Action-Reaction Gap and Threat Timing

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What It Is

Action-reaction is a human-performance concept, not an independent legal test. Under the Fourth Amendment, force is judged by the objective-reasonableness standard from *Graham v. Connor* – what a reasonable officer on the scene would perceive and do, with allowance for split-second judgment in tense, rapidly evolving circumstances. Human-performance evidence can help explain *why* officers sometimes act before an attack is completed, and *why* stopping force is not instantaneous, but it does not replace the constitutional analysis.

Officers Need Not Wait for Injury

Tennessee v. Garner established a preventative framework: deadly force may be reasonable where the officer has probable cause to believe the person poses a threat of serious physical harm. The harm need not already have occurred.

Several circuits have applied this clearly to anticipatory defensive force:

- Fourth Circuit (*Elliott v. Leavitt*, 1996): Officers confronting a firearm threat do not have to wait until the suspect actually shoots.
- Eleventh Circuit (*Long v. Slaton*, 2007): The law does not require officers to wait until the precise moment a deadly weapon is used before acting to prevent threatened harm.
- Tenth Circuit (*Estate of Larsen v. Murr*, 2008): In an edged-weapon encounter, commands, hostile weapon movement, distance, and manifest intent are all part of the imminence assessment – the officer need not wait for the final visible blade movement.

Threat Imminence vs. Completed Attack

The operative question is whether a reasonable officer would perceive a sufficiently immediate threat of death or serious bodily harm – not whether the suspect has completed the attack. Relevant facts for imminence include: weapon drawn or accessible, threatening movement, rapid closing of distance, prior attack, ignored commands, movement toward a third party, physical positioning, and limited time or space for response.

The 21-Foot Rule Is Not Law

There is no federal constitutional rule under which presence inside twenty-one feet automatically justifies deadly force, or presence outside that distance automatically precludes it. Distance is one variable among

many. The better question is how much usable time and tactical margin existed before the person could reach the officer or a third party, and what response options were realistically available within that interval.

Third-Party Threats

Action-reaction analysis applies when a knife-armed person is moving toward a civilian, not just an officer. The relevant distance for timing analysis is subject-to-civilian rather than subject-to-officer. In *Ventura v. Rutledge* (9th Cir. 2020), a knife-armed man continued advancing on a recently assaulted third party despite commands and an explicit shooting warning; the court resolved the case on qualified immunity rather than constitutional merits.

Why Reaction Takes Time

Before a person can respond to a changing stimulus, the nervous system must detect it, interpret it, select a response, initiate motor activity, and execute movement. These stages consume measurable time and vary across individuals, tasks, stress, fatigue, and whether a response has already begun. Blair et al. (2011) demonstrated that officers generally could not fire before an armed subject who initiated the shooting movement – illustrating the structural timing advantage possessed by whoever acts first. Taylor (2021) found that muzzle position affected shoot/no-shoot response time, supporting the conclusion that reaction time is not one fixed number.

No single reaction-time value should be treated as a universal use-of-force constant.

Stopping Force Also Requires a Sequence

The reverse applies equally. An officer does not physically stop at the instant an external change occurs. Stopping requires perceiving the change, recognizing its significance, deciding to inhibit the response, and physically terminating it. A video frame showing a knife beginning to fall does not necessarily establish the exact moment a reasonable officer could perceive that change, understand it, decide to stop, and execute the stop.

Human-performance research distinguishes response initiation from response inhibition. Once a motor response is underway, stopping it requires active inhibitory control – stopping is its own neurocognitive task, not a passive default.

Plumhoff v. Rickard: Force May Continue While the Threat Continues

The Supreme Court (2014) rejected the argument that shot count alone made force excessive, holding that if officers are justified in firing to end a severe threat, they need not stop until the threat ends. That limiting phrase is critical: *Plumhoff* does not authorize continued force after the justification disappears.

Waterman v. Batton: Threat Can Change in Seconds

The Fourth Circuit held that force justified at the start of an encounter is not justified even seconds later if the justification has been eliminated. Officers fired at an approaching vehicle presenting an immediate threat; shots fired after the vehicle passed were analyzed separately. *Waterman* presents three distinct timing questions: when force was justified, when the objective threat ended, and when a reasonable officer should have perceived that change.

Zion v. County of Orange: Terminating the Threat Is Not Terminating the Person

The Ninth Circuit (2017) held in a knife case that a person can remain alive, moving, or capable of some movement without continuing to present an immediate deadly threat. A wounded person on the ground holding a knife may have a much more geographically limited ability to harm others than someone upright – which does not eliminate danger but changes the threat geometry. Once a threat has ended, continued force can become excessive.

Spencer v. Glaser: Reassessment Is Not Amnesia

The Fourth Circuit (2026) provided an important counterweight: earlier knife-wielding conduct remained relevant to how a reasonable officer could interpret renewed movement approximately twelve seconds later. A changed circumstance matters, but immediately preceding threat conduct is part of the totality. Reassessment does not reset the officer's perception to zero.

Start and Stop Are Asymmetric Problems

Starting force involves predicting whether there is enough time to prevent harm if the next observable movement is waited out. Stopping force involves processing evidence that danger has changed and whether continued force is no longer justified. Both require perception and judgment; neither should be assessed as though the officer has instantaneous knowledge of changing events.

No Reaction-Time Safe Harbor

Human-performance science does not establish that officers are automatically entitled to one extra shot, a fixed number of milliseconds, or an additional volley after a threat changes. The legal question remains what a reasonable officer would have perceived at the moment the justification for force had ended, and whether continued force was reasonable under the circumstances.

Volley Structure and Temporal Analysis

Courts sometimes examine the temporal structure of force – initial volley, pause, second volley, subsequent force – rather than merely total round count. Relevant factors include pause duration, subject movement during pauses, weapon status, officer movement, commands between volleys, and whether the person attempts to rise or re-arms. A pause may create an identifiable reassessment opportunity, but no universal pause duration automatically establishes constitutional liability.

Action-Reaction and Officer-Created Jeopardy

The fact that officers may need to act before an attack is completed does not eliminate analysis of earlier police conduct. After *Barnes v. Felix* (2025), courts may consider relevant preceding circumstances rather than applying an artificial moment-of-threat cutoff. Whether earlier tactics unnecessarily compressed time and distance, and whether the threat was sufficiently immediate when force was used, remain analytically distinct but potentially related questions.

What This Body of Law Does Not Establish

- Action always defeats reaction
- Officers may shoot merely because reaction takes time
- A person with a knife is automatically an immediate deadly threat
- Twenty-one feet is a constitutional boundary
- Officers must wait until a knife is within touching distance
- Officers may continue firing after the threat ends
- Every post-threat shot is automatically excessive
- Every visible movement after a shooting is voluntary
- A fixed number of additional rounds is constitutionally permissible
- Reaction-time averages determine what a specific officer perceived

Policy Implications

1. Train for dynamic reassessment, not distance rules. Rigid distance thresholds (“21 feet”) do not reflect constitutional doctrine and can produce erroneous decision-making. Train officers to assess available time and tactical margin given actual distance, movement, weapon position, barriers, and third-party exposure.

2. Treat the temporal structure of force as a reviewable event. Post-incident analysis should examine when the threat developed, when force began, when the threat changed, when a reasonable officer should have perceived the change, and when force ended – not merely total round count.
3. Train officers to distinguish involuntary and voluntary movement after a shooting. A person who has been shot may exhibit falls, stumbles, recoil, or momentum-driven movement that is not renewed attack. Movement after incapacitation should be assessed in context, not automatically coded as continued resistance.
4. Design training for response inhibition, not just response initiation. The same training emphasis given to threat recognition and shooting should extend to stopping – recognizing threat termination, communicating stop commands, and physically ceasing force when the justification ends.
5. Avoid laboratory reaction-time numbers as case-specific presumptions. Simulation studies differ from actual encounters in stress, unpredictability, stakes, and participant expectations. Their strongest contribution is mechanistic – demonstrating that perception, decision, and motor execution take time – not case-specific proof that a particular shooting was reasonable.

HOW TO CITE

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