly seated, cycling the



action should bring a round up into the chamber and put the rifle back in service. By inverting the weapon this allow any rounds, material, or empty casings to fall to the out instead of into the weapon. Caution! Students need to be aware and careful when gripping the slide on a weapon with a decocking / safety lever not grip the lever, this will cause the decocking / safety lever to go into the “on” position disengaging the trigger bar and trigger mechanism on some models make the weapon inoperable until the safety / decocking lever in placed in the “Off” position. When performing the inverted rack with a weapon that has the

external lever students must grip forward of the lever to prevent the accidental engaging of the lever.

- **EVALUATE** – reassess the situation to determine if the need for deadly force still exists. Fire if necessary or continue to cover the threat.

Phase II Stoppage:

The Phase II Stoppage is generally more complex. If the immediate action drill fails to clear the problem then a double feed is typically the problem, double feed meaning more than one cartridge is trying to be chambered at the same time. This is easily identified by looking at the action. The bolt will be partially open and you will see the two rounds jammed there.



If the immediate action drill fails to solve the problem, the shooter must go directly to the;

- Lock – Lock the slide to the rear
- Rip – Rip the magazine out
- Shake- Shake to clear any fold brass or rounds
- Run-Run the slide back and forth to clear any seated rounds in the chamber

- Tap- insert a different magazine and Tap & Tug
- Rack – pull the slide to rear and release to chamber a round
- Access- Access the situation to be sure deadly force is still justified

(INSERT PICTURES)

Phase III Stoppage:

The Phase III Stoppage is typically identified by a broken part in the firing mechanism which prevents the weapon from operating properly. This is not a problem that is going to be quickly solved by the user .. A strategic withdrawal may be the best course of action at this point.

Session III on Range

Safety Brief:

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4. **Know your target and what is beyond it.**

Loading & Unloading Area

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Designated EMS Equipment & Related Equipment Brief

This area will have the necessary equipment to deal with emergency conditions in the unlikely event of a mishap. The highest level of emergency personnel should be identified to the range master who will take charge of emergency situations and direct personnel to specific details. At the designated area there should be communication equipment for notification of emergency care to respond. At this area there should be a copy of the incident action plan for all to follow in case of emergencies.

Equipment should include;

- **Gunshot Trauma / First Aid Kit**
In a location that can be found easily by all and identified prior to the start of all firearms training. EMT’s or paramedics should be identified prior to start of training.
- **Automatic Electronic Defibrillators**
(i.e., AED’s If available, also found easily)
- **Range Injury Action Plan**
Is intended for use in emergencies (i.e., accidental shooting, heart attack, personal injury). Communications to be used for injury action plan. Whether a radio or phone

Personal Range Safety Equipment Brief

All personnel are required to have the proper range safety equipment;

- Hearing protection
- Wrap around eye protection
- Ball cap
- Soft body armor (Required to be worn by all)

Movement:

Students must understand that not all situations will be static and will require them to move with weapon out and in some cases shooting. There are three basic movements;

- Forward movement
- Rearward movement
- Lateral movement

Forward

There are two basic forward movements the forward slide/ step and drag and the groucho/duck walk with the knees bent and used as shock exhorbers to reduce the front sight from bouncing as you walk.

The slide step or step and drag forward movement is also used in defensive tactic to keep your plat form well balanced keeping your strong foot connected to the ground. This will help when moving on uneven terrain. The down side is this is slow when trying to move quickly from one position to another.



Rearward

Rearward is opposite of the forward movement and are the same techniques. The step and drag /reverse shuffle step has the advantage of keeping your perceived threat in view and your feet feel your way back to a position of cover. The bent knee is quicker but you will need to look behind you more often to see where you are going. Both forward and rearward shuffle movements have commonality to defensive tactics.

Lateral

Lateral movement meaning left and right, can be difficult if you cross your feet as in the picture below. This technique of crossing feet can be dangerous and avoided because you may trip over your own feet. In the picture below although it shows patrol rifles with the movement the officer's feet are not crossing they are moving laterally one step at a time with out crossing their feet.



RIGHT



WRONG

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Force Transitioning

Transitioning from one force option to another needs to be fluid and smooth when the officer perceives a threat in front of him/her. That transition we will be talking about will be from one force option to deadly force. You may have handcuffs, baton, OC spray, etc. in your hand when the subject action escalates to deadly force and now need to draw your firearm. You will learn to transition smoothly with that force option in your hand and draw your firearm. The force option in your hand can be dropped, or cupped in you hands and you will still be able to draw and fire your firearm.



Close Quarter Combat / CQB

CQB is used when dealing with threats from 15 feet or less where the officer is reacting to the perceived deadly force threat. Extreme CQB is within that interview area where a defensive tactic may be deployed and followed up with the firearm when it's a deadly force encounter. The firearm does not want to be pushed out away from the body where it could be disabled if pushed against the subjects body and at the extreme close quarter you could be fighting to keep control of the weapon with the subject. When deploying at the Extreme CQB the weapon needs to be shot from the hip and will need to be centered to eliminate the slide catching on clothing when it's fired.



Session IV on Range

Safety Brief:

Cardinal Rules of Firearms Safety

1. **Treat all weapons as loaded weapons.**
2. **Never point any weapon at anything you are not intending to shoot.**
3. **Keep your finger off the trigger until you are ready to shoot.**
4. **Know your target and what is beyond it.**

Loading & Unloading Area

This will be an area designated by the range master where the student can go and safely make or check that their weapon is “Street Ready”. This also an area the student can go to safely unload their weapon. The area will be designated prior to the start of training and students will advise the range master of his/her intentions.

Designated EMS Equipment & Related Equipment Brief

This area will have the necessary equipment to deal with emergency conditions in the unlikely event of a mishap. The highest level of emergency personnel should be identified to the range master who will take charge of emergency situations and direct personnel to specific details. At the designated area there should be communication equipment for notification of emergency care to respond. At this area there should be a copy of the incident action plan for all to follow in case of emergencies.

Equipment should include;

- **Gunshot Trauma / First Aid Kit**
In a location that can be found easily by all and identified prior to the start of all firearms training. EMT’s or paramedics should be identified prior to start of training.
- **Automatic Electronic Defibrillators**
(i.e., AED’s If available, also found easily)
- **Range Injury Action Plan**
Is intended for use in emergencies (i.e., accidental shooting, heart attack, personal injury). Communications to be used for injury action plan. Whether a radio or phone

Personal Range Safety Equipment Brief

All personnel are required to have the proper range safety equipment;

- Hearing protection
- Wrap around eye protection
- Ball cap
- Soft body armor (Required to be worn by all)

While statistically gunfights happen close in, we can not ignore the benefit of good cover. In the early 1970's, the New York City Police Department began documenting gun fight statistics and came to the conclusion that "the single most important factor in the officer's survival during an armed confrontation was cover." "In a stress situation an officer is likely to react as he was trained to react. There is almost always some type of cover available, but it may not be recognized as such without training."¹

Cover vs. Concealment

The difference between cover and concealment is very simple – cover will stop an incoming bullet where concealment will not.

The type of firearm you are up against will have a large impact on what will be adequate cover. For instance, a high power hunting rifle round can penetrate a medium sized tree trunk, concrete blocks, automobiles and your average house front to back however, these same items may be adequate cover against a typical handgun. Since we may not know the exact type of weapon facing us, we need to presume the worst case scenario and use the best cover available.

Keep in mind that newer vehicles generally are more concealment than cover. Better paint and corrosion resistance means manufacturers now use thinner sheet metal. Engines are smaller and plastic is used everywhere. There is always that big gap between the bottom of the vehicle and the ground leaving your lower legs and feet exposed. Inside a typical house, sheetrock walls are merely concealment. Disregard what you see in the movies – interior walls do not stop bullets!

¹ Firearms Discharge Assault Report (NYPD SOP-9), NYPD Firearms & Tactics Section. 1970.

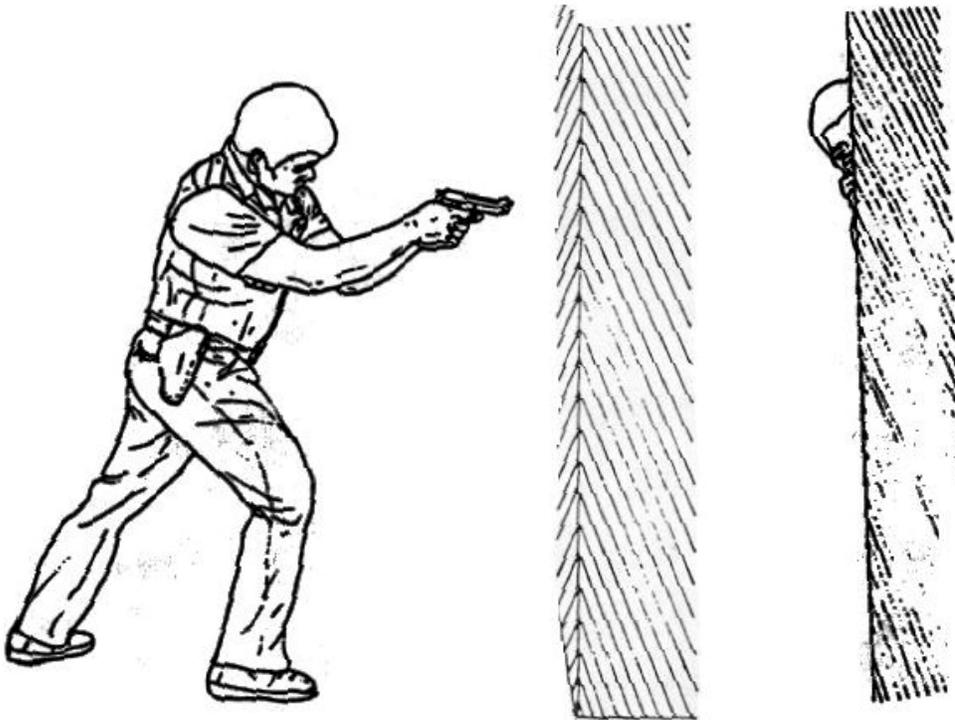
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Be aware of potential hazards which may be present with your “cover”. Positioning yourself at the rear of a vehicle next to the fuel tank or behind a propane tank is not recommended.

It is critical that you make good use of cover part of your tactical mindset. Use cover proactively. Always be aware of where your nearest and best cover is. Habitually position yourself behind or adjacent to cover so if the situation goes bad, the distance you need to move to cover is reduced.

Proper Use of Cover

Many officers fail to use cover correctly or efficiently. It is common sense that you keep as much of your body behind the protection of cover as possible. If your cover is low – stay low. Avoid crowding the cover; in other words keep back from it. Understand that you can be 15 feet behind cover and still use it effectively. Incoming rounds striking the stone wall or concrete building you are behind will create harmful “spall”. This is the shrapnel like stone chips and bits of concrete which fly back at



you and can cause injury. The further back you are, the lower the velocity of the spall.

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If possible, avoid using the same side of your cover each time. If the threat can predict what you will do next, you lose your advantage. Be unpredictable, change up which side you will shoot from and above all – avoid a set pattern.

Avoid using the corner of a wall or building to support your weapon. This will position the muzzle beyond the corner which may be in reach of a threat hiding around that corner. Using the corner as a fulcrum, it is relatively easy for the threat to disarm the officer. Position yourself so the muzzle does not extend past the cover. There is one exception to this rule. There may be a situation where you are sure no threat exists on the other side of cover and you need to support the weapon for a longer range shot.

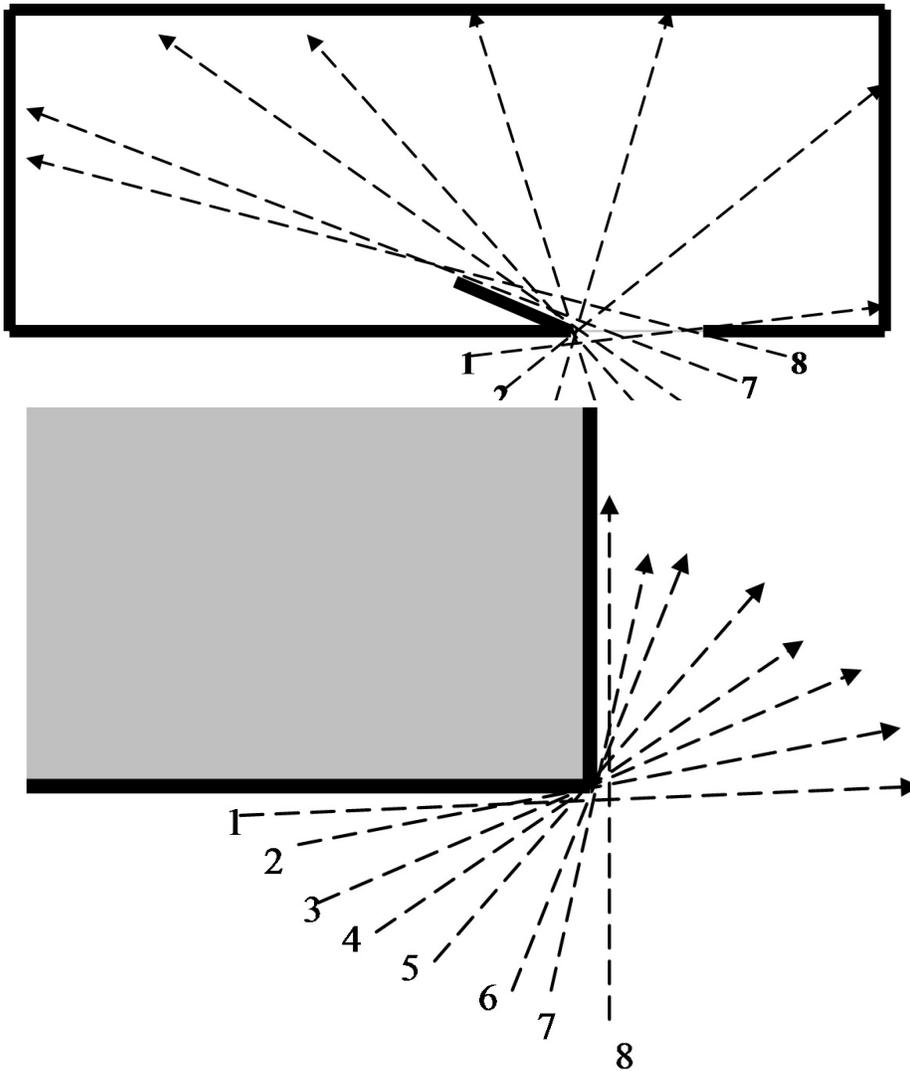
M&M Rule

When using cover, remember to expose the **Minimum** amount of your body for the **Minimum** amount of time. Expose only what is necessary to acquire and engage the threat then get back behind the protection of your cover. Be in your shooting position (weapon up and ready) when you scan out from behind cover. Even if you don't see a threat, the threat may see you so minimize your exposure time. If you spot your threat and are justified to shoot, fire 2 or 3 rounds maximum then return back to cover. There may be a second or multiple threats which can target you while you are engaged with the initial threat.

Slicing the Pie

Slicing the pie is a technique which is particularly effective when searching for threats around corners. Keeping back as far from the corner as possible with your weapon up, you will gradually scan around the corner with quick peeks, clearing a couple of degrees of arc at a time. Shift your position slightly and repeat.

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Using this tactic, an officer can safely and effectively clear about 95% of a room without having to actually enter it. The key here is not to try to clear too much of the area at one time. Be patient and only clear 5° to 10° at a time.

Shooting Positions Using Cover

Target and recreational shooters can take their time to get into a proper shooting position for maximum support and accuracy. Even action pistol shooters who claim to be “realistic” can legally cheat by using their cover as a support. In law enforcement we rarely have the luxury of time to assume a perfect shooting position. Lethal force encounters often happen in a matter of seconds with little or



encounters
no

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warning. We will be forced to use whatever cover is available and probably will have to assume some non-standard shooting positions. If cover is not available, we need to do something to make us harder to hit. When cover is available but very low to the ground, we must use some untypical handgun shooting positions.

Prone – This position is effective when the available cover is very low, small or non-existent. It also provides a very stable shooting platform in the event we need to engage at a distant target. The prone position is ideal when using a cruiser for cover. Get in behind the tire and wheel assembly which provides some of the heaviest metal mass in a vehicle. In the event no cover is available, the prone position minimizes the amount of you that the threat can see thus target.

Rollover Prone – Like the standard prone position, rollover prone gets us down low and minimizes the target area presented to the threat. This position allows us to shoot under an object or through low openings.



Kneeling – If you are presented with low cover, don't stand over it. You are only protecting your ankles. This mistake provides the

threat with a clear shot at your head and upper torso – the parts of your body which contain the



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most vital organs. Get down and take advantage of whatever height the cover offers. You can take the traditional kneeling stance which offers more support or go to both knees. Shoot around the side of the cover if possible. You will expose much less of your body.



Supine – The supine position is basically

Correc

shooting on your back. This is an unconventional position and if you are engaging a threat like this, it generally means you have been knocked to the ground. Depending on where the threat is, you may be shooting between your knees, back up over your head or anywhere between.



Engaging Multiple Targets from Cover

If you are up against multiple threats the most effective way to deal with them is one at a time. Your greatest advantage is good solid cover. Hopefully you have selected cover which will effectively stop incoming rounds and protect you. From the protection of cover, slice the pie to clear one small section of the space at a time. If you sight a threat and lethal force is warranted, engage it. When that threat is neutralized, continue scanning as before. The key is to remain calm, use your cover and training to maximize your advantage then deal with any threats one by one.

Support Side Shooting

Unfortunately our cover may not always be what is most comfortable for us. Right handed shooters will always prefer to shoot around the right side of a barricade or cover and vice versa. Typically we find ourselves having to shoot around the “other” side. There are two ways to deal with this.

Body Cant – This technique allows us to keep the pistol in our dominant shooting hand and we angle the upper half of our body to the side to allow us to engage around the side of cover. You need to use care not to expose anymore of your body than necessary. The major advantage to this technique is you retain the comfort of shooting with the dominant hand. Disadvantages include you will be slightly off balance and must expose more of your body and head.

Do not make the mistake of stepping out from behind cover to engage. This will expose all of your body and you give up any advantage the cover provided.

Support Hand – An alternative to the Body Cant is to shift the weapon to your non-dominant or support hand and shoot as if you were left (right) handed. The advantage to this method is you are going to expose less of yourself to the threat and keep better balance. The obvious disadvantage is most people are not comfortable shooting with their support hand even if they use a two hand shooting stance. We can overcome this disadvantage by practice. The theory is the same and the technique merely requires you mirror image what you do with your dominant hand.

You will also need to practice how to safely pass the pistol from one hand to the other. This can be easily done by ensuring your finger is off the trigger and remains off the trigger until the exchange has been made and you have made the decision to shoot. Maintaining control of the weapon with your dominant thumb and index finger, open the middle, ring and pinkie fingers to expose the grip area. Now wrap the middle, ring and pinkie finger of the non-dominant hand around the lower grip. As you take control with those three fingers, relax the dominant thumb and index finger. You can now bring the



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non-dominant index finger and thumb in. Keep the muzzle pointed in a safe direction and engage the manual safety if so equipped on your pistol.

While this may feel awkward at first, you will gain proficiency and dexterity with practice.

Session V Low Light Shooting Techniques on Range

“This is the law: The purpose of fighting is to win! There is no possible victory in defense. The sword is more important than the shield, and skill is more important than either. The final weapon is the BRAIN. All else is supplemental.”

John Steinbeck

Cardinal Rules of Firearms Safety

- Treat all weapons as if they are loaded.
- Never point your weapon at anything you do not intend to shoot.
- Keep your finger off the trigger until your weapon is on target and you have made the decision to shoot.
- Know your target and what is beyond it.

When you began the firearms training portion of your training you were given a set of Range Rules. Working in the dark means everyone needs to pay even more attention to safety.

Range Commands

- “Ready” – Light off, draw weapon to ready position
- “Threat” – Light illuminates threat, weapon up, verbal commands
- “Deadly Threat” – Engage the threat, light off, move laterally
- “Recover” – Reholster weapon

Why Carry A Light?

Everyone who works in law enforcement needs a light. Even if working the day shift, we can not assume we will always be in a well lit area. In the dark, humans are legally blind. While we rarely (if ever) have to use our duty weapon, police officers use their flashlights on a daily basis. It can be argued that next to your portable radio, your flashlight may be the most important piece of equipment you carry. The FBI's Uniform Crime Report documents that most deadly force encounters will happen in low light or dark conditions. We must be able to identify our target (i.e. the threat). Legal precedent and common sense requires this. We must also be able to see what is beyond the threat since we are responsible for every round we fire. It is a statistical fact that in a gun fight, less than half of our rounds actually hit home. 2006 figures for NYPD showed only 34% of the rounds fired were actual hits.²

Many officers carry a large rechargeable light that mounts in their cruiser. When they foresee the possibility of entering a dark area, they bring the light along. As any cop who has been on the job for any length of time can tell you - that does not always happen. Veteran officers will tell you that they have bailed out of their cruiser to chase a suspect only realize they forgot to grab their light when they found themselves in that unlit basement or other area with no light.

Flashlight Rule #1 – Have a light when you need a light.

Flashlight Rule #2 – Carry the brightest and most reliable light you can afford.

Mastering the Dark

We carry a light to perform five basic functions: Navigate, Identify, Locate, Evaluate and Sight. We have abbreviated this as N-I-L-E-S to remember it easily. NAVIGATE – We must be able to safely find our way around obstacles and obstructions.

² 2006 Firearms Discharge Report, Firearms & Tactics Section, NY City Police Academy, pg. 10. In the same year, LAPD showed 40% hit rate. These are representative of the nationwide statistics.

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IDENTIFY – To ascertain what we have located is what we were looking for.

LOCATE – We use the light to locate people and objects in the dark.

ENGAGE – If we identify a threat, we need to see the threat to engage it.

SIGHT – Even with “night sights” we can use our light to better see our sights. We can take this one step further by adding Distract and Disorient but more on this later.

Most importantly, we carry a light because without it, we are legally blind in the dark. If a situation required the use of force, imagine the field day a defense attorney would have with an officer when it can be proven the officer was legally blind when they engaged the subject. The chart below illustrates how close we come to the definition of being legally blind in conditions we might not consider particularly disabling.

Vision Comparison Chart

<u>Normal Vision</u>	<u>Moonlight Vision</u>	<u>Legally Blind</u>	<u>Sunlight into Dark Room</u>
20/20	20/180	20/200*	20/800

**20/200 in sunlight is legally blind in some states for the purposes of issuance of a drivers license*

Roughly eighty percent of a human’s sensory input processed by our brain is from vision. We are creatures of the light. Most humans do not operate well in the dark thanks to our mastery of fire and subsequent invention of mechanical light producing devices. This may be expressed as simple apprehension of bumping into something to an uncontrolled fear of what lurks in the shadows. To put it another way, we rely very heavily on our sight for life saving decisions.

Night Vision Facts

As anyone who has gone into a dark movie theater on a sunny day knows, it takes up to 30 minutes for our eyes to adapt to darkness. In darkness we only perceive shades of grey. We lose all color perception as well as depth of field. When we do not have 100% of our visual acuity, our minds augment what it can not see with assumptions. This can be dangerous when we are in a deadly force situation and need to make a decision whether to fire our weapon – or not to. Because of the physiology of the eye, we have a blind spot directly in front of our eye. When both eyes are working properly, one

eye will compensate for and see what the other eye misses. If you don't believe this, see the attached test which will prove it. It is clear that in dark conditions we must have a light to function at an acceptable level.

Light Facts

If you have not done so already, you will be purchasing a light as part of your duty gear. The following is provided as a general guide to help you select the right light for you. There are many models available but we can condense them down into a handful of categories.

Hand Held Lights

The major advantage of the hand held light is that it can work with or without a weapon. If working with a weapon, it can work independently of the weapon's muzzle. This allows you to keep your weapon pointed in a safe direction such as in the muzzle depressed mode while actively searching with the light. This is compatible with situations which have not escalated to a deadly force or other condition where having your weapon out is justified.



Photo courtesy of Brite-Strike Technologies, Inc.

The primary disadvantage of the hand held light is that when used in conjunction with a firearm, it compromises your two handed grip. While there are several techniques to minimize this effect, most people shoot better without having to hold the light. As will be explained shortly, most light techniques require your support hand to hold the light and provide some degree of control on the weapon. The end result is a compromise at best.

Size

Lights range in from tiny models which easily fit into your pocket to models which would make a baseball bat envious. Referring back to Flashlight Rule #1, look for a light that you will carry with you all the time. That big light in your duty bag or in the charger does you no good when you find yourself in that dark basement with no electricity. Modern tactical lights are small, light and very bright.

Light Source

Older designs are generally based on an incandescent lamp (bulb). This may be either Halogen or Xenon. In either case, the weakness of this design is the lamp is fragile and tends to break when dropped. Keep in mind that a police officer's light frequently gets banged around. Newer designs have gravitated towards the Light Emitting Diode (LED) as a light source. This is a solid state chip which has a life span about 1000 times longer than an incandescent lamp and is much more rugged. High quality LED lights can be thrown against a concrete wall and still work. Today's palm sized LED lights can deliver more light than a traditional five cell duty light.

Weapon Mounted Lights

Contrary to popular belief, weapon mounted lights are not just for SWAT officers. The weapon mounted light offers you several advantages. The light beam lines up with the bore and line of sight creating a visual indexing technique. It allows you to shoot more accurately while using a light because it keeps both your hands on the weapon in the manner you have been taught at the range. You can reholster without fumbling with a light and can reload or clear malfunctions without having to juggle your light. It is ideal for K-9 officers or any officer needing one hand to handle equipment such as a body bunker or move an injured officer.



Photo courtesy of Insight Tech Gear

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The primary disadvantage of a weapon mounted light is the muzzle always points where the light points. This can be unacceptable when you are searching in a non-deadly force situation. Obviously directing traffic with your weapon mounted light would not be condoned. Your department may not authorize weapon mounted lights or their duty holster requirements may not accommodate a pistol and light combination.



So, which is better? If possible, have both! The ideal situation is to have both. Your modern tactical light will be used for all situations except those involving a deadly force scenario. If and when we find ourselves in a lethal force situation, our weapon mounted light will come out with the weapon. If you are not permitted to use a weapon mounted light, carry the smallest and brightest light you can afford.

Remember Flashlight Rules 1 & 2.

- *Have a light when you need a light.*
- *Carry the brightest and most reliable light you can afford*

Hand Held Flashlight Techniques

FBI – The FBI technique is probably the oldest flashlight technique we use. The weapon stays in your dominant hand while the light is held in the non-dominant hand in the sword grip fashion at arms length. The theory behind this technique is the bad guy will shoot at the light which is held away from your body. The FBI technique does not work well with rear or tail cap switches.



Photo courtesy of Tony Gregory, Anthony Anderson & Indiana Law Enforcement Academy

Modified FBI – A modification of the technique is to hold the light with an grip and bring it in closer to the body. This technique is more adaptable to button lights than the traditional FBI



FBI
“ice pick”
The shooter reduces the technique. tail cap technique.

Photo courtesy of Brite-Strike Technologies, Inc.

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Harries – Developed by Michael Harries in the 1970’s, the light is held in an ice pick grip and the light hand is brought up under the weapon. The back of the light hand makes contact with the back of the gun hand. Cranking down on the light elbow will permit your dominant (weapon hand) arm to extend out.



Photos courtesy of Tony Gregory, Anthony Anderson & Indiana Law Enforcement Academy

Modified Harries - Similar to the traditional Harries, in this case the light hand comes over the top of the dominant side with wrist to wrist contact. Pistol shooters must remember to keep the light hand back from the weapon to prevent the slide from striking the light hand when it recoils to the rear.



Photos courtesy of Brite-Strike Technologies, Inc.

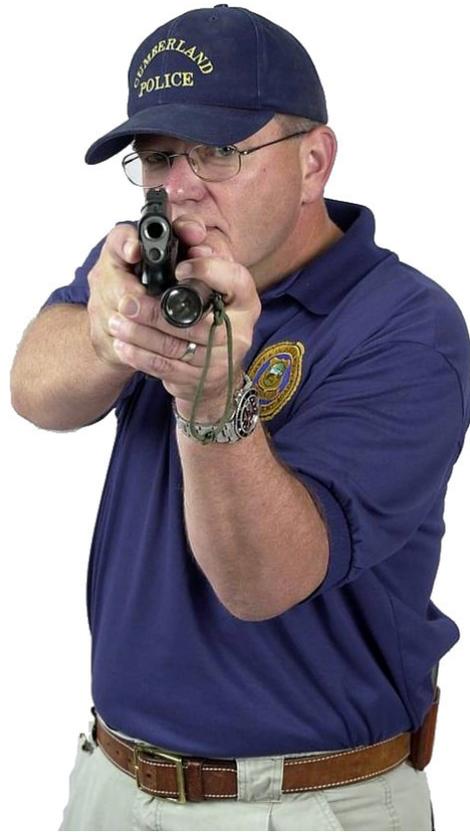
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Photos courtesy of Brite-Strike Technologies, Inc.

Neck Hold (Neck Index) – This technique works best with smaller tactical lights. The light is held in the ice pick grip and the hand is brought up into contact with the jawbone. Your knuckles will touch the bottom of your ear. The head is lowered and the upper body is “locked in” to provide a more rigid shooting stance. The positioning of the light will light up your sights however this technique requires you to shoot one handed.

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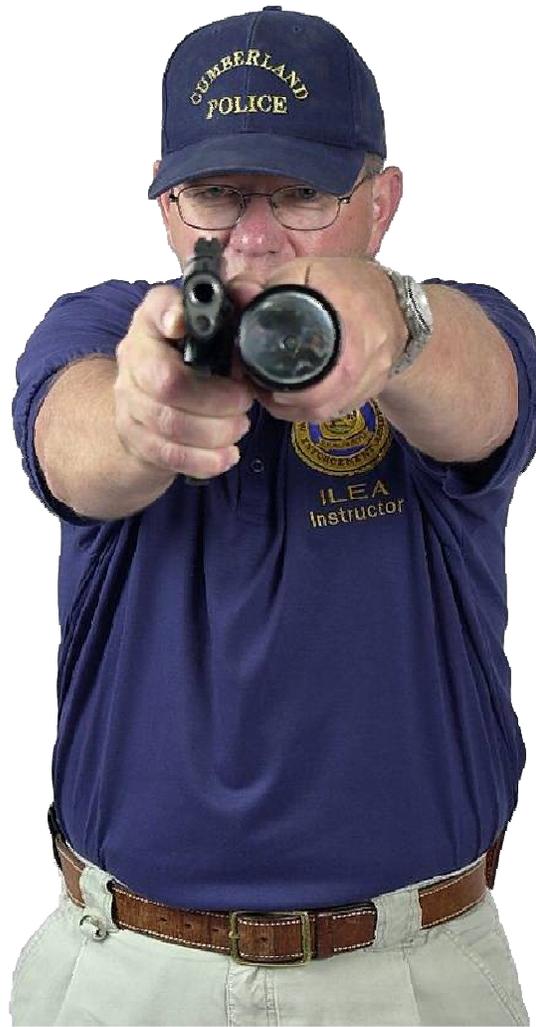


Photos courtesy of Tony Gregory, Anthony Anderson & Indiana Law Enforcement Academy

Close up shots of the Rogers or Syringe technique showing proper finger positioning and alignment.

Rogers / Syringe – This technique only works with small rear or tail cap button lights. Place the light between your non-dominant index and middle finger with the button back against the base of your thumb. The middle, ring and pinky finger wrap around your gun hand while the index finger and thumb support the light and provide pressure to activate it.

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Photos courtesy of Tony Gregory, Anthony Anderson & Indiana Law Enforcement Academy

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Ayoob

The Ayoob technique was designed to use with a side button light such as the older Maglight, Streamlight or Stinger models. Holding the light in a sword grip with your thumb on the button, bring the light in against your gun hand as shown in the photographs. Properly executed, the light will angle up slightly. At the typical engagement distance of 7 yards with your muzzle pointed at the center mass of the threat, the light will shine in their face blinding them.



Photos courtesy of Tony Gregory, Anthony Anderson & Indiana Law Enforcement Academy

Chapman

This technique was also created for side button lights as described in the Ayoob technique. It takes some getting used to and may not be the first technique you will feel comfortable with. It also may not produce the most support for your shooting hand. Form the OK sign with your non-dominant hand. Now rotate your hand so the palm is up. Hold the light with your thumb and index finger using the thumb to operate the light. Wrap the middle, ring and pinky fingers around your gun hand to provide support.

Tactical Use of the Light

Because we are so dependent on light for sensory input, police officers have a tendency to forget their light has an OFF button. When searching for a possible threat in the dark, leaving the light on can be a big disadvantage to us. As long as the light is on, it tells the bad guys exactly where we are and makes us a brightly lit target. Where ever possible, use your light judiciously. Do not compromise your night vision by excessive use of your light. Use the ambient light to your advantage. Our military forces own the night because of their ability to see in the dark with night vision gear. We don't have night vision goggles but the more comfortable we are working in the dark, the less we will give our presence away.

When using your light (regardless of type) with your service weapon, the light is on to identify the threat and illuminate the target if necessary to take the shot. Once you have taken the shot(s), switch the light off and move laterally (to the side). Illuminating the target will have degraded their night vision. If your shot(s) do not yield the anticipated results and the threat is still in the fight, their ability to see you will be lessened. By moving laterally, you move away from the line of fire if the threat returns fire along that axis. Light On – Evaluate (shoot if required) – Light Off – Move. It is very important to move laterally. If you move away from the threat, as most people do because of human nature, you are still in line with your previous location and in the line of fire.

Shooting with your light from behind cover will create issues you need to be aware of. If you are using any of the techniques where the support hand is holding the light and supporting the shooting hand, you are going to have to expose more of yourself to get the light out from behind the cover. Be aware that if you are close to cover, the light may splash back effectively illuminating you. You can

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reduce this effect by pushing the light out beyond cover however this can provide a lurking threat with an opportunity to grab your light or weapon.

Blind Spot Demonstration

The reason we normally do not notice our blind spots is because, when both eyes are open, the blind spot of one eye corresponds to retina that is seeing properly in the other eye. Here is a way for you to see just how absolutely blind your blind spot is. Below, you will observe a dot and a plus.



Follow these viewing instructions. Completely cover your left eye with an opaque flat object. Do not close your eye or press on it. Hold this page at arm's length from your eyes.

With your right eye, stare directly at the  above. In your periphery, you will notice the  to the right. ***Slowly*** bring the page closer to your face while ***continuing to stare at the*** .

At about 16-18 inches from your eyes, the  should ***disappear completely***, because it has been imaged onto the blind spot of your right eye. (Resist the temptation to move your right eye while the  is gone, or else it will reappear. Keep staring at the .)

As you continue to look at the , keep moving forward a few more inches, and the  will come back into view.

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Julian v. Randazzo, and Another
380 Mass. 391
Supreme Judicial Court
April 15, 1980

Main Point of Case:

In a tort action by the plaintiff who was mistakenly shot by a police officer as the officer was pursuing an individual suspected of committing a felony, there was no error in the judge's instructions with respect to the question whether the officer was justified in using deadly force to effect an arrest where the judge referred to s 120.7 of the Model Code of Pre-Arrest Procedure (1975)

Facts and Procedural History:

On July 5, 1976, two Medford police officers received a radio report of a hold-up in Malden. Shortly thereafter, these officers began a pursuit of three suspects in a Chevrolet Corvette. Over the course of a high-speed chase several shots were fired by the suspects at the officers' patrol car. At an intersection in Cambridge, the suspects' vehicle spun-out and stopped; the suspects then exited the vehicle and fled on foot. The patrol car ran into the Corvette and the officers similarly took to a foot pursuit of the suspects. Officer Randazzo, the defendant, fired his gun twice. The plaintiff, an innocent bystander, was struck in the elbow by a bullet. A little later, both officers approached the plaintiff, pointed their guns at the plaintiff, and told him not to move; after a neighbor convinced the officers that the plaintiff was a bystander and not a suspect, the officers continued their pursuit.

The plaintiff brought an action in tort against both officers as defendants for assault, assault and battery, false imprisonment, and "negligent denial of medical care". In the District Court, a jury returned verdicts in favor of the defendants and the plaintiff appealed to the Appeals Court on a challenge to the admission into evidence of a police investigation report as well as the instructions given by the District Court judge to the jury on the use of deadly force by a police officer. The Supreme Judicial Court, on its own initiative, ordered direct appellate review.

Holding:

Although the Supreme Judicial Court upheld the plaintiff's evidentiary argument and reversed the judgments, it did not find the lower court judge's jury charge on the matter of an officer's use of deadly force to be improper.

Reasoning:

The case was reversed because the jury was allowed to consider a police report which the court ruled was improperly admitted as evidence at the District Court level. However, the matter of present interest

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is how the Supreme Court looked upon the trial judge's charge to the jury concerning the use of deadly force by a police officer.

Adopting the same standard as the Court had articulated in *Commonwealth v. Klein*, 372 Mass. 823 (1977), the Randazzo Court adopted s 120.7 of the Model Code of Pre-Arrest Procedure (1975) which is essentially the same as s 3.07 of the Model Penal Code which was applied to a private citizen's use of deadly force in *Klein*. Those provisions of s 120.7 espoused by the Court are the following:

A law enforcement officer authorized to make an arrest....may use such force as is reasonably necessary to effect the arrest....The officer may use deadly force for these purposes only if:

- (a) the arrest is for a felony; and
- (b) the officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
- (c) the officer reasonably believes that:
 - (i) the crime for which the arrest is made involved conduct including the use or threatened use of deadly force; or
 - (ii) there is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed. (emphasis added).

The Court found this charge by the trial judge to be an accurate and legal assessment of an officer's right to use deadly force. Under such a charge, Officer Randazzo's use of deadly force in light of the given circumstances was therefore lawful

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Tennessee v. Garner
471 U.S. 1
U.S. Supreme Court 1694
March 27, 1985

In *Tennessee v. Garner*, 105 U.S. Supreme Court 1694 (1985), decided on March 27, 1985, The United States Supreme Court addressed the subject, The use of deadly force by police. In that case the court decided that:

1. Apprehension by use of deadly force is a seizure subject to the Fourth Amendment's reasonableness requirement.
2. Deadly force may not be used unless it is necessary to prevent escape and the officer has probable cause to believe that the suspect poses a significant threat of death of serious physical injury to the officer or others.
3. The Tennessee statute, under authority of which a police officer fired a fatal shot, was unconstitutional insofar as it authorized use of deadly force against an apparently unarmed, non-dangerous, fleeing suspect.

Facts of the Case:

At about 10:45PM, on October 3, 1974, the Memphis police were dispatched to answer a "Prowler Inside" call. Upon arriving at the scene, they saw a woman standing on her porch and gesturing toward the adjacent house. She told the police that she had heard glass breaking and that "they" or "someone" was breaking in next door. One police officer, Leslie Wright, radioed the dispatcher to say that they were on the scene, while his partner, Elton Hymon, went behind the house. He (Hymon) heard a door slam and saw someone run across the back yard. The fleeing suspect, Edward Garner, stopped at a 6 foot high chain link fence at the edge of the yard. With the aid of a flashlight, Hymon was able to see Garner's face and hands. He saw no sign of a weapon and, though not certain, was "reasonably sure" and "figured" that Garner was unarmed. He thought Garner was 17 or 18 years old and about 5'5" or 5'7" tall. While Garner was crouched at the base of the fence, Hymon called out, "Police! Halt!" and

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took a few steps toward him. Garner began to climb over the fence. Convinced that if Garner made it over the fence he would elude capture, Hymon shot him. The bullet hit Garner in the back of the head. Garner was taken by ambulance to a hospital, where he died on the operating table. Ten dollars and a purse taken from the house were found on his body.

Issue:

Was the use of deadly force justified to capture a fleeing felon where the subject poses no immediate threat to the officer and no threat to others, notwithstanding a Tennessee statute and departmental policy allowing such action.

Decision:

“The Tennessee statute is UNCONSTITUTIONAL.....”

Where a police officer has probable cause to believe that a criminal suspect poses a threat of serious physical harm either to the officer or to others, it is not unconstitutionally unreasonable to prevent escape by using deadly force: thus, if the suspect threatens the officer with a weapon, or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used, if necessary, to prevent escape, and if, where feasible, some warning has been given.

A police officer responding to a nighttime burglary call could not reasonably have believed that the fleeing suspect, who was young, slight of build and unarmed, posed any threat. The fact that the suspect, who was fatally shot, was a suspected burglar could not, of itself, automatically justify the use of deadly force to effect his apprehension.

Although the armed burglar would present a different situation, the fact that an unarmed suspect has broken into a dwelling at night does not automatically mean that he is physically dangerous, do as to justify the use of deadly force in effectuating his apprehension.

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Summary:

In this decision the Court is saying that the use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. The justices state, "It is not better that all felony suspects die than that they escape." Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so.

The Supreme Court takes into account, with the rendering of this decision, the realistic possibility of felony suspects alluding arrest and thereby escaping trial, punishment, etc. However, they have applied a "balancing test" between the "government's interest in effective law enforcement" and that of the "reasonableness" of the intrusion upon the suspect's rights; in this case, the apprehension by the use of deadly force (Fourth Amendment).

The justices opine that it is unfortunate when a suspect, who is in sight, escapes. However, "the fact that the police arrive a little late, or are a little slow afoot, does not always justify the killing of the suspect". A police officer may not seize an unarmed, non-dangerous suspect, by shooting him dead.

This case is extremely important in that it has found the so-called "fleeing felon" rule to be unconstitutional; notwithstanding the fact that the culprit may make good his/her escape. However, the Court has not turned its back upon officer safety, or that of the public. It states "Where the officer has probable cause to believe that the suspect poses a threat or serious physical harm, either to the officer or to others, it is not unconstitutionally unreasonable for said officer to use deadly force."

Thus, if the suspect threatens a police officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary, to prevent escape: and if, where feasible, some warning has been given.

U.S. Supreme Court

GRAHAM v. CONNOR, 490 U.S. 386 (1989)

490 U.S. 386

**GRAHAM v. CONNOR ET AL.
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH
CIRCUIT**

No. 87-6571.

Argued February 21, 1989

Decided May 15, 1989

Petitioner Graham, a diabetic, asked his friend, Berry, to drive him to a convenience store to purchase orange juice to counteract the onset of an insulin reaction. Upon entering the store and seeing the number of people ahead of him, Graham hurried out and asked Berry to drive him to a friend's house instead. Respondent Connor, a city police officer, became suspicious after seeing Graham hastily enter and leave the store, followed Berry's car, and made an investigative stop, ordering the pair to wait while he found out what had happened in the store. Respondent backup police officers arrived on the scene, handcuffed Graham, and ignored or rebuffed attempts to explain and treat Graham's condition. During the encounter, Graham sustained multiple injuries. He was released when Connor learned that nothing had happened in the store. Graham filed suit in the District Court under 42 U.S.C. 1983 against respondents, alleging that they had used excessive force in making the stop, in violation of "rights secured to him under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. 1983." The District Court granted respondents' motion for a directed verdict at the close of Graham's evidence, applying a four-factor test for determining when excessive use of force gives rise to a 1983 cause of action, which inquires, inter alia, whether the force was applied in a good-faith effort to maintain and restore discipline or maliciously and sadistically for the very purpose of causing harm. *Johnson v. Glick*, 481 F.2d 1028. The Court of Appeals affirmed, endorsing this test as generally applicable to all claims of constitutionally excessive force brought against government officials, rejecting Graham's argument that it was error to require him to prove that the allegedly excessive force was applied maliciously and sadistically to cause harm, and holding that a reasonable jury applying the *Johnson v. Glick* test to his evidence could not find that the force applied was constitutionally excessive.

Held:

All claims that law enforcement officials have used excessive force - deadly or not - in the course of an arrest, investigatory stop, or other "seizure" of a free citizen are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard. Pp. 392-399. [490 U.S. 386, 387]

(a) The notion that all excessive force claims brought under 1983 are governed by a single generic standard is rejected. Instead, courts must identify the specific constitutional right

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allegedly infringed by the challenged application of force and then judge the claim by reference to the specific constitutional standard which governs that right. Pp. 393-394.

(b) Claims that law enforcement officials have used excessive force in the course of an arrest, investigatory stop, or other "seizure" of a free citizen are most properly characterized as invoking the protections of the Fourth Amendment, which guarantees citizens the right "to be secure in their persons . . . against unreasonable seizures," and must be judged by reference to the Fourth Amendment's "reasonableness" standard. Pp. 394-395.

(c) The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. Pp. 396-397.

(d) The *Johnson v. Glick* test applied by the courts below is incompatible with a proper Fourth Amendment analysis. The suggestion that the test's "malicious and sadistic" inquiry is merely another way of describing conduct that is objectively unreasonable under the circumstances is rejected. Also rejected is the conclusion that because individual officers' subjective motivations are of central importance in deciding whether force used against a convicted prisoner violates the Eighth Amendment, it cannot be reversible error to inquire into them in deciding whether force used against a suspect or arrestee violates the Fourth Amendment. The Eighth Amendment terms "cruel" and "punishments" clearly suggest some inquiry into subjective state of mind, whereas the Fourth Amendment term "unreasonable" does not. Moreover, the less protective Eighth Amendment standard applies only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions. Pp. 397-399.

827 F.2d 945, vacated and remanded.

REHNQUIST, C. J., delivered the opinion of the Court, in which WHITE, STEVENS, O'CONNOR, SCALIA, and KENNEDY, JJ., joined. BLACKMUN, J., filed an opinion concurring in part and concurring in the judgment, in which BRENNAN and MARSHALL, JJ., joined, post, p. 399. [490 U.S. 386, 388]

H. Gerald Beaver argued the cause for petitioner. On the briefs was Richard B. Glazier.

Mark I. Levy argued the cause for respondents. On the brief was Frank B. Aycock III. *

[[Footnote *](#)] Briefs of amici curiae urging reversal were filed for the United States by Solicitor General Fried, Assistant Attorney General Reynolds, Deputy Assistant Attorney General Clegg, David L. Shapiro, Brian J. Martin, and David K. Flynn; and for the American Civil Liberties Union et al. by Steven R. Shapiro. Lacy H. Thornburg, Attorney General of North Carolina, Isaac T. Avery III, Special Deputy Attorney General, and Linda Anne Morris, Assistant Attorney General, filed a brief for the State of North Carolina as amicus curiae urging affirmance.

CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

This case requires us to decide what constitutional standard governs a free citizen's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other

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"seizure" of his person. We hold that such claims are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard.

In this action under 42 U.S.C. 1983, petitioner Dethorne Graham seeks to recover damages for injuries allegedly sustained when law enforcement officers used physical force against him during the course of an investigatory stop. Because the case comes to us from a decision of the Court of Appeals affirming the entry of a directed verdict for respondents, we take the evidence hereafter noted in the light most favorable to petitioner. On November 12, 1984, Graham, a diabetic, felt the onset of an insulin reaction. He asked a friend, William Berry, to drive him to a nearby convenience store so he could purchase some orange juice to counteract the reaction. Berry agreed, but when Graham entered the store, he saw a number of people ahead of him in the checkout [490 U.S. 386, 389] line. Concerned about the delay, he hurried out of the store and asked Berry to drive him to a friend's house instead.

Respondent Connor, an officer of the Charlotte, North Carolina, Police Department, saw Graham hastily enter and leave the store. The officer became suspicious that something was amiss and followed Berry's car. About one-half mile from the store, he made an investigative stop. Although Berry told Connor that Graham was simply suffering from a "sugar reaction," the officer ordered Berry and Graham to wait while he found out what, if anything, had happened at the convenience store. When Officer Connor returned to his patrol car to call for backup assistance, Graham got out of the car, ran around it twice, and finally sat down on the curb, where he passed out briefly.

In the ensuing confusion, a number of other Charlotte police officers arrived on the scene in response to Officer Connor's request for backup. One of the officers rolled Graham over on the sidewalk and cuffed his hands tightly behind his back, ignoring Berry's pleas to get him some sugar. Another officer said: "I've seen a lot of people with sugar diabetes that never acted like this. Ain't nothing wrong with the M. F. but drunk. Lock the S. B. up." App. 42. Several officers then lifted Graham up from behind, carried him over to Berry's car, and placed him face down on its hood. Regaining consciousness, Graham asked the officers to check in his wallet for a diabetic decal that he carried. In response, one of the officers told him to "shut up" and shoved his face down against the hood of the car. Four officers grabbed Graham and threw him headfirst into the police car. A friend of Graham's brought some orange juice to the car, but the officers refused to let him have it. Finally, Officer Connor received a report that Graham had done nothing wrong at the convenience store, and the officers drove him home and released him. [490 U.S. 386, 390]

At some point during his encounter with the police, Graham sustained a broken foot, cuts on his wrists, a bruised forehead, and an injured shoulder; he also claims to have developed a loud ringing in his right ear that continues to this day. He commenced this action under 42 U.S.C. 1983 against the individual officers involved in the incident, all of whom are respondents here, 1 alleging that they had used excessive force in making the investigatory stop, in violation of "rights secured to him under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. 1983." Complaint 10, App. 5. 2 The case was tried before a jury. At the close of petitioner's evidence, respondents moved for a directed verdict. In ruling on that motion, the District Court considered the following four factors, which it identified as "[t]he factors to be considered in determining when the excessive use of force gives rise to a cause of action under 1983": (1) the need for the application of force; (2) the relationship between that need and the amount of force that was used; (3) the extent of the injury inflicted; and (4) "[w]hether the force was applied in a good faith effort to maintain and restore discipline or maliciously and sadistically

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for the very purpose of causing harm." 644 F. Supp. 246, 248 (WDNC 1986). Finding that the amount of force used by the officers was "appropriate under the circumstances," that "[t]here was no discernable injury inflicted," and that the force used "was not applied maliciously or sadistically for the very purpose of causing harm," but in "a good faith effort to maintain or restore order in the face of a potentially explosive [490 U.S. 386, 391] situation." *id.*, at 248-249, the District Court granted respondents' motion for a directed verdict.

A divided panel of the Court of Appeals for the Fourth Circuit affirmed. 827 F.2d 945 (1987). The majority ruled first that the District Court had applied the correct legal standard in assessing petitioner's excessive force claim. *Id.*, at 948-949. Without attempting to identify the specific constitutional provision under which that claim arose, 3 the majority endorsed the four-factor test applied by the District Court as generally applicable to all claims of "constitutionally excessive force" brought against governmental officials. *Id.*, at 948. The majority rejected petitioner's argument, based on Circuit precedent, 4 that it was error to require him to prove that the allegedly excessive force used against him was applied "maliciously and sadistically for the very purpose of causing harm." 5 *Ibid.* Finally, the majority held that a reasonable jury applying the four-part test it had just endorsed [490 U.S. 386, 392] to petitioner's evidence "could not find that the force applied was constitutionally excessive." *Id.*, at 949-950. The dissenting judge argued that this Court's decisions in *Terry v. Ohio*, 392 U.S. 1 (1968), and *Tennessee v. Garner*, 471 U.S. 1 (1985), required that excessive force claims arising out of investigatory stops be analyzed under the Fourth Amendment's "objective reasonableness" standard. 827 F.2d, at 950-952. We granted certiorari, 488 U.S. 816 (1988), and now reverse.

Fifteen years ago, in *Johnson v. Glick*, 481 F.2d 1028, cert. denied, 414 U.S. 1033 (1973), the Court of Appeals for the Second Circuit addressed a 1983 damages claim filed by a pretrial detainee who claimed that a guard had assaulted him without justification. In evaluating the detainee's claim, Judge Friendly applied neither the Fourth Amendment nor the Eighth, the two most textually obvious sources of constitutional protection against physically abusive governmental conduct. 6 Instead, he looked to "substantive due process," holding that "quite apart from any `specific' of the Bill of Rights, application of undue force by [490 U.S. 386, 393] law enforcement officers deprives a suspect of liberty without due process of law." 481 F.2d, at 1032. As support for this proposition, he relied upon our decision in *Rochin v. California*, 342 U.S. 165 (1952), which used the Due Process Clause to void a state criminal conviction based on evidence obtained by pumping the defendant's stomach. 481 F.2d, at 1032-1033. If a police officer's use of force which "shocks the conscience" could justify setting aside a criminal conviction, Judge Friendly reasoned, a correctional officer's use of similarly excessive force must give rise to a due process violation actionable under 1983. *Ibid.* Judge Friendly went on to set forth four factors to guide courts in determining "whether the constitutional line has been crossed" by a particular use of force - the same four factors relied upon by the courts below in this case. *Id.*, at 1033.

In the years following *Johnson v. Glick*, the vast majority of lower federal courts have applied its four-part "substantive due process" test indiscriminately to all excessive force claims lodged against law enforcement and prison officials under 1983, without considering whether the particular application of force might implicate a more specific constitutional right governed by a different standard. 7 Indeed, many courts have seemed to assume, as did the courts below in this case, that there is a generic "right" to be free from excessive force, grounded not in any particular constitutional provision but rather in "basic principles of 1983 jurisprudence." 8

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We reject this notion that all excessive force claims brought under 1983 are governed by a single generic standard. As we have said many times, 1983 "is not itself a [490 U.S. 386, 394] source of substantive rights," but merely provides "a method for vindicating federal rights elsewhere conferred." *Baker v. McCollan*, [443 U.S. 137, 144](#), n. 3 (1979). In addressing an excessive force claim brought under 1983, analysis begins by identifying the specific constitutional right allegedly infringed by the challenged application of force. See *id.*, at 140 ("The first inquiry in any 1983 suit" is "to isolate the precise constitutional violation with which [the defendant] is charged"). ⁹ In most instances, that will be either the Fourth Amendment's prohibition against unreasonable seizures of the person, or the Eighth Amendment's ban on cruel and unusual punishments, which are the two primary sources of constitutional protection against physically abusive governmental conduct. The validity of the claim must then be judged by reference to the specific constitutional standard which governs that right, rather than to some generalized "excessive force" standard. See *Tennessee v. Garner*, *supra*, at 7-22 (claim of excessive force to effect arrest analyzed under a Fourth Amendment standard); *Whitley v. Albers*, [475 U.S. 312, 318](#) -326 (1986) (claim of excessive force to subdue convicted prisoner analyzed under an Eighth Amendment standard).

Where, as here, the excessive force claim arises in the context of an arrest or investigatory stop of a free citizen, it is most properly characterized as one invoking the protections of the Fourth Amendment, which guarantees citizens the right "to be secure in their persons . . . against unreasonable . . . seizures" of the person. This much is clear from our decision in *Tennessee v. Garner*, *supra*. In *Garner*, we addressed a claim that the use of deadly force to apprehend a fleeing suspect who did not appear to be armed or otherwise dangerous violated the suspect's constitutional rights, notwithstanding the existence of probable cause to arrest. [490 U.S. 386, 395] Though the complaint alleged violations of both the Fourth Amendment and the Due Process Clause, see [471 U.S., at 5](#), we analyzed the constitutionality of the challenged application of force solely by reference to the Fourth Amendment's prohibition against unreasonable seizures of the person, holding that the "reasonableness" of a particular seizure depends not only on when it is made, but also on how it is carried out. *Id.*, at 7-8. Today we make explicit what was implicit in *Garner*'s analysis, and hold that all claims that law enforcement officers have used excessive force - deadly or not - in the course of an arrest, investigatory stop, or other "seizure" of a free citizen should be analyzed under the Fourth Amendment and its "reasonableness" standard, rather than under a "substantive due process" approach. Because the Fourth Amendment provides an explicit textual source of constitutional protection against this sort of physically intrusive governmental conduct, that Amendment, not the more generalized notion of "substantive due process," must be the guide for analyzing these claims. ¹⁰ [490 U.S. 386, 396]

Determining whether the force used to effect a particular seizure is "reasonable" under the Fourth Amendment requires a careful balancing of "the nature and quality of the intrusion on the individual's Fourth Amendment interests" against the countervailing governmental interests at stake. *Id.*, at 8, quoting *United States v. Place*, [462 U.S. 696, 703](#) (1983). Our Fourth Amendment jurisprudence has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it. See *Terry v. Ohio*, [392 U.S., at 22](#) - 27. Because "[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application," *Bell v. Wolfish*, [441 U.S. 520, 559](#) (1979), 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. See

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Tennessee v. Garner, [471 U.S., at 8](#) -9 (the question is "whether the totality of the circumstances justify[s] a particular sort of . . . seizure").

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. See *Terry v. Ohio*, supra, at 20-22. The Fourth Amendment is not violated by an arrest based on probable cause, even though the wrong person is arrested, *Hill v. California*, [401 U.S. 797](#) (1971), nor by the mistaken execution of a valid search warrant on the wrong premises, *Maryland v. Garrison*, [480 U.S. 79](#) (1987). 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 [[490 U.S. 386, 397](#)] 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.

As in other Fourth Amendment contexts, however, the "reasonableness" inquiry in an excessive force case is an objective one: the question is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. See *Scott v. United States*, [436 U.S. 128, 137](#) -139 (1978); see also *Terry v. Ohio*, supra, at 21 (in analyzing the reasonableness of a particular search or seizure, "it is imperative that the facts be judged against an objective standard"). An officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer's good intentions make an objectively unreasonable use of force constitutional. See *Scott v. United States*, supra, at 138, citing *United States v. Robinson*, [414 U.S. 218](#) (1973).

Because petitioner's excessive force claim is one arising under the Fourth Amendment, the Court of Appeals erred in analyzing it under the four-part *Johnson v. Glick* test. That test, which requires consideration of whether the individual officers acted in "good faith" or "maliciously and sadistically for the very purpose of causing harm," is incompatible with a proper Fourth Amendment analysis. We do not agree with the Court of Appeals' suggestion, see 827 F.2d, at 948, that the "malicious and sadistic" inquiry is merely another way of describing conduct that is objectively unreasonable under the circumstances. Whatever the empirical correlations between "malicious and sadistic" behavior and objective unreasonableness may be, the fact remains that the "malicious and sadistic" factor puts in issue the subjective motivations of the individual officers, which our prior cases make clear has no bearing on whether a particular seizure is "unreasonable" under the Fourth Amendment. Nor do we agree with the [[490 U.S. 386, 398](#)] Court of Appeals' conclusion, see id., at 948, n. 3, that because the subjective motivations of the individual officers are of central importance in deciding whether force used against a convicted prisoner violates the Eighth Amendment, see *Whitley v. Albers*, [475 U.S., at 320](#) -321, [11](#) it cannot be reversible error to inquire into them in deciding whether force used against a suspect or arrestee violates the Fourth Amendment. Differing standards under the Fourth and Eighth Amendments are hardly surprising: the terms "cruel" and "punishments" clearly suggest some inquiry into subjective state of mind, whereas the term "unreasonable" does not. Moreover, the less protective Eighth Amendment standard applies "only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions." *Ingraham v. Wright*, [430 U.S. 651, 671](#), [[490 U.S. 386, 399](#)] n. 40 (1977). The Fourth Amendment inquiry is one of "objective reasonableness" under the

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circumstances, and subjective concepts like "malice" and "sadism" have no proper place in that inquiry. [12](#)

Because the Court of Appeals reviewed the District Court's ruling on the motion for directed verdict under an erroneous view of the governing substantive law, its judgment must be vacated and the case remanded to that court for reconsideration of that issue under the proper Fourth Amendment standard.

It is so ordered.

Footnotes

[[Footnote 1](#)] Also named as a defendant was the city of Charlotte, which employed the individual respondents. The District Court granted a directed verdict for the city, and petitioner did not challenge that ruling before the Court of Appeals. Accordingly, the city is not a party to the proceedings before this Court.

[[Footnote 2](#)] Petitioner also asserted pendent state-law claims of assault, false imprisonment, and intentional infliction of emotional distress. Those claims have been dismissed from the case and are not before this Court.

[[Footnote 3](#)] The majority did note that because Graham was not an incarcerated prisoner, "his complaint of excessive force did not, therefore, arise under the eighth amendment." 827 F.2d, at 948, n. 3. However, it made no further effort to identify the constitutional basis for his claim.

[[Footnote 4](#)] Petitioner's argument was based primarily on *Kidd v. O'Neil*, 774 F.2d 1252 (CA4 1985), which read this Court's decision in *Tennessee v. Garner*, [471 U.S. 1](#) (1985), as mandating application of a Fourth Amendment "objective reasonableness" standard to claims of excessive force during arrest. See 774 F.2d, at 1254-1257. The reasoning of *Kidd* was subsequently rejected by the en banc Fourth Circuit in *Justice v. Dennis*, 834 F.2d 380, 383 (1987), cert. pending, No. 87-1422.

[[Footnote 5](#)] The majority noted that in *Whitley v. Albers*, [475 U.S. 312](#) (1986), we held that the question whether physical force used against convicted prisoners in the course of quelling a prison riot violates the Eighth Amendment "ultimately turns on whether force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm." 827 F.2d, at 948, n. 3, quoting *Whitley v. Albers*, supra, at 320-321. Though the Court of Appeals acknowledged that petitioner was not a convicted prisoner, it thought it "unreasonable . . . to suggest that a conceptual factor could be central to one type of excessive force claim but reversible error when merely considered by the court in another context." 827 F.2d, at 948, n. 3.

[[Footnote 6](#)] Judge Friendly did not apply the Eighth Amendment's Cruel and Unusual Punishments Clause to the detainee's claim for two reasons. First, he thought that the Eighth Amendment's protections did not attach until after conviction and sentence. 481 F.2d, at 1032. This view was confirmed by *Ingraham v. Wright*, [430 U.S. 651, 671](#), n. 40 (1977) ("Eighth Amendment scrutiny is appropriate only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions"). Second, he expressed doubt whether a "spontaneous attack" by a prison guard, done without the authorization of prison officials, fell within the traditional Eighth Amendment definition of

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"punishments." 481 F.2d, at 1032. Although Judge Friendly gave no reason for not analyzing the detainee's claim under the Fourth Amendment's prohibition against "unreasonable . . . seizures" of the person, his refusal to do so was apparently based on a belief that the protections of the Fourth Amendment did not extend to pretrial detainees. See *id.*, at 1033 (noting that "most of the courts faced with challenges to the conditions of pretrial detention have primarily based their analysis directly on the due process clause"). See n. 10, *infra*.

[[Footnote 7](#)] See Freyermuth, *Rethinking Excessive Force*, 1987 Duke L. J. 692, 694-696, and nn. 16-23 (1987) (collecting cases).

[[Footnote 8](#)] See *Justice v. Dennis*, *supra*, at 382 ("There are . . . certain basic principles in section 1983 jurisprudence as it relates to claims of excessive force that are beyond question [,] [w]hether the factual circumstances involve an arrestee, a pretrial detainee or a prisoner").

[[Footnote 9](#)] The same analysis applies to excessive force claims brought against federal law enforcement and correctional officials under *Bivens v. Six Unknown Fed. Narcotics Agents*, [403 U.S. 388](#) (1971).

[[Footnote 10](#)] A "seizure" triggering the Fourth Amendment's protections occurs only when government actors have, "by means of physical force or show of authority, . . . in some way restrained the liberty of a citizen," *Terry v. Ohio*, [392 U.S. 1, 19](#), n. 16 (1968); see *Brower v. County of Inyo*, [489 U.S. 593, 596](#) (1989). Our cases have not resolved the question whether the Fourth Amendment continues to provide individuals with protection against the deliberate use of excessive physical force beyond the point at which arrest ends and pretrial detention begins, and we do not attempt to answer that question today. It is clear, however, that the Due Process Clause protects a pretrial detainee from the use of excessive force that amounts to punishment. See *Bell v. Wolfish*, [441 U.S. 520, 535](#)-539 (1979). After conviction, the Eighth Amendment "serves as the primary source of substantive protection . . . in cases . . . where the deliberate use of force is challenged as excessive and unjustified." *Whitley v. Albers*, [475 U.S., at 327](#). Any protection that "substantive due process" affords convicted prisoners against excessive force is, we have held, at best redundant of that provided by the Eighth Amendment. *Ibid*.

[[Footnote 11](#)] In *Whitley*, we addressed a 1983 claim brought by a convicted prisoner, who claimed that prison officials had violated his Eighth Amendment rights by shooting him in the knee during a prison riot. We began our Eighth Amendment analysis by reiterating the long-established maxim that an Eighth Amendment violation requires proof of the "'unnecessary and wanton infliction of pain.'" [475 U.S., at 319](#), quoting *Ingraham v. Wright*, [430 U.S., at 670](#), in turn quoting *Estelle v. Gamble*, [429 U.S. 97, 103](#) (1976). We went on to say that when prison officials use physical force against an inmate "to restore order in the face of a prison disturbance, . . . the question whether the measure taken inflicted unnecessary and wanton pain . . . ultimately turns on `whether the force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm.'" [475 U.S., at 320](#)-321 (emphasis added), quoting *Johnson v. Glick*, 481 F.2d, at 1033. We also suggested that the other prongs of the *Johnson v. Glick* test might be useful in analyzing excessive force claims brought under the Eighth Amendment. [475 U.S., at 321](#). But we made clear that this was so not because Judge Friendly's four-part test is some talismanic formula generally applicable to all excessive force claims, but because its four factors help to focus the central inquiry in the Eighth Amendment

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context, which is whether the particular use of force amounts to the "unnecessary and wanton infliction of pain." See *id.*, at 320-321. Our endorsement of the *Johnson v. Glick* test in *Whitley* thus had no implications beyond the Eighth Amendment context.

[[Footnote 12](#)] Of course, in assessing the credibility of an officer's account of the circumstances that prompted the use of force, a factfinder may consider, along with other factors, evidence that the officer may have harbored ill-will toward the citizen. See *Scott v. United States*, [436 U.S. 128, 139](#), n. 13 (1978). Similarly, the officer's objective "good faith" - that is, whether he could reasonably have believed that the force used did not violate the Fourth Amendment - may be relevant to the availability of the qualified immunity defense to monetary liability under 1983. See *Anderson v. Creighton*, [483 U.S. 635](#) (1987). Since no claim of qualified immunity has been raised in this case, however, we express no view on its proper application in excessive force cases that arise under the Fourth Amendment.

JUSTICE BLACKMUN, with whom JUSTICE BRENNAN and JUSTICE MARSHALL join, concurring in part and concurring in the judgment.

I join the Court's opinion insofar as it rules that the Fourth Amendment is the primary tool for analyzing claims of excessive force in the prearrest context, and I concur in the judgment remanding the case to the Court of Appeals for reconsideration of the evidence under a reasonableness standard. In light of respondents' concession, however, that the pleadings in this case properly may be construed as raising a Fourth Amendment claim, see Brief for Respondents 3, I see no reason for the Court to find it necessary further to reach out to decide that prearrest excessive force claims are to be analyzed under the Fourth Amendment rather than under a [\[490 U.S. 386, 400\]](#) substantive due process standard. I also see no basis for the Court's suggestion, *ante*, at 395, that our decision in *Tennessee v. Garner*, [471 U.S. 1](#) (1985), implicitly so held. Nowhere in *Garner* is a substantive due process standard for evaluating the use of excessive force in a particular case discussed; there is no suggestion that such a standard was offered as an alternative and rejected.

In this case, petitioner apparently decided that it was in his best interest to disavow the continued applicability of substantive due process analysis as an alternative basis for recovery in prearrest excessive force cases. See Brief for Petitioner 20. His choice was certainly wise as a matter of litigation strategy in his own case, but does not (indeed, cannot be expected to) serve other potential plaintiffs equally well. It is for that reason that the Court would have done better to leave that question for another day. I expect that the use of force that is not demonstrably unreasonable under the Fourth Amendment only rarely will raise substantive due process concerns. But until I am faced with a case in which that question is squarely raised, and its merits are subjected to adversary presentation, I do not join in foreclosing the use of substantive due process analysis in prearrest cases. [\[490 U.S. 386, 401\]](#)

U.S. Supreme Court

TENNESSEE v. GARNER, 471 U.S. 1 (1985)

471 U.S. 1

TENNESSEE v. GARNER ET AL.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 83-1035.

Argued October 30, 1984

Decided March 27, 1985 *

A Tennessee statute provides that if, after a police officer has given notice of an intent to arrest a criminal suspect, the suspect flees or forcibly resists, "the officer may use all the necessary means to effect the arrest." Acting under the authority of this statute, a Memphis police officer shot and killed appellee-respondent Garner's son as, after being told to halt, the son fled over a fence at night in the backyard of a house he was suspected of burglarizing. The officer used deadly force despite being "reasonably sure" the suspect was unarmed and thinking that he was 17 or 18 years old and of slight build. The father subsequently brought an action in Federal District Court, seeking damages under 42 U.S.C. 1983 for asserted violations of his son's constitutional rights. The District Court held that the statute and the officer's actions were constitutional. The Court of Appeals reversed.

Held:

The Tennessee statute is unconstitutional insofar as it authorizes the use of deadly force against, as in this case, an apparently unarmed, nondangerous fleeing suspect; such force may not be used unless necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others. Pp. 7-22. [471 U.S. 1, 2]

(a) Apprehension by the use of deadly force is a seizure subject to the Fourth Amendment's reasonableness requirement. To determine whether such a seizure is reasonable, the extent of the intrusion on the suspect's rights under that Amendment must be balanced against the governmental interests in effective law enforcement. This balancing process demonstrates that, notwithstanding probable cause to seize a suspect, an officer may not always do so by killing him. The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. Pp. 7-12.

(b) The Fourth Amendment, for purposes of this case, should not be construed in light of the common-law rule allowing the use of whatever force is necessary to effect the arrest of a fleeing felon. Changes in the legal and technological context mean that that rule is distorted almost beyond recognition when literally applied. Whereas felonies were formerly capital crimes, few are now, or can be, and many crimes classified as misdemeanors, or nonexistent, at common law are now felonies. Also, the common-law rule developed at a time when weapons were rudimentary. And, in light of the varied rules adopted in the States indicating a long-term movement away from the common-law rule, particularly in the police departments themselves,

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that rule is a dubious indicium of the constitutionality of the Tennessee statute. There is no indication that holding a police practice such as that authorized by the statute unreasonable will severely hamper effective law enforcement. Pp. 12-20.

(c) While burglary is a serious crime, the officer in this case could not reasonably have believed that the suspect - young, slight, and unarmed - posed any threat. Nor does the fact that an unarmed suspect has broken into a dwelling at night automatically mean he is dangerous. Pp. 20-22.

710 F.2d 240, affirmed and remanded.

WHITE, J., delivered the opinion of the Court, in which BRENNAN, MARSHALL, BLACKMUN, POWELL, and STEVENS, JJ., joined. O'CONNOR, J., filed a dissenting opinion, in which BURGER, C. J., and REHNQUIST, J., joined, post, p. 22.

[[Footnote *](#)] Together with No. 83-1070, Memphis Police Department et al. v. Garner et al., on certiorari to the same court.

Henry L. Klein argued the cause for petitioners in No. 83-1070. With him on the briefs were Clifford D. Pierce, Jr., Charles V. Holmes, and Paul F. Goodman. W. J. Michael Cody, Attorney General of Tennessee, argued the cause for appellant in No. 83-1035. With him on the briefs were William M. Leech, Jr., former Attorney General, and Jerry L. Smith, Assistant Attorney General. [471 U.S. 1, 3]

Steven L. Winter argued the cause for appellee-respondent Garner. With him on the brief was Walter L. Bailey, Jr.Fn

Fn [471 U.S. 1, 3] Briefs of amici curiae urging affirmance were filed for the Florida Chapter of the National Bar Association by Deitra Micks; and for the Police Foundation et al. by William Josephson, Robert Kasanof, Philip Lacovara, and Margaret Bush Wilson.

JUSTICE WHITE delivered the opinion of the Court.

This case requires us to determine the constitutionality of the use of deadly force to prevent the escape of an apparently unarmed suspected felon. We conclude that such force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

I

At about 10:45 p. m. on October 3, 1974, Memphis Police Officers Elton Hymon and Leslie Wright were dispatched to answer a "prowler inside call." Upon arriving at the scene they saw a woman standing on her porch and gesturing toward the adjacent house. ¹ She told them she had heard glass breaking and that "they" or "someone" was breaking in next door. While Wright radioed the dispatcher to say that they were on the scene, Hymon went behind the house. He heard a door slam and saw someone run across the backyard. The fleeing suspect, who was appellee-respondent's decedent, Edward Garner, stopped at a 6-foot-high chain link fence at the edge of the yard. With the aid of a flashlight, Hymon was able to see Garner's face and hands. He saw no sign of a weapon, and, though not certain, was "reasonably sure" and "figured" that Garner was unarmed. App. 41, 56; Record 219. He thought

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Garner was 17 or 18 years old and [471 U.S. 1, 4] about 5' 5" or 5' 7" tall. 2 While Garner was crouched at the base of the fence, Hymon called out "police, halt" and took a few steps toward him. Garner then began to climb over the fence. Convinced that if Garner made it over the fence he would elude capture, 3 Hymon shot him. The bullet hit Garner in the back of the head. Garner was taken by ambulance to a hospital, where he died on the operating table. Ten dollars and a purse taken from the house were found on his body. 4

In using deadly force to prevent the escape, Hymon was acting under the authority of a Tennessee statute and pursuant to Police Department policy. The statute provides that "[i]f, after notice of the intention to arrest the defendant, he either flee or forcibly resist, the officer may use all the necessary means to effect the arrest." Tenn. Code Ann. [471 U.S. 1, 5] 40-7-108 (1982). 5 The Department policy was slightly more restrictive than the statute, but still allowed the use of deadly force in cases of burglary. App. 140-144. The incident was reviewed by the Memphis Police Firearm's Review Board and presented to a grand jury. Neither took any action. *Id.*, at 57.

Garner's father then brought this action in the Federal District Court for the Western District of Tennessee, seeking damages under 42 U.S.C. 1983 for asserted violations of Garner's constitutional rights. The complaint alleged that the shooting violated the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution. It named as defendants Officer Hymon, the Police Department, its Director, and the Mayor and city of Memphis. After a 3-day bench trial, the District Court entered judgment for all defendants. It dismissed the claims against the Mayor and the Director for lack of evidence. It then concluded that Hymon's actions were authorized by the Tennessee statute, which in turn was constitutional. Hymon had employed the only reasonable and practicable means of preventing Garner's escape. Garner had "recklessly and heedlessly attempted to vault over the fence to escape, thereby assuming the risk of being fired upon." App. to Pet. for Cert. A10.

The Court of Appeals for the Sixth Circuit affirmed with regard to Hymon, finding that he had acted in good-faith reliance on the Tennessee statute and was therefore within the scope of his qualified immunity. 600 F.2d 52 (1979). It remanded for reconsideration of the possible liability of the city, however, in light of *Monell v. New York City Dept. of Social Services*, 436 U.S. 658 (1978), which had come down after the District Court's decision. The District Court was [471 U.S. 1, 6] directed to consider whether a city enjoyed a qualified immunity, whether the use of deadly force and hollow point bullets in these circumstances was constitutional, and whether any unconstitutional municipal conduct flowed from a "policy or custom" as required for liability under *Monell*. 600 F.2d, at 54-55.

The District Court concluded that *Monell* did not affect its decision. While acknowledging some doubt as to the possible immunity of the city, it found that the statute, and Hymon's actions, were constitutional. Given this conclusion, it declined to consider the "policy or custom" question. App. to Pet. for Cert. A37-A39.

The Court of Appeals reversed and remanded. 710 F.2d 240 (1983). It reasoned that the killing of a fleeing suspect is a "seizure" under the Fourth Amendment, 6 and is therefore constitutional only if "reasonable." The Tennessee statute failed as applied to this case because it did not adequately limit the use of deadly force by distinguishing between felonies of different magnitudes - "the facts, as found, did not justify the use of deadly force under the Fourth Amendment." *Id.*, at 246. Officers cannot resort to deadly force unless they "have probable cause . . . to believe that the suspect [has committed a felony

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and] poses a threat to the safety of the officers or a danger to the community if left at large." *Ibid.* [7](#) [471 U.S. 1, 7]

The State of Tennessee, which had intervened to defend the statute, see 28 U.S.C. 2403(b), appealed to this Court. The city filed a petition for certiorari. We noted probable jurisdiction in the appeal and granted the petition. [465 U.S. 1098](#) (1984).

II

Whenever an officer restrains the freedom of a person to walk away, he has seized that person. *United States v. Brignoni-Ponce*, [422 U.S. 873, 878](#) (1975). While it is not always clear just when minimal police interference becomes a seizure, see *United States v. Mendenhall*, [446 U.S. 544](#) (1980), there can be no question that apprehension by the use of deadly force is a seizure subject to the reasonableness requirement of the Fourth Amendment.

A

A police officer may arrest a person if he has probable cause to believe that person committed a crime. E. g., *United States v. Watson*, [423 U.S. 411](#) (1976). Petitioners and appellant argue that if this requirement is satisfied the Fourth Amendment has nothing to say about how that seizure is made. This submission ignores the many cases in which this Court, by balancing the extent of the intrusion against the need for it, has examined the reasonableness of [\[471 U.S. 1, 8\]](#) the manner in which a search or seizure is conducted. To determine the constitutionality of a seizure "[w]e must balance the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion." *United States v. Place*, [462 U.S. 696, 703](#) (1983); see *Delaware v. Prouse*, [440 U.S. 648, 654](#) (1979); *United States v. Martinez-Fuerte*, [428 U.S. 543, 555](#) (1976). We have described "the balancing of competing interests" as "the key principle of the Fourth Amendment." *Michigan v. Summers*, [452 U.S. 692, 700](#), n. 12 (1981). See also *Camara v. Municipal Court*, [387 U.S. 523, 536](#) -537 (1967). Because one of the factors is the extent of the intrusion, it is plain that reasonableness depends on not only when a seizure is made, but also how it is carried out. *United States v. Ortiz*, [422 U.S. 891, 895](#) (1975); *Terry v. Ohio*, [392 U.S. 1, 28](#) -29 (1968).

Applying these principles to particular facts, the Court has held that governmental interests did not support a lengthy detention of luggage, *United States v. Place*, *supra*, an airport seizure not "carefully tailored to its underlying justification," *Florida v. Royer*, [460 U.S. 491, 500](#) (1983) (plurality opinion), surgery under general anesthesia to obtain evidence, *Winston v. Lee*, [470 U.S. 753](#) (1985), or detention for fingerprinting without probable cause, *Davis v. Mississippi*, [394 U.S. 721](#) (1969); *Hayes v. Florida*, [470 U.S. 811](#) (1985). On the other hand, under the same approach it has upheld the taking of fingernail scrapings from a suspect, *Cupp v. Murphy*, [412 U.S. 291](#) (1973), an unannounced entry into a home to prevent the destruction of evidence, *Ker v. California*, [374 U.S. 23](#) (1963), administrative housing inspections without probable cause to believe that a code violation will be found, *Camara v. Municipal Court*, *supra*, and a blood test of a drunken-driving suspect, *Schmerber v. California*, [384 U.S. 757](#) (1966). In each of these cases, the question was whether [\[471 U.S. 1, 9\]](#) the totality of the circumstances justified a particular sort of search or seizure.

B

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The same balancing process applied in the cases cited above demonstrates that, notwithstanding probable cause to seize a suspect, an officer may not always do so by killing him. The intrusiveness of a seizure by means of deadly force is unmatched. The suspect's fundamental interest in his own life need not be elaborated upon. The use of deadly force also frustrates the interest of the individual, and of society, in judicial determination of guilt and punishment. Against these interests are ranged governmental interests in effective law enforcement. [8](#) It is argued that overall violence will be reduced by encouraging the peaceful submission of suspects who know that they may be shot if they flee. Effectiveness in making arrests requires the resort to deadly [\[471 U.S. 1, 10\]](#) force, or at least the meaningful threat thereof. "Being able to arrest such individuals is a condition precedent to the state's entire system of law enforcement." Brief for Petitioners 14.

Without in any way disparaging the importance of these goals, we are not convinced that the use of deadly force is a sufficiently productive means of accomplishing them to justify the killing of nonviolent suspects. Cf. *Delaware v. Prouse*, supra, at 659. The use of deadly force is a self-defeating way of apprehending a suspect and so setting the criminal justice mechanism in motion. If successful, it guarantees that that mechanism will not be set in motion. And while the meaningful threat of deadly force might be thought to lead to the arrest of more live suspects by discouraging escape attempts, [9](#) the presently available evidence does not support this thesis. [10](#) The fact is that a majority of police departments [\[471 U.S. 1, 11\]](#) in this country have forbidden the use of deadly force against nonviolent suspects. See *infra*, at 18-19. If those charged with the enforcement of the criminal law have abjured the use of deadly force in arresting nondangerous felons, there is a substantial basis for doubting that the use of such force is an essential attribute of the arrest power in all felony cases. See *Schumann v. McGinn*, 307 Minn. 446, 472, 240 N. W. 2d 525, 540 (1976) (Rogosheske, J., dissenting in part). Petitioners and appellant have not persuaded us that shooting nondangerous fleeing suspects is so vital as to outweigh the suspect's interest in his own life.

The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are a little slower afoot does not always justify killing the suspect. A police officer may not seize an unarmed, nondangerous suspect by shooting him dead. The Tennessee statute is unconstitutional insofar as it authorizes the use of deadly force against such fleeing suspects.

It is not, however, unconstitutional on its face. Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where [\[471 U.S. 1, 12\]](#) feasible, some warning has been given. As applied in such circumstances, the Tennessee statute would pass constitutional muster.

III

A

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It is insisted that the Fourth Amendment must be construed in light of the common-law rule, which allowed the use of whatever force was necessary to effect the arrest of a fleeing felon, though not a misdemeanor. As stated in Hale's posthumously published Pleas of the Crown:

"[I]f persons that are pursued by these officers for felony or the just suspicion thereof . . . shall not yield themselves to these officers, but shall either resist or fly before they are apprehended or being apprehended shall rescue themselves and resist or fly, so that they cannot be otherwise apprehended, and are upon necessity slain therein, because they cannot be otherwise taken, it is no felony." 2 M. Hale, *Historia Placitorum Coronae* 85 (1736).

See also 4 W. Blackstone, *Commentaries* *289. Most American jurisdictions also imposed a flat prohibition against the use of deadly force to stop a fleeing misdemeanor, coupled with a general privilege to use such force to stop a fleeing felon. E. g., *Holloway v. Moser*, 193 N.C. 185, 136 S. E. 375 (1927); *State v. Smith*, 127 Iowa 534, 535, 103 N. W. 944, 945 (1905); *Reneau v. State*, 70 Tenn. 720 (1879); *Brooks v. Commonwealth*, 61 Pa. 352 (1869); *Roberts v. State*, 14 Mo. 138 (1851); see generally R. Perkins & R. Boyce, *Criminal Law* 1098-1102 (3d ed. 1982); Day, *Shooting the Fleeing Felon: State of the Law*, 14 *Crim. L. Bull.* 285, 286-287 (1978); Wilgus, *Arrest Without a Warrant*, 22 *Mich. L. Rev.* 798, 807-816 (1924). But see *Storey v. State*, 71 Ala. 329 (1882); *State v. Bryant*, 65 N.C. 327, 328 (1871); *Caldwell v. State*, 41 Tex. 86 (1874). [[471 U.S. 1, 13](#)]

The State and city argue that because this was the prevailing rule at the time of the adoption of the Fourth Amendment and for some time thereafter, and is still in force in some States, use of deadly force against a fleeing felon must be "reasonable." It is true that this Court has often looked to the common law in evaluating the reasonableness, for Fourth Amendment purposes, of police activity. See, e. g., *United States v. Watson*, [423 U.S. 411, 418](#) -419 (1976); *Gerstein v. Pugh*, [420 U.S. 103, 111](#), 114 (1975); *Carroll v. United States*, [267 U.S. 132, 149](#) -153 (1925). On the other hand, it "has not simply frozen into constitutional law those law enforcement practices that existed at the time of the Fourth Amendment's passage." *Payton v. New York*, [445 U.S. 573, 591](#), n. 33 (1980). Because of sweeping change in the legal and technological context, reliance on the common-law rule in this case would be a mistaken literalism that ignores the purposes of a historical inquiry.

B

It has been pointed out many times that the common-law rule is best understood in light of the fact that it arose at a time when virtually all felonies were punishable by death. [11](#) "Though effected without the protections and formalities of an orderly trial and conviction, the killing of a resisting or [[471 U.S. 1, 14](#)] fleeing felon resulted in no greater consequences than those authorized for punishment of the felony of which the individual was charged or suspected." American Law Institute, *Model Penal Code* 3.07, Comment 3, p. 56 (Tentative Draft No. 8, 1958) (hereinafter *Model Penal Code Comment*). Courts have also justified the common-law rule by emphasizing the relative dangerousness of felons. See, e. g., *Schumann v. McGinn*, 307 Minn., at 458, 240 N. W. 2d, at 533; *Holloway v. Moser*, *supra*, at 187, 136 S. E., at 376 (1927).

Neither of these justifications makes sense today. Almost all crimes formerly punishable by death no longer are or can be. See, e. g., *Enmund v. Florida*, [458 U.S. 782](#) (1982); *Coker v. Georgia*, [433 U.S. 584](#) (1977). And while in earlier times "the gulf between the felonies and the minor offences was broad and deep," 2 Pollock & Maitland 467, n. 3; *Carroll v. United States*, *supra*, at 158, today the distinction

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is minor and often arbitrary. Many crimes classified as misdemeanors, or nonexistent, at common law are now felonies. Wilgus, 22 Mich. L. Rev., at 572-573. These changes have undermined the concept, which was questionable to begin with, that use of deadly force against a fleeing felon is merely a speedier execution of someone who has already forfeited his life. They have also made the assumption that a "felon" is more dangerous than a misdemeanant untenable. Indeed, numerous misdemeanors involve conduct more dangerous than many felonies. [12](#)

There is an additional reason why the common-law rule cannot be directly translated to the present day. The common-law rule developed at a time when weapons were rudimentary. Deadly force could be inflicted almost solely in a hand-to-hand struggle during which, necessarily, the safety [\[471 U.S. 1, 15\]](#) of the arresting officer was at risk. Handguns were not carried by police officers until the latter half of the last century. L. Kennett & J. Anderson, *The Gun in America* 150-151 (1975). Only then did it become possible to use deadly force from a distance as a means of apprehension. As a practical matter, the use of deadly force under the standard articulation of the common-law rule has an altogether different meaning - and harsher consequences - now than in past centuries. See Wechsler & Michael, *A Rationale for the Law of Homicide: I*, 37 Colum. L. Rev. 701, 741 (1937). [13](#)

One other aspect of the common-law rule bears emphasis. It forbids the use of deadly force to apprehend a misdemeanant, condemning such action as disproportionately severe. See *Holloway v. Moser*, 193 N.C., at 187, 136 S. E., at 376; *State v. Smith*, 127 Iowa, at 535, 103 N. W., at 945. See generally Annot., 83 A. L. R. 3d 238 (1978).

In short, though the common-law pedigree of Tennessee's rule is pure on its face, changes in the legal and technological context mean the rule is distorted almost beyond recognition when literally applied.

C

In evaluating the reasonableness of police procedures under the Fourth Amendment, we have also looked to prevailing [\[471 U.S. 1, 16\]](#) rules in individual jurisdictions. See, e. g., *United States v. Watson*, [423 U.S., at 421](#) -422. The rules in the States are varied. See generally Comment, 18 Ga. L. Rev. 137, 140-144 (1983). Some 19 States have codified the common-law rule, [14](#) though in two of these the courts have significantly limited the statute. [15](#) Four States, though without a relevant statute, apparently retain the common-law rule. [16](#) Two States have adopted the Model Penal Code's [\[471 U.S. 1, 17\]](#) provision verbatim. [17](#) Eighteen others allow, in slightly varying language, the use of deadly force only if the suspect has committed a felony involving the use or threat of physical or deadly force, or is escaping with a deadly weapon, or is likely to endanger life or inflict serious physical injury if not arrested. [18](#) Louisiana and Vermont, though without statutes or case law on point, do forbid the use of deadly force to prevent any but violent felonies. [19](#) The remaining States either have no relevant statute or case law, or have positions that are unclear. [20](#) [\[471 U.S. 1, 18\]](#)

It cannot be said that there is a constant or overwhelming trend away from the common-law rule. In recent years, some States have reviewed their laws and expressly rejected abandonment of the common-law rule. [21](#) Nonetheless, the long-term movement has been away from the rule that deadly force may be used against any fleeing felon, and that remains the rule in less than half the States.

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This trend is more evident and impressive when viewed in light of the policies adopted by the police departments themselves. Overwhelmingly, these are more restrictive than the common-law rule. C. Milton, J. Halleck, J. Lardner, & G. Abrecht, *Police Use of Deadly Force* 45-46 (1977). The Federal Bureau of Investigation and the New York City Police Department, for example, both forbid the use of firearms except when necessary to prevent death or grievous bodily harm. *Id.*, at 40-41; App. 83. For accreditation by the Commission on Accreditation for Law Enforcement Agencies, a department must restrict the use of deadly force to situations where "the officer reasonably believes that the action is in defense of human life . . . or in defense of any person in immediate danger of serious physical injury." Commission on Accreditation for Law Enforcement Agencies, Inc., *Standards for Law Enforcement Agencies* 1-2 (1983) (italics deleted). A 1974 study reported that the police department regulations in a majority of the large cities of the United States allowed the firing of a weapon only when a [471 U.S. 1, 19] felon presented a threat of death or serious bodily harm. Boston Police Department, Planning & Research Division, *The Use of Deadly Force by Boston Police Personnel* (1974), cited in *Mattis v. Schnarr*, 547 F.2d 1007, 1016, n. 19 (CA8 1976), vacated as moot sub nom. *Ashcroft v. Mattis*, [431 U.S. 171](#) (1977). Overall, only 7.5% of departmental and municipal policies explicitly permit the use of deadly force against any felon; 86.8% explicitly do not. K. Matulia, *A Balance of Forces: A Report of the International Association of Chiefs of Police* 161 (1982) (table). See also Record 1108-1368 (written policies of 44 departments). See generally W. Geller & K. Karales, *Split-Second Decisions* 33-42 (1981); Brief for Police Foundation et al. as Amici Curiae. In light of the rules adopted by those who must actually administer them, the older and fading common-law view is a dubious indicium of the constitutionality of the Tennessee statute now before us.

D

Actual departmental policies are important for an additional reason. We would hesitate to declare a police practice of long standing "unreasonable" if doing so would severely hamper effective law enforcement. But the indications are to the contrary. There has been no suggestion that crime has worsened in any way in jurisdictions that have adopted, by legislation or departmental policy, rules similar to that announced today. Amici note that "[a]fter extensive research and consideration, [they] have concluded that laws permitting police officers to use deadly force to apprehend unarmed, non-violent fleeing felony suspects actually do not protect citizens or law enforcement officers, do not deter crime or alleviate problems caused by crime, and do not improve the crime-fighting ability of law enforcement agencies." *Id.*, at 11. The submission is that the obvious state interests in apprehension are not sufficiently served to warrant the use of lethal weapons against all fleeing felons. See *supra*, at 10-11, and n. 10. [471 U.S. 1, 20]

Nor do we agree with petitioners and appellant that the rule we have adopted requires the police to make impossible, split-second evaluations of unknowable facts. See Brief for Petitioners 25; Brief for Appellant 11. We do not deny the practical difficulties of attempting to assess the suspect's dangerousness. However, similarly difficult judgments must be made by the police in equally uncertain circumstances. See, e. g., *Terry v. Ohio*, [392 U.S., at 20](#), 27. Nor is there any indication that in States that allow the use of deadly force only against dangerous suspects, see nn. 15, 17-19, *supra*, the standard has been difficult to apply or has led to a rash of litigation involving inappropriate second-guessing of police officers' split-second decisions. Moreover, the highly technical felony/misdemeanor distinction is equally, if not more, difficult to apply in the field. An officer is in no position to know, for example, the precise value of property stolen, or whether the crime was a first or second offense. Finally, as noted

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above, this claim must be viewed with suspicion in light of the similar self-imposed limitations of so many police departments.

IV

The District Court concluded that Hymon was justified in shooting Garner because state law allows, and the Federal Constitution does not forbid, the use of deadly force to prevent the escape of a fleeing felony suspect if no alternative means of apprehension is available. See App. to Pet. for Cert. A9-A11, A38. This conclusion made a determination of Garner's apparent dangerousness unnecessary. The court did find, however, that Garner appeared to be unarmed, though Hymon could not be certain that was the case. *Id.*, at A4, A23. See also App. 41, 56; Record 219. Restated in Fourth Amendment terms, this means Hymon had no articulable basis to think Garner was armed.

In reversing, the Court of Appeals accepted the District Court's factual conclusions and held that "the facts, as found, did not justify the use of deadly force." 710 F.2d, at 246. [471 U.S. 1, 21] We agree. Officer Hymon could not reasonably have believed that Garner - young, slight, and unarmed - posed any threat. Indeed, Hymon never attempted to justify his actions on any basis other than the need to prevent an escape. The District Court stated in passing that "[t]he facts of this case did not indicate to Officer Hymon that Garner was `nondangerous.'" App. to Pet. for Cert. A34. This conclusion is not explained, and seems to be based solely on the fact that Garner had broken into a house at night. However, the fact that Garner was a suspected burglar could not, without regard to the other circumstances, automatically justify the use of deadly force. Hymon did not have probable cause to believe that Garner, whom he correctly believed to be unarmed, posed any physical danger to himself or others.

The dissent argues that the shooting was justified by the fact that Officer Hymon had probable cause to believe that Garner had committed a nighttime burglary. Post, at 29, 32. While we agree that burglary is a serious crime, we cannot agree that it is so dangerous as automatically to justify the use of deadly force. The FBI classifies burglary as a "property" rather than a "violent" crime. See Federal Bureau of Investigation, Uniform Crime Reports, Crime in the United States 1 (1984). 22 Although the armed burglar would present a different situation, the fact that an unarmed suspect has broken into a dwelling at night does not automatically mean he is physically dangerous. This case demonstrates as much. See also *Solem v. Helm*, 463 U.S. 277, 296 -297, and nn. 22-23 (1983). In fact, the available statistics demonstrate that burglaries only rarely involve physical violence. During the 10-year period from 1973-1982, only 3.8% of all burglaries involved violent crime. Bureau of Justice Statistics, Household [471 U.S. 1, 22] Burglary 4 (1985). 23 See also T. Reppetto, Residential Crime 17, 105 (1974); Conklin & Bittner, Burglary in a Suburb, 11 *Criminology* 208, 214 (1973).

V

We wish to make clear what our holding means in the context of this case. The complaint has been dismissed as to all the individual defendants. The State is a party only by virtue of 28 U.S.C. 2403(b) and is not subject to liability. The possible liability of the remaining defendants - the Police Department and the city of Memphis - hinges on *Monell v. New York City Dept. of Social Services*, 436 U.S. 658 (1978), and is left for remand. We hold that the statute is invalid insofar as it purported to give Hymon the authority to act as he did. As for the policy of the Police Department, the absence of any discussion

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of this issue by the courts below, and the uncertain state of the record, preclude any consideration of its validity.

The judgment of the Court of Appeals is affirmed, and the case is remanded for further proceedings consistent with this opinion.

So ordered.

Footnotes

[[Footnote 1](#)] The owner of the house testified that no lights were on in the house, but that a back door light was on. Record 160. Officer Hymon, though uncertain, stated in his deposition that there were lights on in the house. *Id.*, at 209.

[[Footnote 2](#)] In fact, Garner, an eighth-grader, was 15. He was 5' 4" tall and weighed somewhere around 100 or 110 pounds. App. to Pet. for Cert. A5.

[[Footnote 3](#)] When asked at trial why he fired, Hymon stated:

"Well, first of all it was apparent to me from the little bit that I knew about the area at the time that he was going to get away because, number 1, I couldn't get to him. My partner then couldn't find where he was because, you know, he was late coming around. He didn't know where I was talking about. I couldn't get to him because of the fence here, I couldn't have jumped this fence and come up, consequently jumped this fence and caught him before he got away because he was already up on the fence, just one leap and he was already over the fence, and so there is no way that I could have caught him." App. 52.

He also stated that the area beyond the fence was dark, that he could not have gotten over the fence easily because he was carrying a lot of equipment and wearing heavy boots, and that Garner, being younger and more energetic, could have outrun him. *Id.*, at 53-54.

[[Footnote 4](#)] Garner had rummaged through one room in the house, in which, in the words of the owner, "[a]ll the stuff was out on the floors, all the drawers was pulled out, and stuff was scattered all over." *Id.*, at 34. The owner testified that his valuables were untouched but that, in addition to the purse and the 10 dollars, one of his wife's rings was missing. The ring was not recovered. *Id.*, at 34-35.

[[Footnote 5](#)] Although the statute does not say so explicitly, Tennessee law forbids the use of deadly force in the arrest of a misdemeanor. See *Johnson v. State*, 173 Tenn. 134, 114 S. W. 2d 819 (1938).

[[Footnote 6](#)] "The right of the people to be secure in their persons . . . against unreasonable searches and seizures, shall not be violated . . ." U.S. Const., Amdt. 4.

[[Footnote 7](#)] The Court of Appeals concluded that the rule set out in the Model Penal Code "accurately states Fourth Amendment limitations on the use of deadly force against fleeing felons." 710 F.2d, at 247. The relevant portion of the Model Penal Code provides:

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"The use of deadly force is not justifiable . . . unless (i) the arrest is for a felony; and (ii) the person effecting the arrest is authorized to act as a peace officer or is assisting a person whom he believes to be authorized to act as a peace officer; and (iii) the actor believes that the force employed creates no substantial risk of injury to innocent persons; and (iv) the actor believes [471 U.S. 1, 7] that (1) the crime for which the arrest is made involved conduct including the use or threatened use of deadly force; or (2) there is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed." American Law Institute, Model Penal Code § 3.07(2)(b) (Proposed Official Draft 1962).

The court also found that "[a]n analysis of the facts of this case under the Due Process Clause" required the same result, because the statute was not narrowly drawn to further a compelling state interest. 710 F.2d, at 246-247. The court considered the generalized interest in effective law enforcement sufficiently compelling only when the suspect is dangerous. Finally, the court held, relying on *Owen v. City of Independence*, [445 U.S. 622](#) (1980), that the city was not immune.

[[Footnote 8](#)] The dissent emphasizes that subsequent investigation cannot replace immediate apprehension. We recognize that this is so, see n. 13, *infra*; indeed, that is the reason why there is any dispute. If subsequent arrest were assured, no one would argue that use of deadly force was justified. Thus, we proceed on the assumption that subsequent arrest is not likely. Nonetheless, it should be remembered that failure to apprehend at the scene does not necessarily mean that the suspect will never be caught.

In lamenting the inadequacy of later investigation, the dissent relies on the report of the President's Commission on Law Enforcement and Administration of Justice. It is worth noting that, notwithstanding its awareness of this problem, the Commission itself proposed a policy for use of deadly force arguably even more stringent than the formulation we adopt today. See President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police 189 (1967). The Commission proposed that deadly force be used only to apprehend "perpetrators who, in the course of their crime threatened the use of deadly force, or if the officer believes there is a substantial risk that the person whose arrest is sought will cause death or serious bodily harm if his apprehension is delayed." In addition, the officer would have "to know, as a virtual certainty, that the suspect committed an offense for which the use of deadly force is permissible." *Ibid.*

[[Footnote 9](#)] We note that the usual manner of deterring illegal conduct - through punishment - has been largely ignored in connection with flight from arrest. Arkansas, for example, specifically excepts flight from arrest from the offense of "obstruction of governmental operations." The commentary notes that this "reflects the basic policy judgment that, absent the use of force or violence, a mere attempt to avoid apprehension by a law enforcement officer does not give rise to an independent offense." Ark. Stat. Ann. 41-2802(3)(a) (1977) and commentary. In the few States that do outlaw flight from an arresting officer, the crime is only a misdemeanor. See, e. g., Ind. Code 35-44-3-3 (1982). Even forceful resistance, though generally a separate offense, is classified as a misdemeanor. E. g., Ill. Rev. Stat., ch. 38, 31-1 (1984); Mont. Code Ann. 45-7-301 (1984); N. H. Rev. Stat. Ann. 642:2 (Supp. 1983); Ore. Rev. Stat. 162.315 (1983).

This lenient approach does avoid the anomaly of automatically transforming every fleeing misdemeanant into a fleeing felon - subject, under the common-law rule, to apprehension by deadly force - solely by virtue of his flight. However, it is in real tension with the harsh consequences of flight

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in cases where deadly force is employed. For example, Tennessee does not outlaw fleeing from arrest. The Memphis City Code does, 22-34.1 (Supp. 17, 1971), subjecting the offender to a maximum fine of \$50, 1-8 (1967). Thus, Garner's attempted escape subjected him to (a) a \$50 fine, and (b) being shot.

[[Footnote 10](#)] See Sherman, Reducing Police Gun use, in *Control in the Police Organization* 98, 120-123 (M. Punch ed. 1983); Fyfe, Observations on Police [\[471 U.S. 1, 11\]](#) Deadly Force, 27 *Crime & Delinquency* 376, 378-381 (1981); W. Geller & K. Karales, Split-Second Decisions 67 (1981); App. 84 (affidavit of William Bracey, Chief of Patrol, New York City Police Department). See generally Brief for Police Foundation et al. as Amici Curiae.

[[Footnote 11](#)] The roots of the concept of a "felony" lie not in capital punishment but in forfeiture. 2 F. Pollock & F. Maitland, *The History of English Law* 465 (2d ed. 1909) (hereinafter Pollock & Maitland). Not all felonies were always punishable by death. See *id.*, at 466-467, n. 3. Nonetheless, the link was profound. Blackstone was able to write: "The idea of felony is indeed so generally connected with that of capital punishment, that we find it hard to separate them; and to this usage the interpretations of the law do now conform. And therefore if a statute makes any new offence felony, the law implies that it shall be punished with death, viz. by hanging, as well as with forfeiture" 4 W. Blackstone, *Commentaries* *98. See also R. Perkins & R. Boyce, *Criminal Law* 14-15 (3d ed. 1982); 2 Pollock & Maitland 511.

[[Footnote 12](#)] White-collar crime, for example, poses a less significant physical threat than, say, drunken driving. See *Welsh v. Wisconsin*, [466 U.S. 740](#) (1984); *id.*, at 755 (BLACKMUN, J., concurring). See Model Penal Code Comment, at 57.

[[Footnote 13](#)] It has been argued that sophisticated techniques of apprehension and increased communication between the police in different jurisdictions have made it more likely that an escapee will be caught than was once the case, and that this change has also reduced the "reasonableness" of the use of deadly force to prevent escape. E. g., Sherman, *Execution Without Trial: Police Homicide and the Constitution*, 33 *Vand. L. Rev.* 71, 76 (1980). We are unaware of any data that would permit sensible evaluation of this claim. Current arrest rates are sufficiently low, however, that we have some doubt whether in past centuries the failure to arrest at the scene meant that the police had missed their only chance in a way that is not presently the case. In 1983, 21% of the offenses in the Federal Bureau of Investigation crime index were cleared by arrest. Federal Bureau of Investigation, *Uniform Crime Reports, Crime in the United States* 159 (1984). The clearance rate for burglary was 15%. *Ibid.*

[[Footnote 14](#)] Ala. Code 13A-3-27 (1982); Ark. Stat. Ann. 41-510 (1977); Cal. Penal Code Ann. 196 (West 1970); Conn. Gen. Stat. 53a-22 (1972); Fla. Stat. 776.05 (1983); Idaho Code 19-610 (1979); Ind. Code 35-41-3-3 (1982); Kan. Stat. Ann. 21-3215 (1981); Miss. Code Ann. 97-3-15(d) (Supp. 1984); Mo. Rev. Stat. 563.046 (1979); Nev. Rev. Stat. 200.140 (1983); N. M. Stat. Ann. 30-2-6 (1984); Okla. Stat., Tit. 21, 732 (1981); R. I. Gen. Laws 12-7-9 (1981); S. D. Codified Laws 22-16-32, 22-16-33 (1979); Tenn. Code Ann. 40-7-108 (1982); Wash. Rev. Code 9A.16.040(3) (1977). Oregon limits use of deadly force to violent felons, but also allows its use against any felon if "necessary." Ore. Rev. Stat. 161.239 (1983). Wisconsin's statute is ambiguous, but should probably be added to this list. Wis. Stat. 939.45(4) (1981-1982) (officer may use force necessary for "a reasonable accomplishment of a lawful arrest"). But see *Clark v. Ziedonis*, 368 F. Supp. 544 (ED Wis. 1973), *aff'd* on other grounds, 513 F.2d 79 (CA7 1975).

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[[Footnote 15](#)] In California, the police may use deadly force to arrest only if the crime for which the arrest is sought was "a forcible and atrocious one which threatens death or serious bodily harm," or there is a substantial risk that the person whose arrest is sought will cause death or serious bodily harm if apprehension is delayed. *Kortum v. Alkire*, 69 Cal. App. 3d 325, 333, 138 Cal. Rptr. 26, 30-31 (1977). See also *People v. Ceballos*, 12 Cal. 3d 470, 476-484, 526 P.2d 241, 245-250 (1974); *Long Beach Police Officers Assn. v. Long Beach*, 61 Cal. App. 3d 364, 373-374, 132 Cal. Rptr. 348, 353-354 (1976). In Indiana, deadly force may be used only to prevent injury, the imminent danger of injury or force, or the threat of force. It is not permitted simply to prevent escape. *Rose v. State*, 431 N. E. 2d 521 (Ind. App. 1982).

[[Footnote 16](#)] These are Michigan, Ohio, Virginia, and West Virginia. *Werner v. Hartfelder*, 113 Mich. App. 747, 318 N. W. 2d 825 (1982); *State v. Foster*, 60 Ohio Misc. 46, 59-66, 396 N. E. 2d 246, 255-258 (Com. Pl. 1979) (citing cases); *Berry v. Hamman*, 203 Va. 596, 125 S. E. 2d 851 (1962); *Thompson v. Norfolk & W. R. Co.*, 116 W. Va. 705, 711-712, 182 S. E. 880, 883-884 (1935).

[[Footnote 17](#)] Haw. Rev. Stat. 703-307 (1976); Neb. Rev. Stat. 28-1412 (1979). Massachusetts probably belongs in this category. Though it once rejected distinctions between felonies, *Uranek v. Lima*, 359 Mass. 749, 750, 269 N. E. 2d 670, 671 (1971), it has since adopted the Model Penal Code limitations with regard to private citizens, *Commonwealth v. Klein*, 372 Mass. 823, 363 N. E. 2d 1313 (1977), and seems to have extended that decision to police officers, *Julian v. Randazzo*, 380 Mass. 391, 403 N. E. 2d 931 (1980).

[[Footnote 18](#)] Alaska Stat. Ann. 11.81.370(a) (1983); Ariz. Rev. Stat. Ann. 13-410 (1978); Colo. Rev. Stat. 18-1-707 (1978); Del. Code Ann., Tit. 11, 467 (1979) (felony involving physical force and a substantial risk that the suspect will cause death or serious bodily injury or will never be recaptured); Ga. Code 16-3-21(a) (1984); Ill. Rev. Stat., ch. 38, 7-5 (1984); Iowa Code 804.8 (1983) (suspect has used or threatened deadly force in commission of a felony, or would use deadly force if not caught); Ky. Rev. Stat. 503.090 (1984) (suspect committed felony involving use or threat of physical force likely to cause death or serious injury, and is likely to endanger life unless apprehended without delay); Me. Rev. Stat. Ann., Tit. 17-A, 107 (1983) (commentary notes that deadly force may be used only "where the person to be arrested poses a threat to human life"); Minn. Stat. 609.066 (1984); N. H. Rev. Stat. Ann. 627:5(II) (Supp. 1983); N. J. Stat. Ann. 2C-3-7 (West 1982); N. Y. Penal Law 35.30 (McKinney Supp. 1984-1985); N.C. Gen. Stat. 15A-401 (1983); N. D. Cent. Code 12.1-05-07.2.d (1976); 18 Pa. Cons. Stat. 508 (1982); Tex. Penal Code Ann. 9.51(c) (1974); Utah Code Ann. 76-2-404 (1978).

[[Footnote 19](#)] See La. Rev. Stat. Ann. 14:20(2) (West 1974); Vt. Stat. Ann., Tit. 13, 2305 (1974 and Supp. 1984). A Federal District Court has interpreted the Louisiana statute to limit the use of deadly force against fleeing suspects to situations where "life itself is endangered or great bodily harm is threatened." *Sauls v. Hutto*, 304 F. Supp. 124, 132 (ED La. 1969).

[[Footnote 20](#)] These are Maryland, Montana, South Carolina, and Wyoming. A Maryland appellate court has indicated, however, that deadly force may not be used against a felon who "was in the process of fleeing and, at the [471 U.S. 1, 18] time, presented no immediate danger to . . . anyone" *Giant Food, Inc. v. Scherry*, 51 Md. App. 586, 589, 596, 444 A. 2d 483, 486, 489 (1982).

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[[Footnote 21](#)] In adopting its current statute in 1979, for example, Alabama expressly chose the common-law rule over more restrictive provisions. Ala. Code 13A-3-27, Commentary, pp. 67-63 (1982). Missouri likewise considered but rejected a proposal akin to the Model Penal Code rule. See *Mattis v. Schnarr*, 547 F.2d 1007, 1022 (CA8 1976) (Gibson, C. J., dissenting), vacated as moot sub nom. *Ashcroft v. Mattis*, [431 U.S. 171](#) (1977). Idaho, whose current statute codifies the common-law rule, adopted the Model Penal Code in 1971, but abandoned it in 1972.

[[Footnote 22](#)] In a recent report, the Department of Corrections of the District of Columbia also noted that "there is nothing inherently dangerous or violent about the offense," which is a crime against property. D.C. Department of Corrections, Prisoner Screening Project 2 (1985).

[[Footnote 23](#)] The dissent points out that three-fifths of all rapes in the home, three-fifths of all home robberies, and about a third of home assaults are committed by burglars. Post, at 26-27. These figures mean only that if one knows that a suspect committed a rape in the home, there is a good chance that the suspect is also a burglar. That has nothing to do with the question here, which is whether the fact that someone has committed a burglary indicates that he has committed, or might commit, a violent crime.

The dissent also points out that this 3.8% adds up to 2.8 million violent crimes over a 10-year period, as if to imply that today's holding will let loose 2.8 million violent burglars. The relevant universe is, of course, far smaller. At issue is only that tiny fraction of cases where violence has [\[471 U.S. 1, 23\]](#) taken place and an officer who has no other means of apprehending the suspect is unaware of its occurrence.

JUSTICE O'CONNOR, with whom THE CHIEF JUSTICE and JUSTICE REHNQUIST join, dissenting.

The Court today holds that the Fourth Amendment prohibits a police officer from using deadly force as a last resort to [\[471 U.S. 1, 23\]](#) apprehend a criminal suspect who refuses to halt when fleeing the scene of a nighttime burglary. This conclusion rests on the majority's balancing of the interests of the suspect and the public interest in effective law enforcement. Ante, at 8. Notwithstanding the venerable common-law rule authorizing the use of deadly force if necessary to apprehend a fleeing felon, and continued acceptance of this rule by nearly half the States, ante, at 14, 16-17, the majority concludes that Tennessee's statute is unconstitutional inasmuch as it allows the use of such force to apprehend a burglary suspect who is not obviously armed or otherwise dangerous. Although the circumstances of this case are unquestionably tragic and unfortunate, our constitutional holdings must be sensitive both to the history of the Fourth Amendment and to the general implications of the Court's reasoning. By disregarding the serious and dangerous nature of residential burglaries and the longstanding practice of many States, the Court effectively creates a Fourth Amendment right allowing a burglary suspect to flee unimpeded from a police officer who has probable cause to arrest, who has ordered the suspect to halt, and who has no means short of firing his weapon to prevent escape. I do not believe that the Fourth Amendment supports such a right, and I accordingly dissent.

I

The facts below warrant brief review because they highlight the difficult, split-second decisions police officers must make in these circumstances. Memphis Police Officers Elton Hymon and Leslie Wright responded to a late-night call that a burglary was in progress at a private residence. When the officers

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arrived at the scene, the caller said that "they" were breaking into the house next door. App. in No. 81-5605 (CA6), p. 207. The officers found the residence had been forcibly entered through a window and saw lights [471 U.S. 1, 24] on inside the house. Officer Hymon testified that when he saw the broken window he realized "that something was wrong inside," *id.*, at 656, but that he could not determine whether anyone - either a burglar or a member of the household - was within the residence. *Id.*, at 209. As Officer Hymon walked behind the house, he heard a door slam. He saw Edward Eugene Garner run away from the house through the dark and cluttered backyard. Garner crouched next to a 6-foot-high fence. Officer Hymon thought Garner was an adult and was unsure whether Garner was armed because Hymon "had no idea what was in the hand [that he could not see] or what he might have had on his person." *Id.*, at 658-659. In fact, Garner was 15 years old and unarmed. Hymon also did not know whether accomplices remained inside the house. *Id.*, at 657. The officer identified himself as a police officer and ordered Garner to halt. Garner paused briefly and then sprang to the top of the fence. Believing that Garner would escape if he climbed over the fence, Hymon fired his revolver and mortally wounded the suspected burglar.

Appellee-respondent, the deceased's father, filed a 42 U.S.C. 1983 action in federal court against Hymon, the city of Memphis, and other defendants, for asserted violations of Garner's constitutional rights. The District Court for the Western District of Tennessee held that Officer Hymon's actions were justified by a Tennessee statute that authorizes a police officer to "use all the necessary means to effect the arrest," if "after notice of the intention to arrest the defendant, he either flee or forcibly resist." Tenn. Code Ann. 40-7-108 (1982). As construed by the Tennessee courts, this statute allows the use of deadly force only if a police officer has probable cause to believe that a person has committed a felony, the officer warns the person that he intends to arrest him, and the officer reasonably believes that no means less than such force will prevent the escape. See, e. g., *Johnson v. State*, 173 Tenn. 134, 114 S. W. 2d 819 [471 U.S. 1, 25] (1938). The District Court held that the Tennessee statute is constitutional and that Hymon's actions as authorized by that statute did not violate Garner's constitutional rights. The Court of Appeals for the Sixth Circuit reversed on the grounds that the Tennessee statute "authorizing the killing of an unarmed, nonviolent fleeing felon by police in order to prevent escape" violates the Fourth Amendment and the Due Process Clause of the Fourteenth Amendment. 710 F.2d 240, 244 (1983).

The Court affirms on the ground that application of the Tennessee statute to authorize Officer Hymon's use of deadly force constituted an unreasonable seizure in violation of the Fourth Amendment. The precise issue before the Court deserves emphasis, because both the decision below and the majority obscure what must be decided in this case. The issue is not the constitutional validity of the Tennessee statute on its face or as applied to some hypothetical set of facts. Instead, the issue is whether the use of deadly force by Officer Hymon under the circumstances of this case violated Garner's constitutional rights. Thus, the majority's assertion that a police officer who has probable cause to seize a suspect "may not always do so by killing him," *ante*, at 9, is unexceptionable but also of little relevance to the question presented here. The same is true of the rhetorically stirring statement that "[t]he use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable." *ante*, at 11. The question we must address is whether the Constitution allows the use of such force to apprehend a suspect who resists arrest by attempting to flee the scene of a nighttime burglary of a residence.

II

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For purposes of Fourth Amendment analysis, I agree with the Court that Officer Hymon "seized" Garner by shooting him. Whether that seizure was reasonable and therefore permitted by the Fourth Amendment requires a careful balancing [471 U.S. 1, 26] of the important public interest in crime prevention and detection and the nature and quality of the intrusion upon legitimate interests of the individual. *United States v. Place*, [462 U.S. 696, 703](#) (1983). In striking this balance here, it is crucial to acknowledge that police use of deadly force to apprehend a fleeing criminal suspect falls within the "rubric of police conduct . . . necessarily [involving] swift action predicated upon the on-the-spot observations of the officer on the beat." *Terry v. Ohio*, [392 U.S. 1, 20](#) (1968). The clarity of hindsight cannot provide the standard for judging the reasonableness of police decisions made in uncertain and often dangerous circumstances. Moreover, I am far more reluctant than is the Court to conclude that the Fourth Amendment proscribes a police practice that was accepted at the time of the adoption of the Bill of Rights and has continued to receive the support of many state legislatures. Although the Court has recognized that the requirements of the Fourth Amendment must respond to the reality of social and technological change, fidelity to the notion of constitutional - as opposed to purely judicial - limits on governmental action requires us to impose a heavy burden on those who claim that practices accepted when the Fourth Amendment was adopted are now constitutionally impermissible. See, e. g., *United States v. Watson*, [423 U.S. 411, 416](#) -421 (1976); *Carroll v. United States*, [267 U.S. 132, 149](#) -153 (1925). Cf. *United States v. Villamonte-Marquez*, [462 U.S. 579, 585](#) (1983) (noting "impressive historical pedigree" of statute challenged under Fourth Amendment).

The public interest involved in the use of deadly force as a last resort to apprehend a fleeing burglary suspect relates primarily to the serious nature of the crime. Household burglaries not only represent the illegal entry into a person's home, but also "pos[e] real risk of serious harm to others." *Solem v. Helm*, [463 U.S. 277, 315](#) -316 (1983) (BURGER, C. J., dissenting). According to recent Department of Justice statistics, "[t]hree-fifths of all rapes in the home, [471 U.S. 1, 27] three-fifths of all home robberies, and about a third of home aggravated and simple assaults are committed by burglars." Bureau of Justice Statistics Bulletin, Household Burglary 1 (January 1985). During the period 1973-1982, 2.8 million such violent crimes were committed in the course of burglaries. *Ibid.* Victims of a forcible intrusion into their home by a nighttime prowler will find little consolation in the majority's confident assertion that "burglaries only rarely involve physical violence." *Ante*, at 21. Moreover, even if a particular burglary, when viewed in retrospect, does not involve physical harm to others, the "harsh potentialities for violence" inherent in the forced entry into a home preclude characterization of the crime as "innocuous, inconsequential, minor, or `nonviolent.'" *Solem v. Helm*, *supra*, at 316 (BURGER, C. J., dissenting). See also Restatement of Torts 131, Comment g (1934) (burglary is among felonies that normally cause or threaten death or serious bodily harm); R. Perkins & R. Boyce, *Criminal Law* 1110 (3d ed. 1982) (burglary is dangerous felony that creates unreasonable risk of great personal harm).

Because burglary is a serious and dangerous felony, the public interest in the prevention and detection of the crime is of compelling importance. Where a police officer has probable cause to arrest a suspected burglar, the use of deadly force as a last resort might well be the only means of apprehending the suspect. With respect to a particular burglary, subsequent investigation simply cannot represent a substitute for immediate apprehension of the criminal suspect at the scene. See President's Commission on Law Enforcement and Administration of Justice, Task Force Report: *The Challenge of Crime in a Free Society* 97 (1967). Indeed, the Captain of the Memphis Police Department testified that in his city, if apprehension is not immediate, it is likely that the suspect will not be caught. App. in No. 81-5605 (CA6), p. 334. Although some law enforcement agencies may choose to assume the risk that a criminal

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will remain at large, the [\[471 U.S. 1, 28\]](#) Tennessee statute reflects a legislative determination that the use of deadly force in prescribed circumstances will serve generally to protect the public. Such statutes assist the police in apprehending suspected perpetrators of serious crimes and provide notice that a lawful police order to stop and submit to arrest may not be ignored with impunity. See, e. g., *Wiley v. Memphis Police Department*, 548 F.2d 1247, 1252-1253 (CA6), cert. denied, [434 U.S. 822](#) (1977); *Jones v. Marshall*, 528 F.2d 132, 142 (CA2 1975).

The Court unconvincingly dismisses the general deterrence effects by stating that "the presently available evidence does not support [the] thesis" that the threat of force discourages escape and that "there is a substantial basis for doubting that the use of such force is an essential attribute to the arrest power in all felony cases." Ante, at 10, 11. There is no question that the effectiveness of police use of deadly force is arguable and that many States or individual police departments have decided not to authorize it in circumstances similar to those presented here. But it should go without saying that the effectiveness or popularity of a particular police practice does not determine its constitutionality. Cf. *Spaziano v. Florida*, [468 U.S. 447, 464](#) (1984) ("The Eighth Amendment is not violated every time a State reaches a conclusion different from a majority of its sisters over how best to administer its criminal laws"). Moreover, the fact that police conduct pursuant to a state statute is challenged on constitutional grounds does not impose a burden on the State to produce social science statistics or to dispel any possible doubts about the necessity of the conduct. This observation, I believe, has particular force where the challenged practice both predates enactment of the Bill of Rights and continues to be accepted by a substantial number of the States.

Against the strong public interests justifying the conduct at issue here must be weighed the individual interests implicated in the use of deadly force by police officers. The [\[471 U.S. 1, 29\]](#) majority declares that "[t]he suspect's fundamental interest in his own life need not be elaborated upon." Ante, at 9. This blithe assertion hardly provides an adequate substitute for the majority's failure to acknowledge the distinctive manner in which the suspect's interest in his life is even exposed to risk. For purposes of this case, we must recall that the police officer, in the course of investigating a nighttime burglary, had reasonable cause to arrest the suspect and ordered him to halt. The officer's use of force resulted because the suspected burglar refused to heed this command and the officer reasonably believed that there was no means short of firing his weapon to apprehend the suspect. Without questioning the importance of a person's interest in his life, I do not think this interest encompasses a right to flee unimpeded from the scene of a burglary. Cf. *Payton v. New York*, [445 U.S. 573, 617](#), n. 14 (1980) (WHITE, J., dissenting) ("[T]he policeman's hands should not be tied merely because of the possibility that the suspect will fail to cooperate with legitimate actions by law enforcement personnel"). The legitimate interests of the suspect in these circumstances are adequately accommodated by the Tennessee statute: to avoid the use of deadly force and the consequent risk to his life, the suspect need merely obey the valid order to halt.

A proper balancing of the interests involved suggests that use of deadly force as a last resort to apprehend a criminal suspect fleeing from the scene of a nighttime burglary is not unreasonable within the meaning of the Fourth Amendment. Admittedly, the events giving rise to this case are in retrospect deeply regrettable. No one can view the death of an unarmed and apparently nonviolent 15-year-old without sorrow, much less disapproval. Nonetheless, the reasonableness of Officer Hymon's conduct for purposes of the Fourth Amendment cannot be evaluated by what later appears to have been a preferable course of police action. The officer pursued a suspect in the darkened backyard of a house that from all indications had just been burglarized. The [\[471 U.S. 1, 30\]](#) police officer was not certain whether the

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suspect was alone or unarmed; nor did he know what had transpired inside the house. He ordered the suspect to halt, and when the suspect refused to obey and attempted to flee into the night, the officer fired his weapon to prevent escape. The reasonableness of this action for purposes of the Fourth Amendment is not determined by the unfortunate nature of this particular case; instead, the question is whether it is constitutionally impermissible for police officers, as a last resort, to shoot a burglary suspect fleeing the scene of the crime.

Because I reject the Fourth Amendment reasoning of the majority and the Court of Appeals, I briefly note that no other constitutional provision supports the decision below. In addition to his Fourth Amendment claim, appellee-respondent also alleged violations of due process, the Sixth Amendment right to trial by jury, and the Eighth Amendment proscription of cruel and unusual punishment. These arguments were rejected by the District Court and, except for the due process claim, not addressed by the Court of Appeals. With respect to due process, the Court of Appeals reasoned that statutes affecting the fundamental interest in life must be "narrowly drawn to express only the legitimate state interests at stake." 710 F.2d, at 245. The Court of Appeals concluded that a statute allowing police use of deadly force is narrowly drawn and therefore constitutional only if the use of such force is limited to situations in which the suspect poses an immediate threat to others. *Id.*, at 246-247. Whatever the validity of Tennessee's statute in other contexts, I cannot agree that its application in this case resulted in a deprivation "without due process of law." Cf. *Baker v. McCollan*, [443 U.S. 137, 144](#) -145 (1979). Nor do I believe that a criminal suspect who is shot while trying to avoid apprehension has a cognizable claim of a deprivation of his Sixth Amendment right to trial by jury. See *Cunningham v. Ellington*, 323 F. Supp. 1072, 1075-1076 (WD Tenn. 1971) (three-judge court). Finally, because there is no indication that the use [\[471 U.S. 1, 31\]](#) of deadly force was intended to punish rather than to capture the suspect, there is no valid claim under the Eighth Amendment. See *Bell v. Wolfish*, [441 U.S. 520, 538](#) -539 (1979). Accordingly, I conclude that the District Court properly entered judgment against appellee-respondent, and I would reverse the decision of the Court of Appeals.

III

Even if I agreed that the Fourth Amendment was violated under the circumstances of this case, I would be unable to join the Court's opinion. The Court holds that deadly force may be used only if the suspect "threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm." *Ante*, at 11. The Court ignores the more general implications of its reasoning. Relying on the Fourth Amendment, the majority asserts that it is constitutionally unreasonable to use deadly force against fleeing criminal suspects who do not appear to pose a threat of serious physical harm to others. *Ibid.* By declining to limit its holding to the use of firearms, the Court unnecessarily implies that the Fourth Amendment constrains the use of any police practice that is potentially lethal, no matter how remote the risk. Cf. *Los Angeles v. Lyons*, [461 U.S. 95](#) (1983).

Although it is unclear from the language of the opinion, I assume that the majority intends the word "use" to include only those circumstances in which the suspect is actually apprehended. Absent apprehension of the suspect, there is no "seizure" for Fourth Amendment purposes. I doubt that the Court intends to allow criminal suspects who successfully escape to return later with 1983 claims against officers who used, albeit unsuccessfully, deadly force in their futile attempt to capture the fleeing suspect. The Court's opinion, despite its broad language, actually decides only that the [\[471 U.S. 1, 32\]](#)

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shooting of a fleeing burglary suspect who was in fact neither armed nor dangerous can support a 1983 action.

The Court's silence on critical factors in the decision to use deadly force simply invites second-guessing of difficult police decisions that must be made quickly in the most trying of circumstances. Cf. *Payton v. New York*, [445 U.S., at 619](#) (WHITE, J., dissenting). Police are given no guidance for determining which objects, among an array of potentially lethal weapons ranging from guns to knives to baseball bats to rope, will justify the use of deadly force. The Court also declines to outline the additional factors necessary to provide "probable cause" for believing that a suspect "poses a significant threat of death or serious physical injury," ante, at 3, when the officer has probable cause to arrest and the suspect refuses to obey an order to halt. But even if it were appropriate in this case to limit the use of deadly force to that ambiguous class of suspects, I believe the class should include nighttime residential burglars who resist arrest by attempting to flee the scene of the crime. We can expect an escalating volume of litigation as the lower courts struggle to determine if a police officer's split-second decision to shoot was justified by the danger posed by a particular object and other facts related to the crime. Thus, the majority opinion portends a burgeoning area of Fourth Amendment doctrine concerning the circumstances in which police officers can reasonably employ deadly force.

IV

The Court's opinion sweeps broadly to adopt an entirely new standard for the constitutionality of the use of deadly force to apprehend fleeing felons. Thus, the Court "lightly brushe[s] aside," *Payton v. New York*, supra, at 600, a longstanding police practice that predates the Fourth Amendment and continues to receive the approval of nearly half of the state legislatures. I cannot accept the majority's creation of a constitutional right to flight for burglary suspects [\[471 U.S. 1, 33\]](#) seeking to avoid capture at the scene of the crime. Whatever the constitutional limits on police use of deadly force in order to apprehend a fleeing felon, I do not believe they are exceeded in a case in which a police officer has probable cause to arrest a suspect at the scene of a residential burglary, orders the suspect to halt, and then fires his weapon as a last resort to prevent the suspect's escape into the night. I respectfully dissent. [\[471 U.S. 1, 34\]](#)

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Threat Perception Color Code - the tactically applied and color adapted correlation of the Threat Perception Categories on the Use of Force Model.

Control Superiority Principle © - the understanding and visualization method utilized to reinforce the inherent principle of officer force superiority over the subject's degree of compliance / non-compliance.

Assessment / Selection Arrows - the mechanism utilized to indicate the dynamic nature of an officer's decision-making process of Tactical Transition © during the enforcement encounter.

Threat Perception Categories

Strategic - the broad "mind set" of the officer, represented by the blue baseline on the Threat Perception Color Code ©. The contemporary officer must maintain this functional foundation, centered upon strategies designed to enhance the status of safety.

Tactical - the second level on the Use of Force Model, depicted by the color green. Here the officer perceives an increase in threat potential within the confrontational environment and tactical procedures are designated and deployed.

Volatile - the third level on the Use of Force Model utilizing the color yellow to indicate an activated level of alertness and threat potential. Here the officer is confronted with the presence or potential of critical dynamics, including threat intensity and severity within the enforcement encounter.

Harmful - at this level on the Use of Force Model the color orange denotes an accelerated perception of threat directed upon the officer or others. In this regard the officer must deploy initial defensive force in the effort toward eventual subject compliance and control.

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Lethal - the highest level on the Use of Force Model correlates to the most intense color in the Threat Perception Color Code ©, red. Although this potentially lethal degree of threat is most infrequent, it remains most crucial for the continuation of officer safety and security.

Perceived Subject Action (s) Categories

Compliant - represents the vast majority of officer / citizen confrontations in the form of cooperation and control. Such cooperation is generally established and maintained via cultural acceptance, verbalization skills, etc.

Resistant (*Passive*) - the preliminary level of citizen non-compliance. Here, the citizen, although non-compliant, offers no physical or mechanical energy enhancement toward the resistant effort.

Resistant (*Active*) - the subject's non-compliance is increased in scope and / or intensity. The subject's non-compliance now includes energy enhanced physical or mechanical defiance.

Assaultive (*Bodily Harm*) - the officer's attempt to gain lawful compliance has culminated in a perceived or actual attack on the officer or others. The officer makes the reasonable assessment that such actions by the subject would not result in the officer's or other's death or serious bodily harm.

Assaultive (*Serious Bodily Harm / Death*) - the officer's attempt to gain lawful compliance has culminated in the perception of an attack or the potential for such an attack on the officer or others. The officer makes the reasonable assessment that such actions by the subject could result in serious bodily harm or death to the officer or others.

Officer Response (s) Categories

Cooperative Controls - include contemporary controls developed to preserve officer safety and security, including: communication skills, restraint applications, etc.

Contact Controls - includes resistant countermeasures designed to guide or direct the non-compliant subject. These "hands on" tactics would include the elbow / wrist grasp, Hand Rotation Position ©, etc.

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Compliance Techniques - includes resistant countermeasures designed to counter the subject's enhanced degree of resistance. These tactics could include the Hand Rotation Technique ©, chemical irritants, etc.