

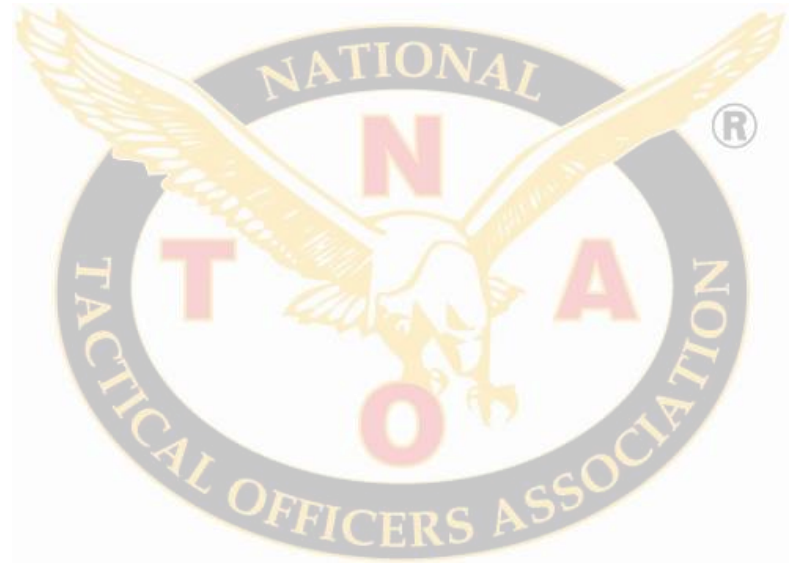


Training Issues

NATIONAL TACTICAL OFFICERS ASSOCIATION

800-927-9127

WWW.NTOA.ORG



Section One

TRAINING

MANAGEMENT



Management

- Most teams know that they need to train, but most don't know *how* to train effectively
- Training is both an art and a science



Management

- Training management requires having an end “product” in mind



Management

- To produce a “product,” there must be a plan
- To follow a plan, there must be a process
- To complete a process, there must be a schedule

Management

Training vs. Education



Management

- **Education** expands knowledge
- **Training** narrows performance



Management

- Education produces unfocused confusion, while training produces synchronized effort
- Why?



Management

- Training must be:
 - Task oriented
 - Performance based
 - “Adult learning” model

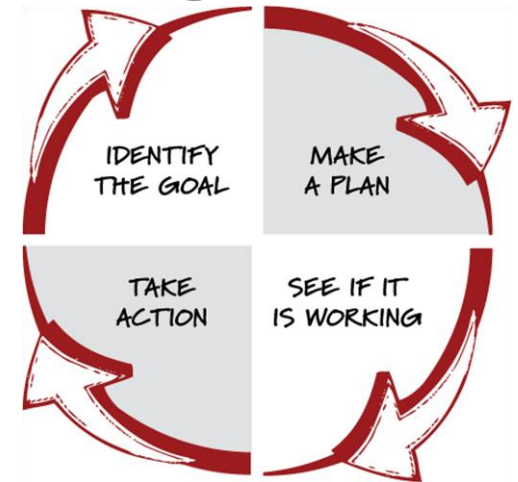


Training must be. . .

- Planned
- Executed
- Assessed at all levels
- **What is our goal?**



Goal: mission-capable individuals, elements, teams and leaders



Effective Training

- Synchronizes the efforts of individuals, elements, teams and leaders
- Maximizes time, minimizes distractions or conflicts, efficiently utilizes resources and maximizes safety



Benefits?

- Maximum mission success potential
- Confident, capable and competent operators
- Exercises and validates systems



How?

- “Building Block” approach
- Deconstruct training into smallest singular components
- Combine blocks into synchronized actions



Foundation

- Build from the foundation up, including the “why”



Training. . .

- is the focus of all leaders, at all levels
- is a constant effort
- must include self education outside the formal program



Management

“We train the way we intend to perform because historical experiences provide ample examples of the direct correlation between realistic training and favorable outcomes.”



Principles

- Train as a team
- Train as you perform
- Train according to law and policy



Principles

- Train to challenge
- Train to achieve proficiency
- Train to sustain



Leaders & Trainers

- Leaders are the primary Training Managers and Trainers must:
 - Provide continuous time and energy focused on training
 - Develop and communicate a clear training vision



Management

- Mission based
- Adopt standards
- Continuous review and assessment
- Training plans



To Be Effective. . .

- Delegate training authority where appropriate
- Hold trainers accountable
- Provide training skill development opportunities



To Be Effective. . .

- Get and stay personally involved
- Demand that training goals be met

To Be Effective. . .

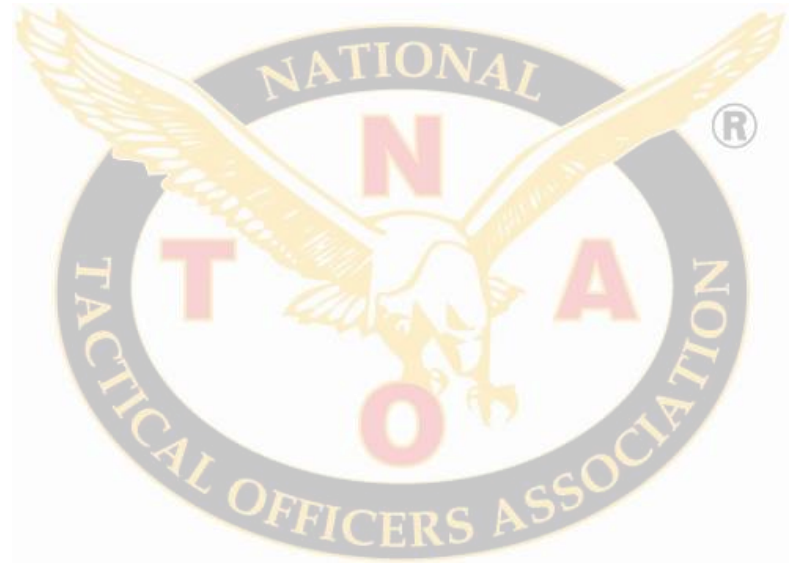
- Foster a team climate that is conducive to effective training
- Eliminate training distractions



Task Oriented

- There are Four Levels of “task-oriented, performance-based” training:
 - Individual tasks
 - Element tasks
 - Team tasks
 - Leadership tasks





Section Two

PHILOSOPHY



Must be. . .

- Solid
- Realistic
- On-going
- Verifiable



What's Solid?

Training which overcomes
the most *consistent*
problems for SWAT
Teams



What's Realistic?

Training that duplicates incidents your team will face in the normal course of day-to-day operations



Realistic

Ensure that practical exercises are both

realistic and *capable of solution*

Realistic

- Do not develop “no win” scenarios
- Develop training scenarios based on other team’s experiences

What's On-Going?

- Regularly scheduled
- Structured
- Goals and objectives
- Performance standards



On-Going

- Skills are perishable!
- Use what you know
- Rehearse to the very end
- Contingency plans



What's Verifiable?

Training in which is ***well documented*** by syllabus, synopsis and maybe even video. It must be stored and easily retrievable and open for review.



Verifiable

- **Training files for everyone!**
- Continuous review process
- Joint training documentation



Concerns

- Poor use of time
- Outdated lesson plans
- Lack of documentation
- Records not archived



Concerns

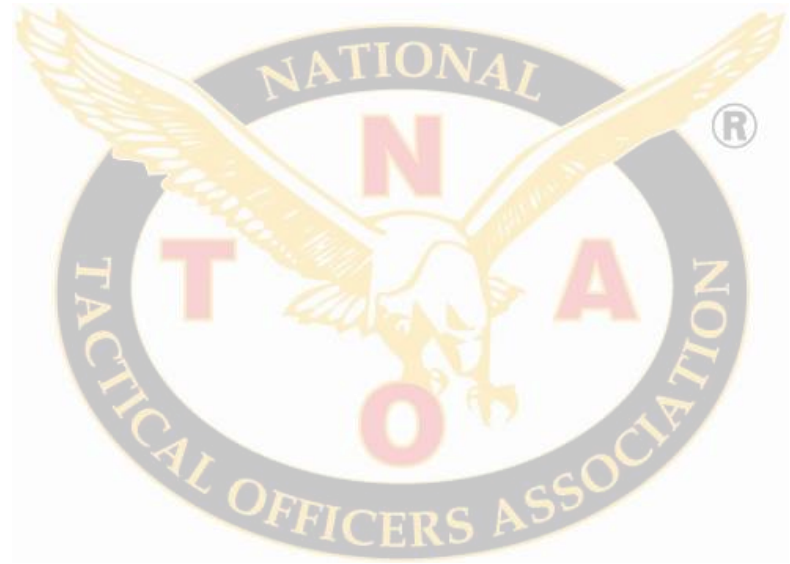
- Training oversight
- Lack of structure



Training Frequency

- Courts dismiss excuses for lack of training. . .
- Annual Training:
 - Matrix (dates/topics for the year)
 - Monthly training hours
 - Annual training hours (additional – “SWAT In-service”)
 - Specialty training hours each month





Section Three

DOCUMENTATION



Documentation

- Critical task lists
- Instructional objectives
- Day-to-day agenda



Documentation

- Lesson plan or outline
- Performance evaluations
- ***If you didn't write it down, it didn't happen!***



Documentation

- *All training documents are discoverable!*



Documentation

- Attendance rosters
- Training plans
- PowerPoint vs. lesson plans



Documentation

- Mission after action reports
- Training after action reports



Training Plan

- Detailed, reviewed, approved, signed and saved
- Date, time, where, who instructed
- Safety officers
- Role players



Training Plan

- Safety equipment
- Hours on each topic
- Specific details of what you are going to do



Training Plan

- Training synopsis
- Training goals
- Detailed scenarios
- Firearms drills (round count)
- Individual vs. team drills



Documentation

- Consider incorporating report writing with live-fire or force-on-force decision making scenarios
 - Police reports only allow for one opportunity to document correctly and with adequate detail
 - Provides opportunity to develop writing skills

Daily Training Schedule

XXX
Special Weapons and Tactics Team

Memorandum

DATE: March 31, 2010
TO: All SWAT Personnel
FROM: Sgt. Hilliker, Supervisor, SWAT
SUBJECT: April 6, 2010 training Schedule

Please review the following schedule set for April 6, 2010. Ensure that you refresh your knowledge prior to training on topics listed on the schedule in order to better prepare and to be a contributing operator during training.

Times	Subject	Location	Instructor(s)
0900-1200	Qualifications: O'Course / Handgun / Rifle	PRTC	
1200-1300	C-7		
1300-1400	Commander's Time	PRTC / Classroom	
1400-1700	Training Rotations	PRTC	
Training Stations			
1.	Buy Bust / Reversals	PRTC	TBA
2.	Vehicle Take Downs	PRTC	TBA
3.	Open air Assaults	PRTC	TBA
Rotations			
1400-1500	1. Alpha	2. Bravo	3. Charlie/Delta
1500-1600	1. Charlie/Delta	2. Alpha	3. Bravo
1600-1700	2. Bravo	2. Charlie/Delta	3. Alpha
Logistics			
Vehicles:	Assigned:	Vehicles:	Assigned:
Alpha Sprinter		Bear	
Bravo Sprinter		Bearcat	
Charlie Sprinter		Equipment Van	
Delta Sprinter		SCBA Trailer	
Equipment:	Assigned:	Equipment:	Assigned:

** Reminder: If you are assigned a block of training, you must complete and submit a training plan to the training Sergeant for approval no later than 7 days prior to scheduled training.

Attendance Roster

- Consider yearly summary
- Track partial attendance

XXX
Special Weapons and Tactics Team

Attendance Roster

NAME	AGENCY	PRESENT	NOT PRESENT	REASON
ALPHA SQUAD		DATE	2009	
Sgt. Pat Hilliker (Sh)(G)	PCSD			
Ofc. Zach Pierce (Sh)(S)	OVPD			
Dep. Paul Petropoulos (B)(G)	PCSD			
Dep. Rudy Necoechea (SCBA)(G)	PCSD			
Dep. Jay Korza (T)(B)	PCSD			
Dep. Christopher Garcia (Sh)(T)	PCSD			
Dep. Stephen Ferree (T)	PCSD			
Dep. Tony Lopez (T)	PCSD			
BRAVO SQUAD				
Dep. Jeff Bonds (B)(S)	PCSD			
Ofc. Jake Shumate (Sh)(B)	MPD			
Dep. Ken Hedrick (B)(S)	PCSD			
Dep. Chuck Lopiccolo (G)(T)	PCSD			
Ofc. Jason Horetski (G)(T)	OVPD			
Dep. David Hughes (G)(T)	PCSD			
Dep. Joe Klein (T)	PCSD			
Dep. Lorence Jove (T)	PCSD			
CHARLIE SQUAD				
Sgt. Terry Staten (SCBA)(B)	PCSD			
Dep. Mike Walsh (B)(G)	PCSD			
Dep. Michael Canizales (B)	PCSD			
Ofc. Hector Iglecias (G)(Sh)	SPD			
Dep. Jason Rockwell (S)(T)	PCSD			
Dep. Gilbert Caudillo(B)	PCSD			
Dep. K J Taylor (S)(T)	PCSD			
Dep. Nicholas Norris	PCSD			
DELTA SQUAD				
Sgt. Bob Krygier (S)(G)	PCSD			
Dep. Gary Stengel (Sh)(Nav)	PCSD			
Dep. Derek Tyra (Sh)(G)	PCSD			
Ofc. Brian Carr (G)(S)	OVPD			
Dep. Kevin Kubitskey (G)(S)(Nav)	PCSD			
Dep. Ken Walsh (B)(Nav)	PCSD			
Dep. Daniel Barajas (T)	PCSD			
Dep. Derek Ogden (B)(T)	PCSD			
Dep. Rodney Calkins (T)	PCSD			
Dep. Aaron Cross	PCSD			
MEDICS				
Dr. Tammy Kastre	PCSD			
Medic TJ Price	PCSD			
Medic Jeremy Hilderbrand (Delta)	GRFD			
Medic Adam Jarrold (Bravo)	GRFD			
Medic Tony Compagno (Alpha)	NWFD			
Medic Ryder Hartley (Charlie)	NWFD			
Medic Troy Hayes	DPS			
Medic Dave Kleinman	DPS			
Medic Tim Higginbottom (Charlie)	RMFD			

Basic Training

- Document
 - What was learned?
 - Who taught blocks of instruction
 - How many hours on each topic
 - Lesson plans, etc.



Basic Training

- Ability to prove topics were covered for new operators
 - When?
 - Who?



Basic Training

- SWAT school focusing on physical fitness
 - Why a concern?



Basic Training Checklist

- One of several pages

XXX
Special Weapons and Tactics Team

Basic Training Certification Checklist

Name: _____ Badge: _____

Date of assignment to S.W.A.T.: _____

Dates of basic S.W.A.T. school: _____

This form indicates when a deputy/officer has been initially trained in the basic functional areas of S.W.A.T.

Functional Area	Dates	Instructor	Comments
SWAT introduction & team organization			
Vehicle orientation			
Tactical Firearms to include sub-guns, handguns, shotguns.			
Sniper Operations			
Barricaded subject calls			
Tactical Scouting			
Building searches/high risk warrant services			
NFDD's			
Less lethal to include 37/40mm, super socks, & Taser			
Mechanical breaching (familiarize)			
Explosive breaching (familiarize)			
Chemical agents			
T.E.M.S.			
Downed officer rescues			
Negotiations			
Electronic surveillance/listening equipment			
Hostage rescue to include			



New Operator Evaluation

- Do you evaluate your new personnel on each mission or training session?
- Do they get written feedback?

Pima Regional Special Weapons and Tactics Team
 Operating Policies and Procedure Appendix

II. MISSION / TRAINING EVALUATION FORM

Officer / Badge #: _____ Training Officer / Badge #: _____
 Mission / Training Location: _____ Date: _____

		RATING SCALE						
		MINIMUM						
R.T.	N.R.T.	Unacceptable	Acceptable	Superior	N.O.			
		1	2	3	4	5	6	7
	1	Response / Driving Skill	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2	Field Performance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	3	Firearms Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	4	Defensive Tactics Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	5	Physical Fitness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	6	General Tactics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	7	SWAT Knowledge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	8	Equipment Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	9	Appearance / Attitude	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Mission / Training Synopsis:

Documentation of Performance:

Remedial Training Provided:

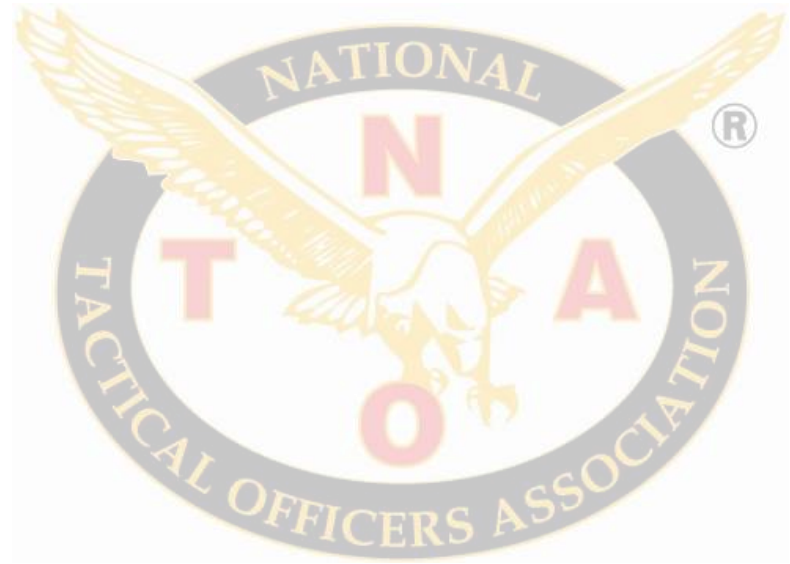
Officer Signature / Badge # _____ Training Officer Signature / Badge # _____

Squad Sergeant Signature / Badge # _____



Records Retention

- Formalize retention periods
- Various time periods
(5 years minimum)
- Computer records are fine,
electronic signatures



Section Four

TRAINING TOPICS



Training Topics

- What type of mission do you do most often?
- Perform needs assessment
- Develop annual training schedule and topic matrix based upon your needs assessment



Training Topics

- Train on various entry methods
- Crisis Intervention Techniques (CIT)



Often Forgotten

- Use of Force
- Booby traps
- Sniper initiated entries
- Homicide bombers
- Officer/Citizen Rescue
- Area Movement



Training Topics

- Joint training
 - Train with CNT
 - Train with K9
 - Train with EOD



Training Topics

- Not just firearms
- Over focusing on physical fitness
- **Make your team the most educated in the country!**



Annual Training Topics

- Many different ways to plan your annual training topics

Date	Locations	Time	Squad
1-1-10	HIDTA Range	0900-1700	Alpha
Hostage rescue live fire			
Incident debrief			
Rapid deployment			
PT			
Date	Locations	Time	Squad
1-14-10	Academy	1600-0000	Bravo
Scenario with other agency			
Date	Locations	Time	Squad
2-1-10	1300 E. 6th Street	1200-2000	Charlie
Warrant service class			
Warrant service practicals			
K9 training			



Annual Training Schedule

Session	January	February	March	April	May	June
1 st	13th 1300-2200 Covert Movement Annual FQ Shield Training (SCSO trng)	9th 0800-1700 Live Fire Entry (Benton, Barbara) Active Counter Measures (Allen, Hardesty)	8 th Combat Casualty Self Care (Kyle Jones)	14 th PFQ/FQ Rifle Handgun Drills-(Bryant, Bronson) Shield Drills-(Weippert, Maiorano) Wellness/SSC Range	3rd Officer Rescue, Armored Vehicles, live fire (Hardesty, Lang) SSC Range C,D	7 th Hostage Rescue Shoot House (Christensen) TBA
2 nd	28 th 0800-1800 Rural Tracking (Bronson, Fagan)	24 th 0900-1800 Legal Update (Lane) Mechanical Breaching (Christensen, Foley)	29 th FTX Barricaded Gun Man - leads to tracking Scenario QUARTERLY SCENARIO	21 st High Risk Transport and Security (Ingram) Seminole County Courthouse Sight Survey-OP Plans (Barbara)	19 th Annual Defensive Tactics (SCSO training)	23 rd FTX Hostage Rescue (Christensen/ Hardesty) QUARTERLY SCENARIO (TBA)
OTHER				Torch Run 23rd		FSA Tactical Conference
Session	July	August	September	October	November	December
1 st	7 th PFQ/FQ NIGHT FIRE Rifle Handgun Drills- Benton, Eric Shield Drills-Maiorano Night Vision - Foley, Lavoie (Wellness/SSC)	9 th Live Fire Entry w/ active counter measures. (OPD?)	6 th Aircraft/Bus Assault Fast Rope Training Lavoie/Barbara (Special Operations)	18 th Sniper and Grenadier Initiated Entries Pederson/Fagan (SSC Range C,D)	1st-5th Team Drills Blanding XO/TL/ATL	6 th Slow and deliberate entries. Robots, cameras, mirrors, talking hands (Court House)
2 nd	26 th Rappelling and elevated tactics Hardesty/Maiorano	25 th Waterborne Ops Pederson/Uzzi (Bear Lake, FPL)	27 th FTX Aircraft Assault FTX Bus Assault QUARTERLY SCENARIO (OSIA)	27 th PFQ/FQ Rifle & Handguns Day and Night Benton/Eric/Bronson (Wellness/SSC Range)	7 th -13 th SWAT Round UP	15 th FTX Barricaded gunman-slow and deliberate entries QUARTERLY SCENARIO (Seiman's Office)
OTHER	Red, Hot, Boom	Team Party				Christmas Party



Training Points

- Ensure training is appropriate to the needs of the team
- Adjust training and topics as necessary *(stay current)*
 - Proficiency
 - Needs change



Training Points

- Train by team position and as a full team
- Any and all tactics must be practiced and rehearsed ***prior to use***



Training Points

- Assign team members to critique incidents, which occurred in other jurisdictions
- Have team members do a pre-plan on locations they encounter while working regular assignments, which by their nature could pose problems



Training Points

- Conduct training exercises in non-sterile environments such as furnished offices and commercial buildings
- Solicit comments and suggestions from team members
- When they come back from school they should discuss what they learned with the team



Training Points

- Train under identical circumstances and weather conditions as past incidents
- Minimize simulations (realistic as possible)
- Teach and practice



Firearms Issues

- Poor weapon handling
- Lack of proper training and training time
- Failure to identify an actual threat
- Emphasis on speed and not proficiency



Firearms Training

- Live fire shooting in tandem or with ballistic shields allow them the experience of live rounds being fired around them
- In the absence of training comes panic, and with panic comes fear which ultimately leads to mistakes



Poor Weapons Handling

- Shooting
 - Missing and striking a fellow officer or other person
 - Approximately 8-10% of officer deaths involve a fellow officer
 - Majority are related to Warrant Service, Narcotics Unit, SWAT or Special Detail



Training Points

- Train new team members in the proper use, care and location of all equipment
- Know how to testify in court regarding it's usage



Training Points

- Teach, talk and use correct terminology for all equipment and techniques utilized on tactical operations
- Be familiar with dictionary terms used in reports



Use of Force Training

- Annual use of force and legal updates
- SWAT does *not* have a different use of force legal standard



Use of Force Training

- Demand your team articulate and justify all force
 - Everything they do should be questioned in front of the team and discussed



Table Top Exercises

- Our goal is to have thought of every possible scenario that could happen in our community
- Done properly, they can benefit greatly
 - Use local areas and realistic resources
 - Design scenario
 - Assign people to tasks
 - New roles each time



Hostage Rescue Training

- Terrorist events vs. standard hostage events
- Specialty targets
- Known layout vs. Unknown layout
 - What is more realistic?



Case Law Training

- FSDD's
- Less Lethal
- Knock and Announce
- Use of Force and Deadly Force
- Training



Decision Making

- Are the members empowered?
- Standing orders covered in training?
- Immediate action drills – If “abc” happens what will we do?



Command/Control Training

- Resource Management
- Risk Management
- Scenarios



Command/Control Training

- Include commanders and supervisors in the training
- Receive outside command TACTICAL training
- ICS / NIMS



Written Exams

- Consider utilizing written exams?
 - Keep them in a Personnel Performance Record (PPR)
 - Make them difficult, not the average cop test
 - Test on SOP's, philosophy, case law, statutes, specific issues (FSDD's)
 - Very helpful in court

Bring the Outside In

- Utilize reputable and verifiable resources
- Utilize law enforcement related groups
- Instructor schools



Bring the Outside In

- Specialty schools
- Train with other agencies in your area
- Don't be closed minded!!



Bring the Outside In

- **Is the training credible and cost effective?**
 - Who's doing the training?
 - What other LE have you trained?
 - Is there a course syllabus or outline?
 - Is there an agenda?
 - Are there student materials?
 - What is the cost per student?



Self-Evaluation

- Do you have a policy?
- Do you have a training plan?
- What is your plan based on?
- Do you have qualified instructors?
- Are there facilities to support the training?



Litigation Avoidance

- *Training*
- Documentation
- Education
- Policy & Procedure
- Counsel



Litigation Avoidance

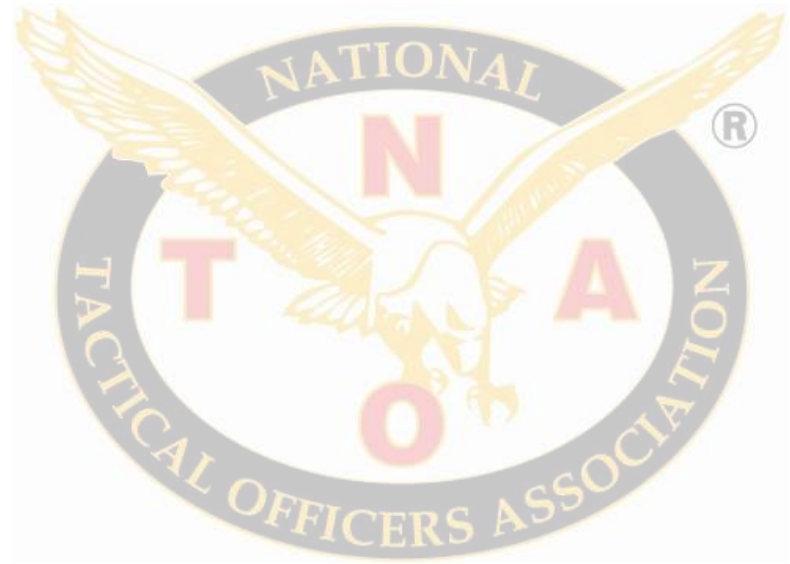
- Anticipate problems
- Make first statement count
- Expert assistance



Training +
Experience =

***Tactical
Competence***





Section Five

CASE LAW





Graham v. Connor

**490 U.S. 386, 109 S. Ct. 1865,
104 L. Ed. 2d 442**



Graham v. Connor

490 U.S. 386

- **Synopsis:** Officer Connor observed Graham hastily enter and leave a store. Officer Connor suspected something was amiss and conducted an investigative stop. Graham was a diabetic and felt the onset of an insulin reaction.
- **Issue:** Objective Reasonableness Standard



Graham v. Connor

490 U.S. 386

- Objective Reasonableness Analysis
 - The severity of the offense suspected.
 - Did the suspect pose an immediate threat to the safety of the officer or others?



Graham v. Connor

490 U.S. 386

- 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.





Canton v. Harris

489 U.S. 378



Canton v. Harris

489 U.S. 378

- **Synopsis:** Harris was arrested by the Canton PD and taken into lockup. During booking process, she fell to the floor several times. She responded incoherently when asked if she needed medical attention. No medical help was ever summoned for her.



Canton v. Harris

489 U.S. 378

- **Issue:** Failure to train (landmark case).
- Determined shift commanders had sole discretion to determine if medical was needed
- Received no training to conduct medical evaluations



Canton v. Harris

489 U.S. 378

- Failure to train can serve as basis for 42 U.S. Code § 1983, if it rises to the level of deliberate indifference
- Deliberate Indifference Standard

Canton v. Harris

489 U.S. 378

- Failure to train cases can be established in two ways:
 - Lack of training in specific area is so obvious that a need for training exists
 - Establishing a pattern of conduct by officers that agency was aware of and failed to provide adequate training



Canton v. Harris

489 U.S. 378

“. . .It may happen that in light of the duties assigned to specific officers or employees the need for more or different training is so obvious, and the inadequacy so likely to result in the violation of constitutional rights, that the policymakers of the city can reasonably be said to have been deliberately indifferent to the need.”





Popow v. Margate

476 F. Supp. 1237 (7th Cir.)

Popow v. Margate

476 F. Supp. 1237 (7th Cir.)

- **Synopsis:** Officer engaged in foot pursuit of a kidnapping suspect and fires duty weapon as the kidnapper ran down the street. Popow was accidentally shot and killed.
- **Issue:** Realistic and reasonable training



Popow v. Margate

476 F. Supp. 1237 (7th Cir.)

- Initially trained on deadly force in the police academy (ten years prior)
- Firearms training consisted of training twice per year, but failed to include decision-making



Popow v. Margate

476 F. Supp. 1237 (7th Cir.)

- No low light conditions (*shooting occurred in hours of darkness*)
- No moving targets (*suspect was fleeing/moving*)
- No training in firing within residential area (*occurred in a residential area*)



Popow v. Margate

476 F. Supp. 1237 (7th Cir.)

- Court concluded that it was *foreseeable* that an officer could be exposed to these conditions
- Training provided was *grossly inadequate*





**Davis v.
Mason County
927 F.2d 1473 (9th Cir.)**



Davis v. Mason County

927 F.2d 1473 (9th Cir.)

- **Synopsis:** Several incidents occurred between 1985-1986, in which traffic stops were conducted on various people. Each incident involved false arrests, beatings and excessive force.
- **Issue:** Failure to train



Davis v. Mason County

927 F.2d 1473 (9th Cir.)

- Must have training on constitutional limits
- “We hold that Mason County’s failure to adequately train its officers in the constitutional limits of the use of force constituted deliberate indifference to the safety of its inhabitants. . . .”



Davis v. Mason County

927 F.2d 1473 (9th Cir.)

- “The training that the deputies received was woefully inadequate, if it can be said to have existed at all...the deprivation of plaintiff’s 4th Amendment rights was a direct consequence of the inadequacy of the training the deputies received.”





Scott v. Harris

560 U.S. 372

Scott v. Harris

560 U.S. 372

- **Synopsis:** After a police officer attempted to pull him over for speeding, Harris fled in his vehicle, initiating a high-speed car chase. Attempting to end the chase, Deputy Scott rammed Harris' vehicle with his police cruiser. Harris crashed and was rendered a quadriplegic.



Scott v. Harris

560 U.S. 372

- Harris filed suit alleging Scott violated his 4th Amendment rights by using excessive force.
- District Court rejected Scott's claim for qualified immunity. The U.S. Court of Appeals for the 11th Circuit affirmed the District Court's decision.



Scott v. Harris

560 U.S. 372

- Supreme Court (8-1) ruled that Scott's actions were reasonable under the 4th Amendment.
- Majority held that "[...] it is clear from the videotape that [Harris] posed an actual and imminent threat to the lives of any pedestrians who might have been present, to other civilian motorists, and to the officers involved in the chase."



Scott v. Harris

560 U.S. 372

- “*Garner* did not establish a magical on/off switch that triggers rigid preconditions whenever an officer’s actions constitute deadly force.”
- *Garner* was an application of the reasonableness test to a fleeing unarmed subject. Its reach does not apply to every use of deadly force.



Scott v. Harris

560 U.S. 372

“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. . . .”



Scott v. Harris

560 U.S. 372

“. . . 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.”



Plumhoff v. Rickard

134 S. Ct. 2012



Plumhoff v. Rickard

134 S. Ct. 2012

- **Synopsis:** Officer pulled over Rickard's vehicle because of an inoperable headlight. The officer observed damage and asked Rickard to exit the vehicle. Rickard sped away and a pursuit ensued and ultimately surrounded Rickard in a parking lot. Rickard attempted to flee again, police fired shots into the vehicle killing Rickard and a passenger.



Plumhoff v. Rickard

134 S. Ct. 2012

- Trial Court denied qualified immunity for the officers. The U.S. Court of Appeals for the 6th Circuit affirmed the trial court's decision. Court of Appeals held that qualified immunity only applies when officers are acting reasonably and held police did not act reasonably in this case.



Plumhoff v. Rickard

134 S. Ct. 2012

- Unanimous Supreme Court decision reversed the trial courts ruling and held that Rickard was still attempting to flee when officers fired and that officers reasonably could have believed that if the chase resumed Rickard would once again pose a deadly threat to others on the road.



Plumhoff v. Rickard

134 S. Ct. 2012

- Total number of shots fired also did not qualify as excessive force. If officers are justified in opening fire to end a threat to the public safety, they are similarly justified in continuing to fire until the threat to public safety has ended.





Plakas v. Drinski

19 F. 3d 1143 (7th Cir.)



Plakas v. Drinski

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- **Synopsis:** Plakas is operating his vehicle and drives off the road into a deep water-filled ditch. Paramedics responding to the scene of the crash, observe Plakas walking along the road and notice his clothing wet from the waist down. Plakas informs one of the paramedics that he had been the driver of car in the ditch.



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- **Synopsis (cont.):** Plakas agrees to be driven back to the scene. The paramedic smells alcohol on Plakas's breath. Plakas agrees to be tested of intoxication. Plakas is arrested and during the transport to the station, Plakas escapes from the vehicle and flees from officers.



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- Plakas flees to a friends house and enters. Police then locate him at the friends house.
- Plakas grabs a fire poker and strikes officer in the wrist. Plakas get outside and a foot chase ensues. Plakas tells officers he doesn't want to live and raises the fire poker and charges at Officer Drinski.



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- Drinski attempts to retreat, but is stopped by a tree. Drinski stumbles in his retreat and fires one round while he strumbles and falls down.
- Suit alleges Drinski should have use all available alternatives before deadly force was exercised and Newton County is liable for failing to equip and train Drinski to use such methods.



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- Alternatives alleged include: maintaining distance, using disabling chemical spray or K9.
- U.S. Court of Appeals held no precedent which says that the Constitution requires law enforcement officers to use all feasible alternatives to avoid a situation where deadly force can justifiably be used.



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- 4th Amendment does not require officers to use the least intrusive or even less intrusive alternatives in search and seizure cases.
- District Court's grant of summary judgment is affirmed.



Questions?



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