

From: De Sylva, Sam
Sent: Tuesday, November 26, 2019 10:17 AM
To: Smith, Kimberly; Dawkins, Sean; Hetteema, Peter Stephen; Taglioretti, Marcia Lynn
Cc: Dahlstein, Max; Gordon, Carolyn
Subject: FW: AB 392 Webinar! 20min and you will understand it!

LT's,

I sent this webinar to the PPOA Board and had them all watch it. The reason I put this together was because of many misconceptions going around about AB 392. This 20 minute webinar answers a lot of the questions. Please consider showing it during a briefing. I believe this webinar is way more informative than the one put out by POST. In the interest of time, you can fastforward the first 2min if you want.

Thank you.

Sammy

This Webinar is extremely informative. It is only about **20 minutes**. About 35minutes if you watch the questions and answer section. Many Officers have reached out to me regarding AB 392. There are a lot of misconceptions about AB 392 going around. I do not want Police Officers being afraid to do their job, especially because of a misunderstanding on an Assemble Bill.

Please Watch: As Reps you guys should know this information.....

<https://info.lexipol.com/webinar-ca-ab392-ty>

I have typed up some notes from the video. You don't have to read this if you watch the video.

What the Webinar will discuss:

- Is it true, that you can now only use force when **necessary**? **NO. This is not true.** The new standard is the exact same thing we have had for the last 50 years. That is Graham Vs. Connor "Objective reasonableness" standard.
- Webinar will discuss how Stephon Clark shooting prompted AB 931 by the legislator which was eventually defeated in 2018.
- If AB 392 was defeated by Law Enforcement, then the decision would have gone to the voter (and this may have drastically limited law enforcement because of the lack of understanding by the average citizen). It was in the best interest of Law enforcement to work with Lawmakers on AB 392 and Law enforcement was successful in achieving about 95% of what was important. This is important for our Officer to know.
- SB 230 is also discussed and prepares us what to prepare for in 2021.
- Webinar will discuss how the word necessary could have posed a problem. Further if necessary was placed into law like the legislator intended, because of the California BANE Act, attorneys would have been able to recover attorney fees in State Court and Federal court. Two bites at the apple.
- Officers ask me why does PC 835(a)(2) still have "When Necessary." That is not concerning because it is followed by objective reasonableness (language in Graham Vs. Connor). All subsections in PC 835 is followed by reasonable, reasonable belief, and when reasonable and feasible by a reasonable officer.
- PC 835(a)(4) Mirrors the Graham standard. – *"That the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account*

for occasions when officers may be forced to make quick judgments about using force.”

- The language in PC 835(a) is still able to acknowledge what the Supreme Court acknowledged 50 years ago, that is Officers may have to use quick judgement about using force. That ability to make a split second decision.
- Further discusses the benefits of 835(a)(5) on how the legislator has recognized the increase of individuals with mental health and individuals under the influence of controlled substances. They discuss the importance of documenting this in reports and how this can now help Law Enforcement.
- Discusses the difference between imminent vs immediate and how Law Enforcement was successful in getting the legislator to recognize this.
- More clear definition on Serious Bodily Injury which is defined by PC 243(f)(4) and getting rid of the confusing language discussed in AB1421 of Great Bodily Injury.
- How Law Enforcement was able to retain the Tennessee V. Garner language – “Apprehend fleeing felon” The Attorney on the video will discuss the importance of knowing and if feasible what kind of warning to give. This is an attorney speaking with experience of defending Police Officers and how Jurors view what is seen on BWCs and patrol car dash cams.

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