



Nevada Department of Corrections

Use Of Force

A.R. 405

What is Force?

- ◆ **Force** - Any violence, compulsion, or constraint physically exerted by any means upon or against a person
- ◆ **Deadly Force** – Any force that carries a substantial risk that will possibly result in death of a person
- ◆ **Excessive Force** – Any act of force in excess of what it takes to subdue a resisting inmate and/or to move a resisting inmate to a secure location





When Force May Be Used

- ◆ **To protect the safety of oneself or others from harm**
- ◆ **To prevent escape**
- ◆ **To prevent destruction of state property**
- ◆ **To compel compliance with lawful orders**
- ◆ **To prevent or quell a disturbance**



Liability

- ◆ 8th Amendment–Cruel and unusual punishment
- ◆ Civil Rights Action is filed when law enforcement personnel act or do something under color of law that deprives anyone of their constitutional rights or subject or causes one to be subjected to a wrong.



Liability

- ◆ **Violation of criminal code – not only can you face tort suit or civil rights suit, you can also be criminally charged as a law enforcement officer**
- ◆ **Good faith is an effective defense.**
- ◆ **Graham vs Conner: Force must be reasonable based on the totality of circumstances**



Nevada Law

- ◆ In keeping with the policy of the Department of Corrections prohibiting the use of excessive force, NRS 212.020 – “Inhumanity to Prisoners,” is noted as follows:



- a. Every jailer or person who shall be guilty of willful inhumanity or oppression to any prisoner under his care or custody shall be punished:
- 1) Where the prisoner suffers substantial bodily harm for such inhumanity or oppression, by imprisonment in the state Prison for not less than one year nor more than six years or by a fine of not more than \$5,000.00 or both fine and imprisonment
 - 2) Where no substantial bodily harm results, a gross misdemeanor.
- b. Whether or not the prisoner suffers substantial bodily harm, any public officer guilty of such willful inhumanity is guilty of a maleficence of office.



Elements of Deadly Force

- ◆ Ability or apparent ability
- ◆ Opportunity
- ◆ Imminent jeopardy
- ◆ Preclusion



Ability or Apparent Ability

- ◆ Does the violator/inmate possess the ability or the apparent ability to kill you or a third party, or to cause you or a third party great bodily harm?

Opportunity

- ◆ Does the violator/inmate have the opportunity to kill you or a third party, or cause you or a third party great bodily harm?



Imminent Jeopardy

- ◆ Has the violator/inmate placed you or a third party in imminent jeopardy



Preclusion

- ◆ Have you reasonably exhausted all of your avenues of retreat at that time and at that place? Was there the feasibility or availability of alternative actions?





Factors Considered when Reviewing Use of Force

- ◆ Was it applied in good faith
- ◆ Extent of the threat to the safety of staff and inmates
- ◆ Need for application of force
- ◆ Relationship between the need and the amount of force used
- ◆ Extent of injury inflicted



Confrontational Continuum

Officer-Subject Factors

Age

Sex

Size

Skill Level

Multiple Officers

Multiple Subjects

Relative Strength

Special Circumstances

Close Proximity to Firearm

Special Knowledge

Special ability

Injury or exhaustion

Ground

Disability

Imminent Danger

Distance from subject

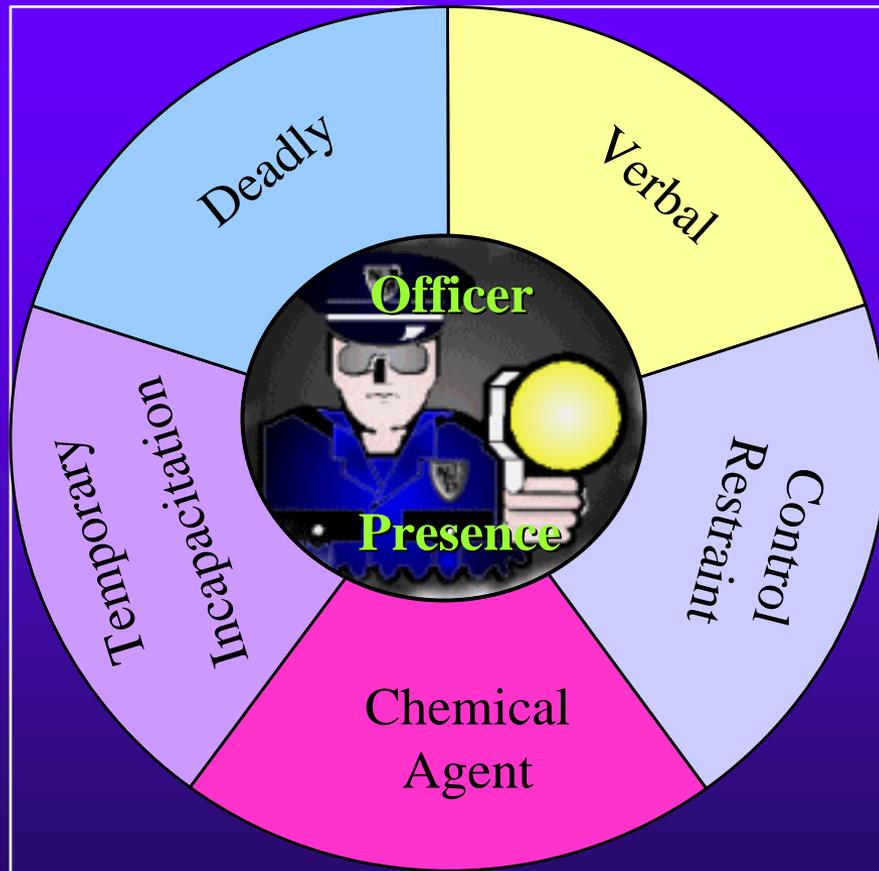
Availability of other
options



Use of Force Continuum

- ◆ 1. Officer Presence
- ◆ 2. Verbal Commands
- ◆ 3. Control and Restraint
- ◆ 4. Chemical Agents
- ◆ 5. Temporary Incapacitation
- ◆ 6. Deadly Force

Circle Continuum





If in doubt?

- ◆ If doubt exists in the Department's peace officer's or designated employee's mind as to whether they should discharge the weapon/firearm under the circumstances that have been outlined, they should conclude that they **WILL NOT** discharge the weapon/firearm