

From: Dunham, Veronica
Sent: Monday, December 2, 2019 7:17 AM
To: Macias, Rosanne
Subject: RE: Sunday Email

Done-video watched

From: Perez, John Eduardo [REDACTED]@cityofpasadena.net>
Sent: Sunday, December 01, 2019 10:56 AM
To: PD_All (Police) [REDACTED]@cityofpasadena.net>
Subject: Sunday Email

Happy Sunday! As we move into another New Year period, I hope everyone finds their motivation and purpose in our mission to provide essential public safety services that brings global attention. Unlike others in society who slow down for the holidays, we enter into the last period of the year, ramping up with required overtime for event details and preparing for two of the biggest events in the Nation. It is an "All Hands On Deck" call to service for the PPD, so let's get ready.

Please take 35 minutes to view the listed website: <https://info.lexipol.com/webinar-ca-ab392-ty> which is extremely informative and will be required for all of us to view. Many of you have reached out with your concerns to our Lexipol Unit and Training Staff regarding AB 392 so I hope this video is helpful. There are many misconceptions circulating about AB 392 and it is important you have confidence and knowledge in serving your community. You should understand the new law and how it applies to use of force incidents. I appreciate the research effort by Sgt. DeSylva on AB 392.

Webinar highlights:

- 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 -- Graham vs Connor "Objective reasonableness" standard
- How the Stephon Clark shooting prompted AB 931 by the legislature which was eventually defeated in 2018
- If AB 392 was defeated by Law Enforcement, then the decision would have gone to the voter (this may have drastically limited law enforcement due to the lack of understanding by the average citizen). It was in the best interest of law enforcement to work with legislators on AB 392. Law enforcement was successful in achieving about 95% of what was important. This is critical for our Officers to know
- SB 230 is also reviewed and tells us how to prepare for in 2021
- It will discuss how the word "necessary" could have posed a problem. Further, if "necessary" was placed into law like the legislature intended and because of the California BANE Act, attorneys would have been able to recover attorney fees in State court and not have had to take it Federal court. Bane Act {Section I}:
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=52.1.
- Officers have asked 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 are 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 in 1989 that officers may

have to use quick judgement about using force--that ability to make a split-second decision

- Discusses the benefits of 835(a)(5) and legislators recognizing the increase in individuals with mental health and individuals under the influence of controlled substances. It discusses the importance of documenting this in reports and how this will now help Law Enforcement
- Discusses the difference between imminent vs immediate and how Law Enforcement was successful in getting the legislature 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 vs Garner language – “Apprehend fleeing felon”. The Attorney in the video discusses the importance of knowing and, if feasible, what kind of warning to give. This is an attorney speaking from experience in defending Police Officers and how jurors view what they see on BWCs and patrol car dash cams.

This past week, we had a lot to be thankful for and a big Thank You to all those who assisted with the Thanksgiving dinner delivery to those in need. Remember to refer homeless and others who are in-need to the local cold-weather shelters as we hit near freezing temperatures during the night. Attached is the list provided by Officer Armendariz.

Please take a moment and congratulate those who graduated from Class #1 of the Civilian Leadership Institute, Supervisors Alex Padilla & Rosanne Macias, and our most recent graduate from the POST Supervisors Leadership Institute, Sgt. Richard Padilla. We welcome their new perspectives in leadership and critical understanding of our challenges – very important to our long-term success. These professional development courses, like others, offer insight, guidance, and professional development, teaching us new skills which encourage a growth mindset and a willingness to be better at what we do. We will continue to send our civilian supervisors to future CLI courses on a regular basis.

Questions to ask ourselves: Are we reading and studying enough? Are we examining our own habits, building new core skill sets in policing, and admitting we can do better?

It is our journey!

Be Safe