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To: All Personnel
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Evaluating Threats and Use-of-Force Decision-Making

Purpose: To provide patrol officers with a comprehensive understanding of evaluating threats and making informed use-of-force decisions based on present ability, opportunity, and apparent intent.

▲ A.O.I. Triad: Ability, Opportunity, and Intent

When evaluating threats and making use-of-force decisions, officers must assess three critical factors: Present Ability, Opportunity, and Apparent Intent (A.O.I.). Understanding these elements helps determine whether a threat is immediate and justifies a particular response.

- **Ability:** Refers to the means an individual has to cause serious injury, such as possessing a weapon, superior strength, exceptional skill, or greater numbers.
- **Opportunity:** The proximity or distance that allows an individual to use their means to cause harm, including effective range or accessibility.
- **Intent:** The display, use, or threat of using ability in a way that endangers others. This is sometimes referred to as "jeopardy" or "motive."
- **Common Misconceptions:**
 - **Certainty of Intent:** Officers are not required to have certainty about a person's intent before using force. It is impossible to read minds, and demanding certainty can be dangerous.
 - **False Signals:** Outward signals may be misleading. For example, a vehicle's blinker might not always indicate the driver's true intent to change lanes.

▲ Evaluating Intent

- **False Signals:** Intent is often deduced from what an individual does or how they behave in a given context. However, these signals can sometimes be misleading or deceptive. For instance, a person might make a gesture that appears threatening, like reaching into a pocket, but they may be retrieving a harmless item, such as a phone or wallet. In these cases, the outward behavior or cues do not always accurately reflect the person's true intent or the actual threat level.
- **Complexity in Criminal Behavior:** Criminals might use deceptive behavior to mislead law enforcement about their true plans. For example, a suspect might act nonchalant or harmless to lower an officer's guard while planning something harmful. Recognizing that deception is a common tactic can help officers better assess the situation.
- **Surprise and Deception:** Criminals may use ruses to mislead law enforcement and conceal their true intentions. For example, a criminal might feign compliance or cooperation to avoid detection or delay an arrest. Understanding these dynamics helps officers anticipate and react to deceptive behaviors.
- **Law Enforcement Officers Cannot Read Minds:** Officers are not expected to have perfect knowledge of a suspect's intent but must make decisions based on observable actions and the context of the situation. An officer's response should be based on reasonable interpretations of actions and situational factors, rather than assuming they know the suspect's exact intentions. The goal is to make a decision that is objectively reasonable given the circumstances at that moment, even if complete certainty about the suspect's intent is not possible.

▲ Present Ability, Opportunity, and Apparent Intent

- **Present Ability:** Refers to the suspect's means to inflict serious injury or harm at the moment of the encounter.
- **Example:** An angry suspect confined to a hospital bed. Despite displaying hostile behavior and verbal threats, the suspect lacks the physical ability to carry out any harm due to their immobilization and lack of access to weapons or tools that could cause injury. The

suspect's hostile intent does not translate into an immediate threat because their present ability to cause harm is nullified by their condition.

- **Implication:** Officers must distinguish between intent and the actual ability to cause harm. A suspect may have the intent to harm but without the present means to do so, the threat level is significantly reduced. This helps in making a measured response appropriate to the level of threat.
- **Opportunity:** Refers to the suspect's proximity and ability to use their means to inflict harm effectively.
- **Example:** A suspect with a weapon, such as a gun, on the opposite side of a vast distance, like the Grand Canyon. Although the suspect has a weapon (ability), the great distance prevents them from effectively using it to harm the officer or others at that moment. The opportunity to pose an immediate threat is absent because the suspect is out of range to carry out their hostile intent.
 - **Implication:** Assessing opportunity helps officers understand whether a suspect can realistically carry out a threat based on their position and the environment. If the suspect lacks the opportunity to use their means effectively, the immediate threat level is lowered, allowing for alternative strategies other than the use of force.
- **Apparent Intent:** The suspect's behavior and actions that demonstrate their intention to inflict harm.
- **Example:** A chef holding a knife in a kitchen. In this context, the chef's intent is likely benign, as the knife is a tool for cooking, not a weapon for harm. Contrast this with a suspect running down a crowded street while brandishing a knife. In this scenario, the suspect's actions suggest a high likelihood of intending to cause harm to others, indicating a more immediate and serious threat.
 - **Implication:** Apparent intent is discerned from the context and the suspect's behavior. It helps officers gauge whether the suspect's actions suggest a harmful intent. An object or action that is innocuous in one context can be threatening in another, and officers must interpret these cues to decide on an appropriate response.

▲ Application in the Field

Officers use the A.O.I. triad to make quick, informed decisions in dynamic situations. Here's how it works in practice:

- **Observation:** Officers observe the suspect's behavior, the environment, and any objects the suspect may have.
- **Assessment:** Evaluate the present ability, opportunity, and apparent intent of the suspect. Consider the totality of circumstances, including the suspect's actions, statements, and environmental factors.
- **Decision-Making:** Based on the A.O.I. assessment, determine the level of threat and decide on the appropriate response. This may range from verbal commands and de-escalation techniques to the use of force if necessary.
- **Documentation:** After the incident, thoroughly document the observations and reasoning behind the decision, emphasizing the evaluation of present ability, opportunity, and apparent intent.

▲ Legal Context

➤ California Penal Code § 835a: Use of Force Standards

PC 835a provides specific guidelines on the use of force, outlines the circumstances under which officers may use physical force and emphasizes the need for proportionality and necessity.

Key Provisions:

- **Proportionality:** Force used must be proportional to the threat faced.
- **Necessity:** Force should only be applied when necessary to achieve a legitimate law enforcement objective.
- **Reporting:** Officers must document and report the use of force incidents.

➤ Assembly Bill (AB) 392: The California Act to Save Lives

AB 392, enacted in 2019, significantly revised the use-of-force standards for law enforcement officers in California. This bill sets stricter criteria for the

use of deadly force, emphasizing the need for officers to use de-escalation techniques and to consider alternatives before resorting to deadly force.

Key Provisions:

- **Standard for Use of Deadly Force:** Officers may only use deadly force when necessary to defend against an imminent threat of death or serious bodily injury.
- **De-Escalation:** Requires officers to utilize de-escalation techniques and alternatives wherever possible.
- **Investigation and Reporting:** Mandates detailed reporting and investigation of all incidents involving deadly force.

➤ **Senate Bill (SB) 230: Law Enforcement Training and Standards**

SB 230, also enacted in 2019, focuses on enhancing law enforcement training and establishing standards for use-of-force policies. This bill mandates specific training requirements and the development of policies to ensure officers are prepared to handle critical incidents appropriately.

Key Provisions:

- **Training Requirements:** Mandates training in de-escalation, crisis intervention, and implicit bias.
- **Use-of-Force Policies:** Requires agencies to develop and maintain clear use-of-force policies that align with state standards.
- **Annual Reporting:** Agencies must report on their compliance with training and policy requirements.

 **Conclusion**

Understanding and articulating present ability, opportunity, and apparent intent are essential for justifying use-of-force decisions and ensuring the safety of both officers and the public. AB 392 and SB 230 together provide a framework for effective threat evaluation and decision-making, supported by necessary training.