

Medical Examiner, Expert, and Law Enforcement Officer’s Comparisons:

<p align="center">Law Enforcement Officer (actions must be based upon “Objectively Reasonable”)</p>	<p align="center">“Experts” in Federal Court Federal Rules of Evidence (FRE) Federal Rules of Civil Procedure (FRCP)</p>	<p align="center">Forensic Pathologist, Medical Examiner, or Coroner’s Report, Findings and Conclusions</p>
<p>Facts</p>	<p>FRE 702, FRCP 26(a)(2)(B), <i>Daubert</i></p>	<p>None required</p>
<p>Bases Justifications</p>	<p>FRE 702: <ul style="list-style-type: none"> • qualifications: <ul style="list-style-type: none"> √ knowledge, √ skill, √ experience, and √ training, or education. • methodologically reliable: <ul style="list-style-type: none"> √ based on sufficient facts or data, √ the product of reliable principles and methods, and √ applied the principles and methods reliably to the facts. • Scientifically reliable foundations • Reasonable degree of certainty • <i>Daubert</i> trilogy, and progeny <p>FRCP 26(a)(2)(B) requirements</p> </p>	<p>None required. Often “ASSUMED”: <ul style="list-style-type: none"> • based on sufficient facts/data • methodologically reliable • objective mechanism of injury • greater weight of knowledge • based on science • FRE 702, FRCP 26 compliant • <i>Daubert</i> trilogy compliant • in most states • by most courts • by most decision makers <p>NOT held accountable – in most states cannot be challenged Often inappropriately based on: <ul style="list-style-type: none"> • failure to consider all causes • failure to specify “but for” • inaccuracies • possibilities • false equivalencies • <i>ipse dixit</i> </p> </p>
<p>Definitive degrees of certainty: <ul style="list-style-type: none"> • Reasonable suspicion (detention) • Reasonable suspicion (frisk) • Probable cause (arrest) • Probable cause (search) </p>	<p>Definitive degrees of certainty: <ul style="list-style-type: none"> • Reasonable degree of medical or scientific certainty based on reliable foundation, evidence, and scientific support </p>	<p>Definitive degrees of certainty: <ul style="list-style-type: none"> • “ASSUMED” to reasonable degree of medical and scientific certainty - even when it is not </p>
<p>Insufficient degrees of certainty: <ul style="list-style-type: none"> • Possibility • Hunch </p>	<p>Definitive degrees of certainty: <ul style="list-style-type: none"> • Anything less than reasonable </p>	<p>Insufficient degrees of certainty: <ul style="list-style-type: none"> • Sometimes none </p>

	Canada				USA		Totals of Studies 2,4-6 (not "1" or "3")	(7) Older Comp. Orange Co. (FL) 2003-2004 ⁷
	(1) Hall (2012) ¹	(2) Hall (2015) ²	(3) Baldwin (2016) ³	(4) Baldwin (2018) ⁴	(5) Ross (2016) ⁵ (2018) ⁶	(6) Bozeman (2018) ⁷		
Contacts/Interactions/Calls/Arrests								
Police-Public Interactions (PPI)	1,566,908	3,250,000	5,400,000	10,900,000			14,150,000	
Calls for Service (CFS)					876,503	1,041,737	1,918,240	1,503,650
Total PPI and CFS (PPI/CFS)							16,068,240	
Criminal Arrests (CA) (part of CFS)					110,173	114,064	224,237	76,877
Force (Use of Force (UOF), Conducted Energy Weapons (CEWs))								
All Uses of Force (UOF) in PPI/CFS	1,269	4,828	4,799	9,009	1,085	893	15,815	1,264
- Partial Subset of UoF - Uses of CEW (received CEW exposure)	334	671			217	504	1,392	945
Handcuffed		4,056:4,373			1,042			
Number in "Prone Restraint"	537:1,255	2,000:4,373			1,085			
Excited Delirium (ExDS) per UoF				1:58				
Deaths (temporal, not causal)	1	1	2	4	0	1 (gun)	6	
- "1" death per x PPI/CFS	1,566,908	3,250,000	2,700,000	2,725,000	No death	1,041,737	2,678,040	
- Deaths per UoF encounter	1:1,269	1:4,828	1:2,400	2:2.252	0:1,085	1:893	1:2,636	
UOF, CEW, CA, per PPI/CFS/CA								
UoF per PPI/CFS	1:1,235	1:673	1:1,125	1:1,210	1:807	1:1,167	1:1,016	1:1,189
UoF per CA					1:101	1:128	1:113	1:61
Exposure Use of CEW per PPI/CFS	1:4,691	1:4,829			1:5,000	1:2,067	1:3,251	1:1,591
Exposure Use of CEW per CA					1:500		1:500	1:78
Deaths Caused by CEW	0	0	0	0	0	0	0	
Add'l – CEW Presence Compliance		199						
<ol style="list-style-type: none"> 1. C.A. Hall, et al. <i>Incidence and Outcome of Prone Positioning Following Police Use of Force in a Prospective, Consecutive Cohort of Subjects</i>, 19 J. Forensic Leg. Med. 2, 83-89 (2012). 2. C.A. Hall, et al. <i>Restraint in police use of force events: examining sudden in custody death for prone and not-prone positions</i>. Journal of forensic and legal medicine 31 (2015): 29-35. [This is an updated study that includes Hall's 2012 study.] 3. S. Baldwin, et al. <i>Distinguishing features of Excited Delirium Syndrome in non-fatal use of force encounters</i>. Journal of forensic and legal medicine 41 (2016): 21-27. 4. S. Baldwin, et al. <i>Excited delirium syndrome (ExDS): Situational factors and risks to officer safety in non-fatal use of force encounters</i>. International journal of law and psychiatry (2018) 60, 26-34. [This is an updated study that includes Baldwin's 2016 study.] 5. D.L. Ross & M.H. Hazlett. <i>A prospective analysis of the outcomes of violent prone restraint incidents in policing</i>. Forensic Res Criminol Int J 2, no. 1 (2016): 00040. 6. D.L. Ross & M.H. Hazlett. <i>Assessing the symptoms associated with excited delirium syndrome and the use of conducted energy weapons</i>. Forensic Res Criminol Int J. 2018;6(3):187-196. 7. W.P. Bozeman, et al., <i>Injuries associated with police use of force</i>. Journal of trauma and acute care surgery 84, no. 3 (2018): 466-472. 8. Ogden, D., Hotaling, C. Orange County (Florida) Sheriff's Office Taser Task Force. Report March 4, 2005. 								

Actus Reus, Mens Rea, Culpability, Blameworthiness, Causation	
actus reus¹	<p>“[Law Latin “guilty act”] (1902) 1. The wrongful deed that comprises the physical components of a crime and that generally must be coupled with mens rea to establish criminal liability; a forbidden act <the actus reus for theft is the taking of or unlawful control over property without the owner’s consent>. 2. The voluntary act or omission, the attendant circumstances, and the social harm caused by a criminal act, all of which make up the physical components of a crime. — Also termed deed of crime; overt act. See CORPUS DELICTI; voluntary act under ACT (2). Cf. MENS REA; CULPABILITY.”</p> <p>“One cannot formulate a test for the ingredients of an act, except the test of what is required by law for the external situation of a crime. Writers have often pointed out that there is generally no harm in a man’s crooking his right forefinger, unless it is (for example) around the trigger of a loaded gun which is pointing at someone. The muscular contraction, regarded as an actus reus, cannot be separated from its circumstances. When the specification of a crime includes a number of circumstances, all of these are essential and all must be regarded as part of the actus reus. It will be shown later that any narrower view is undesirable because it creates greater uncertainty and also because it leads straight to haphazard strict responsibility in crime, enabling judges to pick and choose in different ways between elements of a crime for the purpose of the requirement of mens rea. The view that actus reus means all the external ingredients of the crime is not only the simplest and clearest but the one that gives the most satisfactory results.” Glanville Williams, <i>Criminal Law: The General Part</i> 19 (2d ed. 1961).</p> <p>“The phrase ‘deed of crime’ [= actus reus] as so used does not indicate the crime itself but merely one of the ingredients of crime; and this ingredient may be present without any crime at all, just as hydrogen is one of the ingredients of water but may be present without water. The words ‘deed of crime’ are so suggesting of the crime itself, however, that perhaps the Latin phrase ‘actus reus’ is less likely to cause confusion. The actus reus is essential to crime but is not sufficient for this purpose without the necessary mens rea, just as mens rea is essential to crime but is insufficient without the necessary actus reus.” Rollin M. Perkins & Ronald N. Boyce, <i>Criminal Law</i> 831 (3d ed. 1982).</p>
mens rea²	<p>“[Law Latin “guilty mind”] (18c) The state of mind that the prosecution, to secure a conviction, must prove that a defendant had when committing a crime <the mens rea for theft is the intent to deprive the rightful owner of the property>. • Mens rea is the second of two essential elements of every crime at common law, the other being the actus reus. Under the Model Penal Code, the required levels of mens rea — expressed by the adverbs purposely, knowingly, recklessly, and negligently — are termed “culpability requirements.” — Also termed mental element; criminal intent; guilty mind. See CULPABILITY; PURPOSELY; RECKLESSLY. Cf. ACTUS REUS. Pl. mentes reae (men-teez ree-ee).”</p>
culpability requirements³	<p>“Under the Model Penal Code, the required levels of mens rea — expressed by the adverbs purposely, knowingly, recklessly, and negligently — are termed “culpability requirements.””</p>

¹ ACTUS REUS, Black’s Law Dictionary (11th ed. 2019).

² MENS REA, Black’s Law Dictionary (11th ed. 2019).

³ MENS REA, Black’s Law Dictionary (11th ed. 2019).

<p>culpability⁴</p>	<p>“1. Moral blameworthiness; the quality of being culpable. 2. The mental state that must be proved for a defendant to be held liable for a crime. • Except in cases of absolute liability, criminal culpability under the Model Penal Code requires proof that the defendant “acted purposely, knowingly, recklessly, or negligently, as the law may require, with respect to each material element of the offense.” Model Penal Code § 2.02. See MENS REA. Cf. ACTUS REUS.”</p> <p>“At times the Court seems to differentiate between the two [meanings] by casting the punishment-phase determination as one about the defendant’s moral culpability, as opposed to his purely legal culpability at the guilt phase. In this respect, a defendant’s moral culpability for murder may be greater or lesser, depending on aggravating and mitigating circumstances, even though his legal culpability remains the same.” Phyllis L. Crocker, Concepts of Culpability and Deathworthiness, 66 Fordham L. Rev. 21, 35–36 (1997).</p>
<p>causation⁵</p>	<p>“1. The causing or producing of an effect <the plaintiff must prove causation>. 2. CAUSALITY.”</p> <p>“general causation. (1922) The potential of an agent to produce the general occurrence of injuries in a population.”</p> <p>“specific causation. (1930) The fact or implication that an agent produced a particular injury in a specific person.”</p>
<p>liability⁶</p>	<p>1. The quality, state, or condition of being legally obligated or accountable; legal responsibility to another or to society, enforceable by civil remedy or criminal punishment <liability for injuries caused by negligence>. — Also termed legal liability; subjection; responsibility. Cf. FAULT. 2. (often pl.)A financial or pecuniary obligation in a specified amount; DEBT <tax liability> <assets and liabilities>.</p>

⁴ CULPABILITY, Black’s Law Dictionary (11th ed. 2019).

⁵ CAUSATION, Black’s Law Dictionary (11th ed. 2019).

⁶ LIABILITY, Black’s Law Dictionary (11th ed. 2019).

Levels of Knowledge	
sadistic	pertaining to or characterized by sadism; deriving pleasure or sexual gratification from extreme cruelty: a sadistic psychopath.
willfully 18 U.S.C. § 242	<p>“Willfully” as used in this section proscribing a deprivation of civil rights, implies not merely a conscious purpose to do wrong, but a specific intent to deprive an inhabitant of a right.⁷</p> <p>“The statute uses the term ‘willfully’. The trial court correctly instructed the jury that: ‘In law the use of the words ‘wilful’ and ‘willfully’ generally imply a conscious purpose to do wrong. Doing a thing knowingly and willfully implies not only a knowledge of the thing done, but a determination to do it with evil purpose or motive * * *. ‘Willful’, as applied to this section of the Act, implies not merely a conscious purpose to do wrong, but a specific intent to deprive Fraley of a right. <i>Crews v. United States</i>, (CCA Fla.1947), 160 F.2d 746; <i>Williams v. United States</i>, supra.”⁸</p> <p>Intent and willfulness are the essential elements of the offense designated in this section.⁹</p>
malicious ¹⁰	“1. Substantially certain to cause injury . 2. Without just cause or excuse.”
misconduct ¹¹	<p>“1. A dereliction of duty; unlawful, dishonest, or improper behavior, esp. by someone in a position of authority or trust. See MISBEHAVIOR.”</p> <p>“willful and wanton misconduct. (1866) Conduct committed with an intentional or reckless disregard for the safety of others, as by failing to exercise ordinary care to prevent a known danger or to discover a danger. See gross negligence under NEGLIGENCE. — Also termed willful indifference to the safety of others.”</p> <p>“official misconduct. (1830) 1. A public officer’s corrupt violation of assigned duties by malfeasance, misfeasance, or nonfeasance. — Also termed misconduct in office; misbehavior in office; malconduct in office; misdemeanor in office; corruption in office; official corruption; political corruption; abuse of office. 2. ABUSE OF PUBLIC OFFICE.”</p> <p>“affirmative misconduct. (1897) 1. An affirmative act of misrepresentation or concealment of a material fact; intentional wrongful behavior. • Some courts hold that there must be an ongoing pattern of misrepresentation or false promises, as opposed to an isolated act of providing misinformation. 2. With respect to a claim of estoppel against the federal government, a misrepresentation or concealment of a material fact by a government employee — beyond a merely innocent or negligent misrepresentation.”</p>
purposely ¹²	“ Deliberately ; esp., such a manner that the actor engaged in prohibited conduct with the intention of causing the social harm that the law was designed to prevent . • Under the Model Penal Code, purposely denotes the mental state resulting in the highest level of criminal culpability .”

⁷ *United States v. Ramey*, 336 F.2d 512, 515 (4th Cir. 1964), cert. denied, 85 S.Ct. 649, 379 U.S. 972, 13 L.Ed.2d 564 (1965).

⁸ *United States v. Ramey*, 336 F.2d 512, 515 (4th Cir. 1964), cert. denied, 85 S.Ct. 649, 379 U.S. 972, 13 L.Ed.2d 564 (1965).

⁹ *Apodaca v. United States*, 188 F.2d 932, 938 (10th Cir. 1951).

¹⁰ MALICIOUS, Black’s Law Dictionary (11th ed. 2019).

¹¹ MISCONDUCT, Black’s Law Dictionary (11th ed. 2019).

¹² PURPOSELY, Black’s Law Dictionary (11th ed. 2019).

	<p>“A person acts purposely with respect to a material element of an offense when: (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and (ii) if the element involves the attendant circumstances, he is aware of the existence of such circumstances or he believes or hopes that they exist.” Model Penal Code § 2.02(2)(a).</p>
intentional ¹³	<p>“Done with the aim of carrying out the act.”</p>
knowingly ¹⁴	<p>“In such a manner that the actor engaged in prohibited conduct with the knowledge that the social harm that the law was designed to prevent was practically certain to result; deliberately.” • Under the Model Penal Code, knowingly describes to the mental state resulting in the second-highest level of criminal culpability. A person who acts purposely wants to cause the social harm, while a person who acts knowingly understands that the social harm will almost certainly be a consequence of the action, but acts with other motives and does not care whether the social harm occurs.”</p> <p>“‘Knowingly’ or ‘knowledge’ has a broad sweep when used in connection with the element of a crime, and an untrue representation has been ‘knowingly’ made if by one who knows it is untrue, believes it is untrue or is quite aware that he has not the slightest notion whether it is true or not.” Rollin M. Perkins & Ronald N. Boyce, <i>Criminal Law</i> 379 (3d ed. 1982).</p> <p>“A person acts knowingly with respect to a material element of an offense when: (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and (ii) if the element involves an element of his conduct, he is aware that it is practically certain that his conduct will cause such a result.” Model Penal Code § 2.02(2)(b).</p>
recklessly ¹⁵	<p>“In such a manner that the actor knew that there was a substantial and unjustifiable risk that the social harm the law was designed to prevent would occur and ignored this risk when engaging in the prohibited conduct.” • Under the Model Penal Code, recklessly denotes the minimum level of culpability required for criminal liability when the statute does not specify the required mental state.”</p> <p>“A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor’s conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the actor’s situation.” Model Penal Code § 2.02(2)(c).</p>
hazardous negligence ¹⁶	<p>“(1904) 1. Careless or reckless conduct that exposes someone to extreme danger of injury or to imminent peril. 2. See gross negligence (2).”</p>

¹³ INTENTIONAL, Black’s Law Dictionary (11th ed. 2019).

¹⁴ KNOWINGLY, Black’s Law Dictionary (11th ed. 2019).

¹⁵ RECKLESSLY, Black’s Law Dictionary (11th ed. 2019).

¹⁶ NEGLIGENCE, Black’s Law Dictionary (11th ed. 2019).

<p>criminal negligence¹⁷</p>	<p>“(1838) 1. Gross negligence so extreme that it is punishable as a crime. • For example, involuntary manslaughter or other negligent homicide can be based on criminal negligence, as when an extremely careless automobile driver kills someone. — Also termed culpable negligence; gross negligence.”</p> <p>“Though the legislatures and the courts have often made it clear that criminal liability generally requires more fault than the ordinary negligence which will do for tort liability, they have not so often made it plain just what is required in addition to tort negligence — greater risk, subjective awareness of the risk, or both. Statutes are sometimes worded in terms of ‘gross negligence’ or ‘culpable negligence’ or ‘criminal negligence,’ without any further definition of these terms ... The courts thus have had to do their best with little guidance from the legislature, with varying results.” Wayne R. LaFave & Austin W. Scott Jr., <i>Criminal Law</i> § 3.7, at 235–37 (2d ed. 1986).</p> <p>“2. The objectively assessed mental state of an actor who should know that there is a substantial and unjustifiable risk that the social harm that the law is designed to prevent will occur but who nevertheless engages in the prohibited action. • Under the Model Penal Code, this mental state represents the minimum level of culpability required for criminal liability except when the offense carries absolute liability.”</p> <p>“Though the legislatures and the courts have often made it clear that criminal liability generally requires more fault than the ordinary negligence which will do for tort liability, they have not so often made it plain just what is required in addition to tort negligence — greater risk, subjective awareness of the risk, or both. Statutes are sometimes worded in terms of ‘gross negligence’ or ‘culpable negligence’ or ‘criminal negligence,’ without any further definition of these terms ... The courts thus have had to do their best with little guidance from the legislature, with varying results.” Wayne R. LaFave & Austin W. Scott Jr., <i>Criminal Law</i> § 3.7, at 235–37 (2d ed. 1986).</p>
<p>gross negligence¹⁸</p>	<p>“1. A lack of even slight diligence or care. • The difference between gross negligence and ordinary negligence is one of degree and not of quality. Gross negligence is traditionally said to be the omission of even such diligence as habitually careless and inattentive people do actually exercise in avoiding danger to their own person or property. — Also termed willful and wanton misconduct. 2. A conscious, voluntary act or omission in reckless disregard of a legal duty and of the consequences to another party, who may typically recover exemplary damages. — Also termed reckless negligence; wanton negligence; willful negligence; willful and wanton negligence; willful and wanton misconduct; hazardous negligence; magna neglegentia. 3. See criminal negligence.”</p> <p>“Negligence is gross if the precautions to be taken against harm are very simple, such as persons who are but poorly endowed with physical and mental capacities can easily take.” H.L.A. Hart, “Negligence, Mens Rea and Criminal Responsibility,” in <i>Punishment and Responsibility</i> 136, 149 (1968).</p> <p>“Gross Negligence. As it originally appeared, this was very great negligence, or the want of even slight or scant care. It has been described as a failure to exercise even that care which a careless person would use. Several courts, however, dissatisfied with a term so nebulous ... have construed gross negligence as requiring willful, wanton, or reckless misconduct, or such utter lack of all</p>

¹⁷ NEGLIGENCE, Black’s Law Dictionary (11th ed. 2019).

¹⁸ NEGLIGENCE, Black’s Law Dictionary (11th ed. 2019).

	<p>care as will be evidence thereof ... But it is still true that most courts consider that ‘gross negligence’ falls short of a reckless disregard of the consequences, and differs from ordinary negligence only in degree, and not in kind.” W. Page Keeton et al., Prosser and Keeton on the Law of Torts § 34, at 211–12 (5th ed. 1984).</p>
culpable negligence ¹⁹	<p>“1. Negligent conduct that, while not intentional, involves a disregard of the consequences likely to result from one’s actions. 2. See criminal negligence.”</p> <p>“‘Culpable negligence,’ while variously defined, has been held incapable of exact definition; it means something more than negligence ... In connection with negligence, the word ‘culpable’ is sometimes used in the sense of ‘blamable,’ and it has been regarded as expressing the thought of a breach of a duty or the commission of a fault; but culpable negligence has been held to amount to more than ‘blameworthy’ conduct ... It does not involve the element of intent ... On the other hand, it has been said to be intentional conduct which the actor may not intend to be harmful but which an ordinary and reasonably prudent man would recognize as involving a strong probability of injury to others.” 65 C.J.S. Negligence § 1(13) (1966).</p>
negligence ²⁰	<p>“1. The failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly, or willfully disregarding of others’ rights; the doing of what a reasonable and prudent person would not do under the particular circumstances, or the failure to do what such a person would do under the circumstances. • The elements necessary to recover damages for negligence are (1) the existence of a duty on the part of the defendant to protect the plaintiff from the injury complained of, and (2) an injury to the plaintiff from the defendant’s failure. The term denotes culpable carelessness. The Roman-law equivalents are culpa and neglegentia, as contrasted with dolus (wrongful intention). — Also termed actionable negligence; ordinary negligence; simple negligence. See BREACH OF DUTY OF CARE. 2. A tort grounded in this failure, usu. expressed in terms of the following elements: duty, breach of duty, causation, and damages.”</p> <p>“Negligence in law ranges from inadvertence that is hardly more than accidental to sinful disregard of the safety of others.” Patrick Devlin, <i>The Enforcement of Morals</i> 36 (1968).</p> <p>“During the first half of the nineteenth century, negligence began to gain recognition as a separate and independent basis of tort liability. Its rise coincided in a marked degree with the Industrial Revolution; and it very probably was stimulated by the rapid increase in the number of accidents caused by industrial machinery, and in particular by the invention of railways. It was greatly encouraged by the disintegration of the old forms of action, and the disappearance of the distinction between direct and indirect injuries, found in trespass and case ... Intentional injuries, whether direct or indirect, began to be grouped as a distinct field of liability, and negligence remained as the main basis for unintended torts. Negligence thus developed into the dominant cause of action for accidental injury in this nation today.” W. Page Keeton et al., <i>Prosser and Keeton on the Law of Torts</i> § 28, at 161 (5th ed. 1984).</p> <p>“Negligence is a matter of risk — that is to say, of recognizable danger of injury ... In most instances, it is caused by heedlessness or inadvertence, by which the negligent party is unaware of the results which may follow from his act. But it may also arise where the</p>

¹⁹ NEGLIGENCE, Black’s Law Dictionary (11th ed. 2019).

²⁰ NEGLIGENCE, Black’s Law Dictionary (11th ed. 2019).

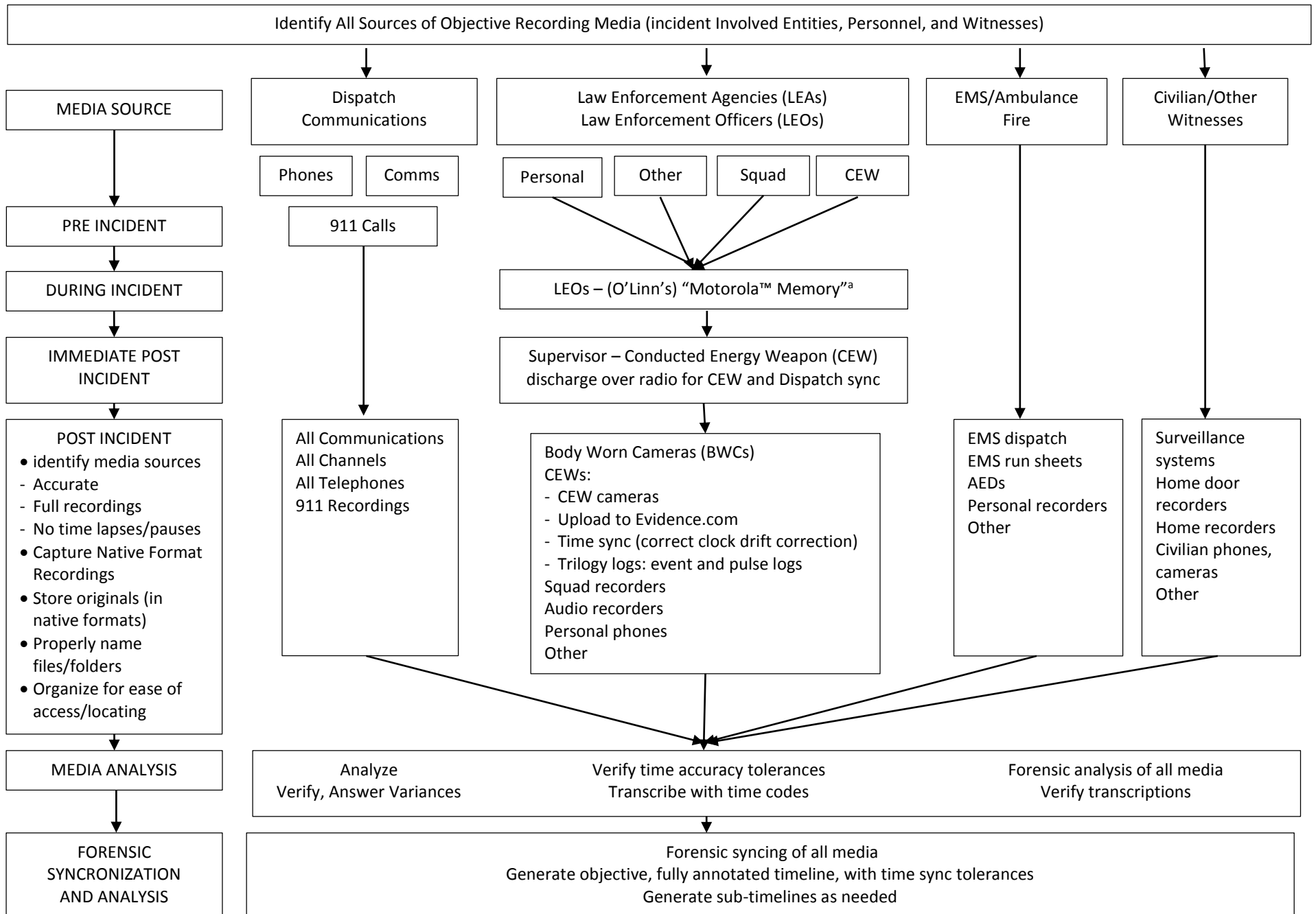
	negligent party has considered the possible consequences carefully, and has exercised his own best judgment. The almost universal use of the phrase ‘due care’ to describe conduct which is not negligent should not obscure the fact that the essence of negligence is not necessarily the absence of solicitude for those who may be adversely affected by one’s actions but is instead behavior which should be recognized as involving unreasonable danger to others.” Id. at 169.
accident ²¹	1. An unintended and unforeseen injurious occurrence; something that does not occur in the usual course of events or that could not be reasonably anticipated; any unwanted or harmful event occurring suddenly, as a collision, spill, fall, or the like, irrespective of cause or blame <the accident was staged as part of an insurance scam>. 2. Equity practice. An unforeseen and injurious occurrence not attributable to the victim’s mistake, negligence, neglect, or misconduct; an unanticipated and untoward event that causes harm.
strict liability ²²	(1844) Liability that does not depend on proof of negligence or intent to do harm but that is based instead on a duty to compensate the harms proximately caused by the activity or behavior subject to the liability rule. • Prominent examples of strict liability involve the rules governing abnormally dangerous activities and the commercial distribution of defective products. — Also termed liability without fault. See strict products liability under PRODUCTS LIABILITY. Cf. absolute liability; fault liability; OUTCOME RESPONSIBILITY.
absolute liability ²³	1. Archaic. See strict liability. 2. A type of strict liability based on causation alone, without any other limiting factors. • Absolute liability is often distinguished from strict products liability, which limits strict liability to injuries caused by a product defect. Cf. PRODUCTS LIABILITY.

²¹ ACCIDENT, Black’s Law Dictionary (11th ed. 2019).

²² ACCIDENT, Black’s Law Dictionary (11th ed. 2019).

²³ LIABILITY, Black’s Law Dictionary (11th ed. 2019).

Checklist: CRITICAL INCIDENT OBJECTIVE INVESTIGATION TIMELINE SYSTEMS PROCESS FLOWCHART DEVELOPMENT



a. “O’Linn’s Motorola Memory” refers to Law Enforcement Defense Attorney Mildred K. O’Linn’s idea of LEOs utilizing their communications devices to objectively contemporaneously time-log and record their personal observations. Motorola is a trademark of Motorola Trademark Holdings, LLC.

Checklist: CRITICAL INCIDENT OBJECTIVE INVESTIGATION TIMELINE SYSTEMS PROCESS FLOWCHART DEVELOPMENT

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Ref	Actions	Objective Media Sources (from all involved sources) (1) Pre-Incident, (2) Incident, (3) Immediate Post-Incident, (4) Post-Incident Investigation, (5) Media Analysis, (6) Forensic Analysis			
		Dispatch Centers	Law Enforcement Agencies (LEAs)/Officers (LEOs)	EMS/Ambulance/Fire	Surveillance/Civilian/Other
1	(1) Pre-Incident	911 Calls			
2	(2) Incident		LEOs – (O’Linn’s) “Motorola Memory” ^{TMa}		
3	(3) Immediate Post Incident		Supervisor – Conducted Energy Weapon (CEW) discharge over radio for CEW and Dispatch sync		
POST-INCIDENT INVESTIGATION:					
4	Identify all media sources - Accurate - Full recordings - No time lapses or pauses	All Communications All Channels All Telephones 911 Recordings	Body Worn Cameras (BWCs) CEWs: - CEW cameras - Upload to Evidence.com - Time sync (correct clock drift correction) - Trilogy logs: event and pulse logs Squad recorders Audio recorders Personal phones Other	EMS dispatch EMS run sheets AEDs Personal recorders Other	Surveillance systems Home door recorders Home recorders Civilian phones, cameras Other
5	Capture Native Format Recordings				
6	Store originals (in native formats) Properly name files/folders Organize for ease of access/locating				
MEDIA ANALYSIS:					
7	Analyze				
8	Verify				
9	Verify Time Accuracy Tolerances				
10	Answer variances				
11	Transcribe with time codes				
12	Verify transcriptions				
13	Forensic analysis of all media				
FORENSIC SYNCHORNIZATINO AND ANALYSIS:					
14	Forensic syncing of all media				
15	Generate objective, fully annotated timeline, with time sync tolerances				
16	Generate sub-timelines as needed				

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Checklist: CRITICAL INCIDENT OBJECTIVE INVESTIGATION TIMELINE DEVELOPMENT

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Incident Identifier: _____ Inc No. _____ Inc Date: _____ Inc. Time: _____ Completed by: _____

Objective: To create objective, complete, accurate, incident timeline as expeditiously as possible post incident.

Purpose: To assist in developing the most accurate, verified, documented, objective, useable critical incident timeline possible.

Guidelines: Specific instructions/requirements for collection and creation of annotated, verified timeline:

- Available (“Avail”) – has the specific information been identified and determined to be available?
- Collected (“Collect”) – has the specific available information been collected as evidence?
- Verified – has the collected information been verified, including with precision variation of information? Recordings verified for:
 - True time recording (e.g. recording time variance, source and accuracy of time stamp, no compression, no deletion of quiet time, recording true to timeline)
 - Precision (e.g. accurate to what degree of precision, source of time stamp or input, degree of potential time variance)
- Documented (“Docum”) – has the collected information been documented, including with appropriate affidavit for admissibility of evidence and substantiating evidentiary foundation?
- Transcribed – has any recording been accurately transcribed? (document who transcribed it, when, where)
- Proofed – has any transcribed recording been accurately proofed and certified as such?
- Original Retained (“Orig Ret”) – has the original been retained as evidence?
 - (Easy Universal Use Reformatting) All recordings should also be reformatted to easily universal formats, and appropriately identified as such modification and re-formatted.
- Conflicts Resolved (“Confl Resolv”) – has any conflict been identified and resolved?
- Definitions (“Def”) – have all definitions been included for lay persons’ use of information? (as example, officer’s codes identified, 10 codes defined, specific terms of art defined, etc.)

Expeditious Post-Incident Time Logging Assist Collected									
No	n/a	Y	N	Description	Comments:				
1				“Motorola Memory” done					
2				Supervisor CEW 5-second discharge over radio					
3				Other					

Source of Timeline Input Table:


No	Avail		Collect		Verified		Docum		Transcribed			Proofed			Orig Ret.		Confl Resolv			Def		Time Source	Comments
	Y	N	Y	N	Y	N	Y	N	n/a	Y	N	n/a	Y	N	Y	N	n/a	Y	N	Y	N		
1																						Dispatch	
2																						EMS	
3																						Ambulance	
4																						Fire	
5																						AED/Card Mon # 1	
6																						AED/Card Mon # 1	
7																						BWC/Squad # 1	
8																						BWC/Squad # 2	
9																						BWC/Squad # 3	
10																						CEW #1	
11																						CEW #2	
12																						CEW #3	
13																						Other	
14																							

Additional Details/Comments:

Motorola is a trademark of Motorola Trademark Holdings, LLC.

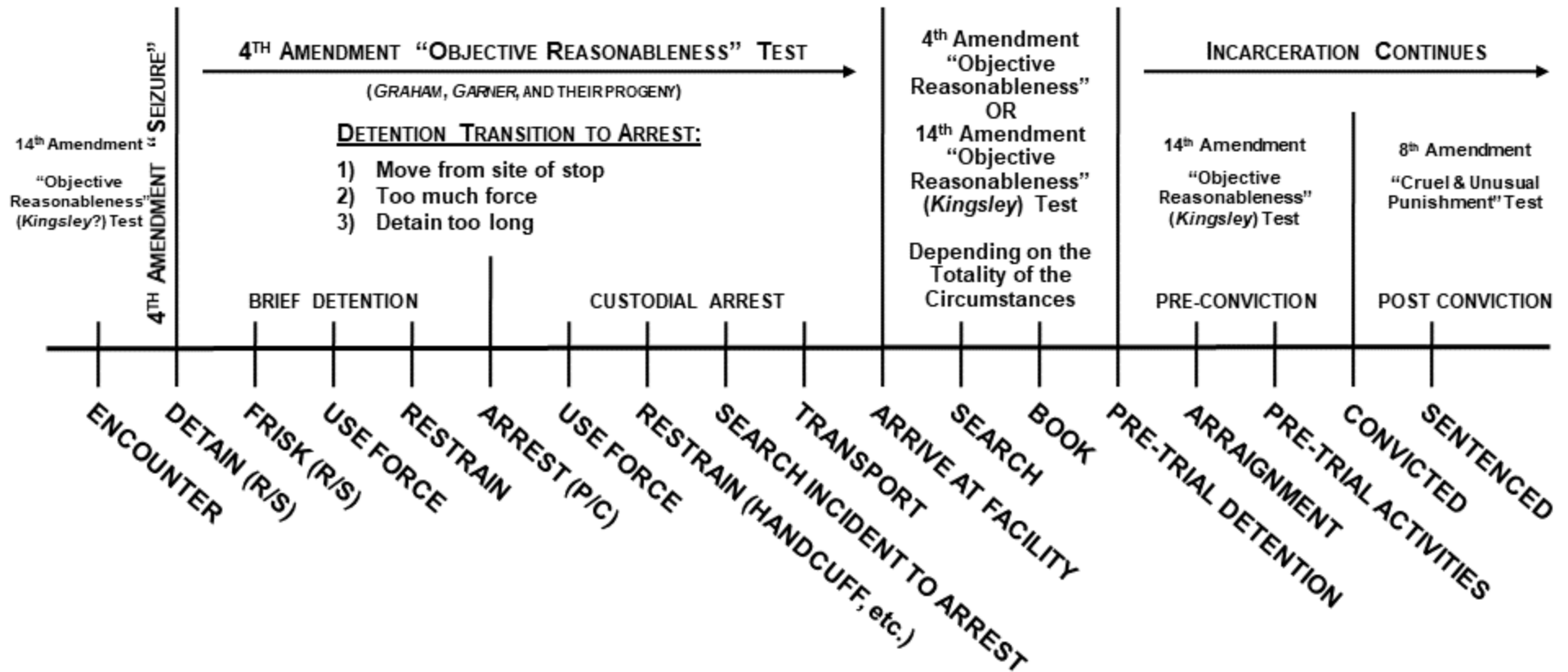
Criminal Justice Probability Approximation Illustration Graphic

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Descriptive Approximation (%)	Levels of Certainty	Notes/Comments
100%	100% Perfection Outcome 100% Perfection Decisions (20/20 hindsight) 100% Perfection Evaluation 100% Perfection Observations/Knowledge	Some Plaintiffs, Critics, Negative Law Enforcement Activists Elevated or Conflated Standard
95–99%	Beyond a Reasonable Doubt Substantial Likelihood	Criminal Proof Standard
75–85%	Clear and Convincing	Punitive Damages
50.1%	Preponderance of the Evidence - (more likely than not) Arrest – Probable Cause (Fair Probability) Arrest – “Arguable” Probable Cause Frisk – Reasonable Suspicion Brief Detention – Reasonable Suspicion	Civil Proof Standard 4th Amendment Arrest Standard 4th Amendment Civil Liability Standard 4th Amendment Frisk Standard 4th Amendment Brief Detention
	<hr style="border: 1px solid red;"/> <i>4th Amendment Objective Reasonableness Standard Threshold</i> <hr style="border: 1px solid red;"/>	
	Mere Hunch Plausible it Could Happen Potentially It Could Happen Possible it Could Happen	

USE OF FORCE CONSTITUTIONAL STANDARDS TIMELINE



MEDICAL CARE ISSUES (E.G., *ARMSTRONG* (2016), *MIRACLE* (2017))

TEST – "DELIBERATE INDIFFERENCE" TO PERSON'S "SERIOUS MEDICAL NEEDS"

4th AMENDMENT SEIZURE CHART

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Encounter (No basis for “seizure”)	4th Amendment Seizure (4 th Amendment "Seizure" of a "Free Person")		
(Consensual Encounter) DO NOT – STOP DO NOT – DEMAND ID DO NOT – USE FORCE DO – ASK TO TALK DO – ASK FOR ID DO – ASK FOR EXPLANATION	Detention/Frisk <i>Terry v. Ohio</i> , 392 U.S. 21, 88 S.Ct. 1868 (1968), and progeny "Reasonable Articulate Suspicion"	Arrest "Probable Cause" (“Fair Probability”)	
	<p style="text-align: center;"><u>Brief Detention</u></p> <p>Based on consent or reasonable suspicion (not a belief). While officer diligently investigates objectively reasonable suspicions of criminal activity.</p> <p>Reasonable suspicion is based on specific and articulable facts that would lead a reasonable officer to suspect that a crime has been, is being, or is about to be committed by the person detained.</p> <p style="text-align: center;">"Reasonable Articulate Suspicion"</p> <p>To believe that a crime:</p> <ol style="list-style-type: none"> (1) has been committed, (2) is being committed, or (3) is about to be committed; AND (4) The person about to be stopped, detained, or seized is the person who did one of the above. <p style="text-align: center;">The Procedure:</p> <ol style="list-style-type: none"> (1) After identifying as an officer (2) an officer may stop a person: <ol style="list-style-type: none"> (a) in a public place (b) for a reasonable period of time (c) when officer objectively reasonably suspects that such person is committing, is about to commit, or has committed a crime. (3) Such detention and temporary questioning shall be conducted in the vicinity where the person was stopped. <p>(Officer must diligently pursue suspicions)</p>	<p style="text-align: center;"><u>(Pat) Frisk - for Weapons</u></p> <p style="text-align: center;">AFTER - Lawful Detention</p> <p>Based on either consent or reasonable suspicion (not a belief) "Reasonable Articulate Suspicion"</p> <ol style="list-style-type: none"> (1) Officer reasonably believes (2) that the lawfully detained person (3) is armed and/or dangerous or that the officer or another is in danger of physical injury, (4) the officer may search (pat frisk) such person for weapons or any instrument, article or substance readily capable of causing physical injury and of a sort not ordinarily carried in public places by law abiding persons. (5) If the officer finds such a weapon or instrument, or any other property possession of which he reasonably believes may constitute the commission of a crime, or which may constitute a threat to his safety, (6) the officer may take it and keep it until the completion of the questioning; (7) at completion of the questioning the officer shall either return it, if lawfully possessed, or arrest the person so questioned 	<p>Probable Cause - a "fair probability" that a crime has been committed and the person being seized has committed it.</p> <p>Probable cause is based on specific and articulable facts that would lead a reasonable officer to believe that a crime has been or is being committed.</p>

VERSION “2” – STUDY AID: UNDERSTANDING THE 4TH AMENDMENT’S OBJECTIVE REASONABLENESS STANDARD AND QUALIFIED IMMUNITY

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<p align="center">Graham Factors Plus “Objective Reasonableness”</p> <p align="center">Prioritized most important to least</p>	<p align="center">Person in Need of Medical Assistance Due to Mental Health, Drugs, or Illness</p> <p align="center">Person is NOT <i>Intentional</i> Immediate Threat/Flight Risk</p>	<p align="center">Additional Force Factors Force to Gain Volitional Compliance</p> <p align="center">Person is NOT an Immediate Threat/Flight Risk</p>
<p>1. Immediate threat - to who? (LEO, other, self) - beware “<i>possible</i>” threat fallacy</p> <p>2. Actively resisting seizure/arrest</p> <p>3. Circumstances tense, uncertain rapidly evolving (pace of events)</p> <p>4. Severity of the crime at issue</p> <p>5. Attempting to evade seizure - by flight - flight from serious event</p> <p align="center">Additional Basic Factors</p> <p>6. Availability of less-intrusive methods of capturing, controlling, restraining, or subduing subject</p> <p>7. What officers knew about subject’s health, mental condition, or other relevant frailties</p>	<p>Mentally ill/Drugs Officer should make greater effort to control situation through less-intrusive means.</p> <p>Some courts believe acting out by emotionally disturbed person diminishes the level of force necessary and such persons are in need of a doctor, not a jail cell and in the usual case – where such a person is neither a threat to himself or others – the government’s interest in deploying force to detain him is not as substantial as its interest in deploying force to apprehend a dangerous criminal.</p> <p>Pain: If pain is used to gain compliance, (1) consideration whether person will perceive pain, and (2) be able to comply with officer’s commands.</p> <p>Distraction: Must be able to articulate that force used for distraction is reasonable.</p>	<p>Person must be given reasonable opportunity to comply with directives prior to each X26E CEW touch-stun application</p> <ol style="list-style-type: none"> Officer must have a reasonable belief that person is capable of volitional compliance to commands; must reasonably perceive person is “actively resisting”; must give warning of imminent application of force; must give person a reasonable: <ol style="list-style-type: none"> time “to recover from extreme pain”; opportunity to “gather” their thoughts; and opportunity to “consider thher refusal to comply”; officer needs to include in report that before each X26E CEW touch-stun used to attempt to gain the person’s volitional compliance officer followed these guidelines. <p>Consider Alternates: less risk of injury (“Quantum of Force”) <u>(Some courts require greater justification)</u></p>
<p>Balancing Test (Graham): Reasonableness inquiry requires a careful balancing of the nature and quality of the intrusion (use of force) on the individual’s 4th Amendment interests against the countervailing governmental interests at stake.</p> <p>Objective Test (Graham): Whether officers’ actions are “objectively reasonable” in light of the totality of the facts and circumstances confronting them, without regard to their underlying intent or motivation.</p> <p>Reasonableness at the Moment Force is Used (Graham): Reasonableness test considers that officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation.</p> <p>Reasonableness Test (Graham): Requires careful attention to the totality of facts and circumstances of each particular case, including (but not limited to):</p> <ul style="list-style-type: none"> - whether the subject poses an immediate threat to the safety of officers or others, - whether the subject is actively resisting arrest or attempting to evade arrest by flight, and, - the severity of the crime at issue. <p>Reasonable from Officer’s Perspective (Graham): “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.</p> <p>Each Force Application Must Be Justified: Each strike, OC use, force application, trigger pull, and 5-second CEW cycle must be objectively reasonable.</p> <p>All Force Must Be Unambiguously Justified in Officer’s Reports/Statements: Any factor used to justify use of or escalation of force must be explained.</p> <p>Risk/Benefit Test (Scott): In judging whether officer’s actions were reasonable, we must consider the risk of bodily harm that officer’s actions posed to the subject in light of the threat to the public posed by the subject that the officer was trying to eliminate.</p> <p>Armstrong (4th Circuit): CEW “may only be deployed when ... officer is confronted with an exigency that creates an immediate safety risk,” and may not be used “in the face of stationary and non-violent resistance to being handcuffed” [<i>Bounds v. Parsons</i>, 700 Fed. Appx. 217 (CA4 (Md.) July 14, 2017)]</p> <ul style="list-style-type: none"> • If no exigency or immediate safety risk exists, slow down and consider alternative force options/solutions including negotiation, commands, or physical skills. • Physical resistance alone does not equal immediate danger. • Emotionally disturbed person (EDP) or mentally ill alone does not indicate immediate threat. • Choose a force option reasonably likely to cure the immediate safety risk. • Non-deadly danger to self does not justify higher force risk. <p>(4th Amendment Addresses Misuse of Power (Brower): The 4th Amendment “addresses ‘misuse of power,’ not the accidental effects of otherwise lawful conduct.”</p> <ul style="list-style-type: none"> - Qualified Immunity (“QI”) Protects All but the Plainly Incompetent or who Knowingly Violate the Law (Malley) - Beyond Debate (al-Kidd, Mullenix, White): The contours of the right must have been sufficiently clear that any reasonable official would have understood that his conduct violated the right; “existing precedent must have placed the ... constitutional question beyond debate.” (<i>Ashcroft v. al-Kidd</i>, 563 U.S. 731, 741 (2011)) 		

VERSION “1”: STUDY AID: UNDERSTANDING THE 4TH AMENDMENT’S OBJECTIVE REASONABLENESS STANDARD AND QUALIFIED IMMUNITY

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(4th Amendment Addresses Misuse of Power (Brower): The 4th Amendment “addresses ‘misuse of power,’ not the accidental effects of otherwise lawful conduct.”

- **Qualified Immunity (“QI”) Protects All but the Plainly Incompetent or who Knowingly Violate the Law (Malley)**
- **Beyond Debate (al-Kidd, Mullenix, White):** The contours of the right must have been sufficiently clear that any reasonable official would have understood that his conduct violated the right; “existing precedent must have placed the ... constitutional question beyond debate.” (*Ashcroft v. al-Kidd*, 563 U.S. 731, 741 (2011))

Balancing Test (Graham): Reasonableness inquiry requires a careful balancing of the nature and quality of the intrusion (use of force) on the individual's 4th Amendment interests against the countervailing governmental interests at stake.

Risk/Benefit Test (Scott): In judging whether officer’s actions were reasonable, we must consider the risk of bodily harm that officer’s actions posed to the subject in light of the threat to the public posed by the subject that the officer was trying to eliminate.

Reasonableness at the Moment Force is Used (Graham): Reasonableness test considers that officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation.

Reasonableness Test (Graham): Requires careful attention to the facts and circumstances of each particular case, including (but not limited to):

- whether the subject poses an immediate threat to the safety of officers or others,
- whether the subject is actively resisting arrest or attempting to evade arrest by flight, and,
- the severity of the crime at issue.

Reasonable from Officer’s Perspective (Graham): “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.

Objective Test (Graham): Whether officers’ actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

Armstrong (4th Circuit): CEW “may only be deployed when ... officer is confronted with an exigency that creates an immediate safety risk,” and may not be used “in the face of stationary and non-violent resistance to being handcuffed” [*Bounds v. Parsons*, 700 Fed. Appx. 217 (CA4 (Md.) July 14, 2017)]

- If no exigency or immediate safety risk exists, slow down and consider alternative force options/solutions including negotiation, commands, or physical skills.
- Physical resistance alone does not equal immediate danger.
- Emotionally disturbed person (EDP) or mentally ill alone does not indicate immediate threat.
- Choose a force option reasonably likely to cure the immediate safety risk.
- Non-deadly danger to self does not justify higher force risk.

Each Force Application Must Be Justified: Each strike, OC use, force application, trigger pull, and 5-second CEW cycle must be objectively reasonable.

All Force Must Be Unambiguously Justified in Officer’s Reports/Statements: Any factor used to justify use of or escalation of force must be explained.


<p>Basic Factors or Test of “Objective Reasonableness” <i>Graham</i> risk prioritized by <i>Chew</i> (prioritized most important to least)</p>	<p>Not an <i>Intentional</i> Immediate Threat/Flight Risk Person in Need of Medical Assistance Due to Mental Health, Drugs, or Illness</p>	<p>Additional (minimum passive) Force Factors (Mattos/Brooks procedure) Force to Gain Volitional Compliance (Person is not an immediate threat or flight risk) (likely inapplicable under <i>Armstrong</i> (4th Circuit))</p>
<p>1. Immediate threat - to who? (LEO, other, self) - beware “<i>possible</i>” threat fallacy</p> <p>2. Actively resisting seizure/arrest</p> <p>3. Circumstances tense, uncertain rapidly evolving (pace of events)</p> <p>4. Severity of the crime at issue</p> <p>5. Attempting to evade seizure - by flight - flight from serious event</p> <p>Additional Basic Factors</p> <p>6. Availability of less-intrusive methods of capturing, controlling, restraining, or subduing subject</p> <p>7. What officers knew about subject’s health, mental condition, or other relevant frailties</p>	<p>Mentally ill/Drugs (Bryan v. MacPherson): Officer should make greater effort to control situation through less intrusive means.</p> <p>Some courts believe acting out by emotionally disturbed person diminishes the level of force necessary and such persons are in need of a doctor, not a jail cell and in the usual case – where such a person is neither a threat to himself or anyone else – the government’s interest in deploying force to detain him is not as substantial as its interest in deploying force to apprehend a dangerous criminal.</p> <p>Pain: If pain is used to gain compliance, (1) consideration whether person will perceive pain, and (2) be able to comply with officer’s commands.</p> <p>Distraction: Must be able to articulate that force used for distraction to assist custody is reasonable.</p>	<p>Person must be given reasonable opportunity to comply with directives prior to each X26E CEW touch-stun application</p> <ol style="list-style-type: none"> 1. Officer must have a reasonable belief that person is capable of volitional compliance to commands; 2. must reasonably perceive person is “actively resisting”; 3. must give warning of imminent application of force; 4. must give person a reasonable: <ol style="list-style-type: none"> a. time “to recover from extreme pain” experienced; b. opportunity to “gather herself;” and c. opportunity to “consider her refusal to comply”; 5. the duration of time between each X26E CEW touch-stun application (according to <i>Mattos</i>) must be > 36 seconds; and 6. officer needs to include in report that before each X26E CEW touch-stun used to attempt to gain the person’s volitional compliance officer followed these guidelines. <p>Consider Alternates: less risk of injury (“Quantum of Force”)</p> <p>(Some courts require greater justification)</p>



TASER CONDUCTED ENERGY WEAPON (CEW) USE GUIDELINES

This is a study guide only and is a supplement to, but not a substitute for, TASER warnings and training. Be trained and read full warnings (available online at www.axon.com/legal).

CEWs have risks and CEW use and physical incapacitation, alone or in combination with physical exertion, stress, unforeseen circumstances, or individual susceptibilities, may ↑ risk or cause serious injury or death.



! WARNING

Conducted Energy Weapon

- Can temporarily incapacitate target.
- Can cause death or serious injury.
- Obey warnings, instructions and all laws.
- Comply with current training materials and requirements.
- See www.axon.com

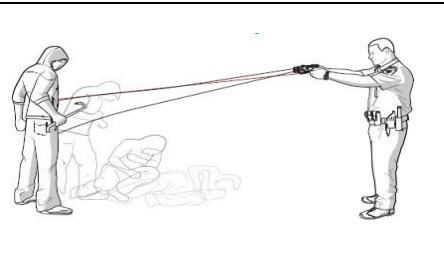
TASER CEW USE GUIDELINES

(THESE GUIDELINES MAY BE MORE RESTRICTIVE THAN CONSTITUTIONAL STANDARDS AND DO NOT CREATE OR ELEVATE A STANDARD OF CARE)

- If no exigency or immediate safety risk exists, slow down and consider alternative force options/solutions including negotiation, commands, or physical skills.
- Physical resistance alone does not equal an immediate safety risk.
- Emotionally disturbed person (EDP) or mentally ill, by itself, does not indicate an immediate threat.
- Choose a force option reasonably likely to cure the immediate safety risk.
- CEWs do not replace deadly-force options.

Incident Basics:

- Complete training first; recertify annually
- Review latest TASER CEW warnings
- Follow all laws, regulations, policies
- If CEW is not achieving intended goal, transition to different force option
- Monitor subject post-CEW; if unresponsive, initiate EMS/CPR protocols



Subjects with Increased Risks (requiring ↑ justification):

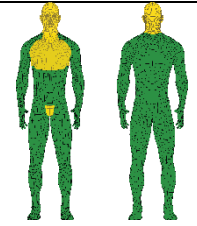
- Higher risk populations (children, pregnant, elderly, thin)
- Known medical conditions (pregnancy, heart disease, pacemaker, seizure history)

Secondary Risks (requiring ↑ justification):

- Uncontrolled falls, subjects in elevated positions or running on hard surfaces
 - Consider if tackling or intentional grounding is objectively reasonable
- Operating machinery or transportation (car, motorcycle, bicycle, skateboard)
- Presence of explosive, flammable substance, or vapor

Probe Targeting:

- Back shots ↑ safety and effectiveness
- Avoid intentionally targeting sensitive areas (eyes, head, throat, chest/heart, genitals, known pre-existing injury areas)
- Use preferred target areas (green areas on target figures)
- Avoid chest (↓ cardiac risks, particularly in thin subjects)
- Close-range deployment - split belt line, maximize probe spread



Minimize Number and Duration of CEW Exposures:

- Each CEW trigger pull or 5 seconds of discharge must be objectively reasonable
- Control and restrain subject immediately, if safe and practicable
- Use 5-second “window of opportunity” to restrain and “cuff under power”
- Do not use multiple CEWs or multiple circuits without justification
- Avoid repeated, extended, or continuous exposures beyond 15 seconds absent reasonably perceived immediate threat and ↑ justification

Probe Spread: Wider probe spread ↑ effectiveness. 12” (30.5 cm) probe spread is recommended for ↑ effectiveness.
 - If too close to achieve good probe spread, attempt to ↑ distance. If unable to ↑ distance, targeting leg may allow tactical advantage.

CEW Use:

- Use objectively reasonable force under totality of circumstances
- Use the minimum force necessary to accomplish lawful objectives
- Give a verbal warning before using force, if practicable
- Give subject reasonable opportunity to comply before force is used or repeated
- Cease force once subject is under control

If person is NOT immediate threat or flight risk, Avoid CEW Use:

- Without first attempting verbal de-escalation, commands, or physical skills
- On person known or perceived to be emotionally disturbed or mentally ill
- On elevated risk populations
- For pain compliance if pain foreseeably ineffective due to ↑ tolerance from drugs, alcohol, or psychosis

Drive (Touch/Contact)-Stun Use:

- Avoid using CEW drive (touch/contact)-stun except:
 - 3 or 4-point contact to complete circuit or ↑ probe spread
 - “break-contact” or distraction tactic when assaulted or tied up with subject
 - brief application to attempt pain-compliance; must give reasonable time and opportunity to comply
- Avoid repeated drive-stuns if compliance is not achieved, particularly with EDPs

Documentation (always document force/CEW justification):

- Document immediate safety risks, danger, resistance, force used from officer POV
- Body worn cameras and CEWs provide best objective documentation of events
- Fully document (identify, collect, maintain evidence)
 - Subject’s threats, behaviors, and actions
 - Each application of force, and each injury or alleged injury
 - Each CEW trigger pull or 5-second discharge