

## Podcast: Officer Created Jeopardy in Use-of-Force Analysis

### Description

The concept of Officer Created Jeopardy is increasingly influencing how courts, litigators, and law enforcement agencies analyze use-of-force incidents. This framework emphasizes accountability for officer actions and decisions leading up to a use-of-force event, rather than focusing solely on the moment force is applied.

As reflected in recent legal discussions and case law, agencies must ensure that training, policy, and practice align with evolving judicial expectations regarding officer conduct and decision-making.

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### Officer Created Jeopardy in Use-of-Force Analysis

Officer Created Jeopardy refers to circumstances in which officer actions, tactics, or decisions prior to a force encounter may contribute to the level of risk or danger present at the time force is used. Under this concept, courts and litigators may examine whether an officer's conduct unnecessarily escalated a situation or increased the likelihood that force would be required.

This approach places increased emphasis on training accountability, particularly whether officers are applying their training consistently and appropriately in real-world situations. In litigation, deviations from training or policy may be scrutinized when evaluating the reasonableness of force.

### Legal Precedent and the Totality of the Circumstances

Recent case law, including *Barnes v. Felix*, highlights the growing importance of evaluating the totality of the circumstances surrounding a use-of-force incident. This analysis extends beyond the precise moment force is applied and may include:

- Officer decision-making prior to the encounter
- Tactical choices leading up to the use of force
- Whether alternative actions were available
- Compliance with agency training and policy

This broader analytical framework underscores the need for agencies to examine how officers approach and manage situations before force becomes an issue, rather than limiting review to the final moments of an encounter.

### Training Implications and Policy Considerations

The increasing reliance on totality-of-the-circumstances analysis has direct implications for training and policy development. Agencies are encouraged to:

- Ensure training is practical and translates effectively to field application

- Regularly review and update use-of-force policies
- Address evolving areas of concern, including mental health responses and traffic stop procedures

As legal expectations continue to evolve, officers may be required to demonstrate not only that force was justified, but that their **pre-force conduct** was consistent with training, policy, and accepted practices.

### **Emerging Issues and Future Considerations**

Legal scrutiny of officer conduct continues to expand into related areas, including duty-to-intervene standards and excessive force claims. This trend reinforces the importance of fostering a culture of accountability supported by comprehensive and current training.

Additionally, the increasing use of technologies such as artificial intelligence in report writing raises new considerations regarding officer accountability and legal interpretation. While such tools may assist with documentation, human judgment remains central to evaluating officer decision-making and use-of-force incidents.

### **Conclusion**

Courts are increasingly examining the entire context of use-of-force encounters, including the actions and decisions that precede them. The concept of Officer Created Jeopardy reflects this shift and reinforces the importance of training, policy compliance, and sound decision-making throughout an incident.

Agencies that fail to ensure training aligns with practice may face heightened legal exposure, while those that proactively address these issues are better positioned to support defensible, accountable policing practices.

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