

MATERIALS FOR A WORKSHOP HOT PURSUIT-USE OF FORCE AND FEDERAL COURT DECISIONS

by

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Johnson v. State, 114 S. W. 2d 819 (Tenn. 1938)

Two Game Wardens discovered Walter Beavers and some other persons engaged in seining for fish in violation of the law. All of the persons submitted to arrest except Beavers, who attempted to escape.

One of the Wardens, in an effort to stop Beavers, fired his revolver three times. One shot hit the water about ten feet from Beavers, who then jumped in the river and lay down with only his head remaining out of the water. Another bullet struck the water within a foot of his head.

The state Code provided, "If, after notice to arrest the defendant, he either flees or forcibly resists, the officer may use all the necessary means to effect the arrest."

Noback v. Town of Montclair, 110 A. 2d 339 (N. J. 1954)

A policy officer observed a man annoying and disturbing a young girl on a public sidewalk and arrested him for violation of a disorderly person statute. The arrestee broke and ran from the officer who gave chase. Although the officer fired several warning shots, the subject continued running. The officer then shot the man.

Edgin v. Talley, 276 S. W. 591, (Ark. 1925)

A deputy sheriff attempted to stop the driver of an automobile to arrest him for a misdemeanor. When the driver failed to heed the deputy's call to stop, the officer fired two shots at the tires of the car. One of the shots smashed the windshield and a passenger in the vehicle was injured by broken glass.

United States v. Stewart, 201 F. 2d 135 (Fifth Circuit 1953)

A Border Patrol Inspector was on duty during the early morning hours. A group of dogs began barking and created a disturbance. In an attempt to quell the commotion, the officer fired his pistol into a ditch near the dogs. Although the area was desolate, across the highway from the officer's office was a partially open vegetable shed and sleeping in the shed was the plaintiff who was permanently injured by the bullet.

McCrink v. City of New York, 71 N. E. 2d 419 (1947)

An off-duty officer shot two persons. The officer was a known alcoholic and as such was troublesome and vicious. He had been subjected repeatedly to disciplinary action because of his problem.

Uniform Law on Fresh Pursuit

7 Tennessee Code Annotated 40-809-815

"The term...shall include fresh pursuit...of a person who has committed a felony or who is reasonably suspected of having committed a felony...." 7TCA 40-811

Monroe v. State, 253 S. W. 2d 734 (Tenn. 1952)

A Conservation Officer saw a vehicle parked in an area in which there were many deer. The officer later saw a dog chasing a deer and shortly thereafter heard three shots. After a while the officer saw the same vehicle coming out of the hunting area. He stopped the car and observed blood on the door handle and steering wheel and big game ammunition on the seat of the car.

The officer asked the driver of the car for permission to look in the trunk of his car, but was told the key was lost, whereupon the officer pulled out the back seat and felt the body of a deer. The car was taken to a nearby town where the trunk was opened and a doe was found therein.