

BART POLICE CITIZENS REVIEW BOARD

MEMORANDUM

TO: BART Police Citizen Review Board Use Of Force Subcommittee Members
DATE: October 18, 2021

FROM: George Perezvelez, Chair, Use of Force Sub-committee

SUBJECT: October 18, 2021 UOF Sub-committee Agenda addendum materials

Please Find enclosed the following material for discussion during our review of the BART 300 Use of force Policy. Please note 12 included URL and some specific quoted language to be found within the materials for reference and discussion. The quoted language is in addition to the full available document.

1. https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/Use_of_Force.pdf

"Shall use a minimum amount of force"

2.

https://www.bart.gov/sites/default/files/docs/02.%20BPD%20Policy%20300%20-%20Use%20of%20Force_0.pdf

"strive to"

3.

<https://www.fergusoncity.com/DocumentCenter/View/3282/2018-10-10-General-Order---Use-of-Force---FINAL>

The Department recognizes and respects the value and sanctity of each human life. All FPD officers and employees must have an unwavering commitment to protecting human life, and to upholding the value and dignity of every person. FPD is committed to a use-of-force model that, through policy, training, and supervision, will provide officers with the skills and training necessary to make optimal force decisions and resolve situations without the use of force whenever possible. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Officers are confronted with situations where control must be exercised to effect arrests and to protect the public safety. Whenever possible, control should be achieved verbally through instruction, advice, warnings



and persuasion. While the use of objectively reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under a particular set of circumstances. Therefore, it is the policy of this Department that police officers shall only use force that is objectively reasonable, proportional to the level of resistance or threat encountered, and necessary to accomplish a legitimate public safety objective. The Department is committed to close supervision and management of its officers' use of force. Officers will deescalate situations at the earliest possible moment, and will avoid escalating situations through words or actions. Verbal or physical abuse is forbidden

4. <https://bayareaequityatlas.org/indicators/police-use-of-force#/>

Bay Area use of Force statistics article

5. <https://www.policeforum.org/assets/30%20guiding%20principles.pdf>

6. <https://www.phillypolice.com/assets/directives/D10.1.pdf>

"To always attempt to de-escalate any situation where force may become necessary. In the event force becomes unavoidable, to use only the minimal amount of force necessary to overcome an immediate threat or to effectuate an arrest. "

7. <http://useofforceproject.org/#analysis>

"Police departments with four or more of these restrictive use of force policies had the fewest killings per population and per arrest. According to our analysis, the average police department has **54% fewer killings** than a police department with none of these policies in place and **a police department that has all eight of these policies has 72% fewer killings** than a police department with none of these policies in place."

8. https://link.springer.com/chapter/10.1007/978-1-349-17832-2_6

MINIMUM USE OF FORCE principle

"Thus the (first instructions issued to the police embraced the principle of minimum force which was expressed as follows. 'By the use of tact and good humour the public can normally be induced to comply with directions and thus the necessity for using force, with its possible disapproval, is avoided.'

9. <https://campaignzero.org/force.html>



use minimum amount of force to apprehend a subject, with specific guidelines for the types of force and tools authorized for a given level of resistance"

10.

<https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/5d5c89c2e3bc4c000192f311/1566345667504/CCPD+UOF+Policy+%288.21.19%29+%28FINAL%29.pdf>

"In situations where law enforcement officers are justified in using force, the utmost restraint should be exercised. Use of force should never be considered routine. In exercising this authority, officers must respect the sanctity of all human life, act in all possible respects to preserve human life, do everything possible to avoid unnecessary uses of force, and minimize the force that is used, while still protecting themselves and the public."

11. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB230

"20) A requirement for the regular review and updating of the policy to reflect developing practices and procedures."

12. Objectively necessary meaning: "means **necessary as a matter of fact**, not as a matter of judgement." "in an [objective](#) rather than subjective or biased way : with a basis in observable facts rather than feelings or opinions." existing independently of perception or an individual's conceptions, undistorted by emotion or personal bias, of or relating to actual and external phenomena as opposed to thoughts, feelings, etc."

Thank you,

George Perezvelez

District 9 - BART Police Citizen Review Board

cc: Use of Force BPCRB Sub-committee Members
Police Department



For Reference (Document Links):

A. BART Police Department's Lexipol Policy 300 - Use of Force:

- 1) https://www.bart.gov/sites/default/files/docs/02.%20BPD%20Policy%20300%20-%20Use%20of%20Force_0.pdf

B. Review and Identify Standard Use of Force Policy Language Samples:

- 1) Berkeley Police Department:
https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/Use_of_Force.pdf
- 2) Ferguson Police Department:
<https://www.fergusoncity.com/DocumentCenter/View/3282/2018-10-10-General-Order---Use-of-Force---FINAL>
- 3) Bay Area Use of Force Statistics Article:
<https://bayareaequityatlas.org/indicators/police-use-of-force#/>
- 4) Guiding Principals on Use of Force:
<https://www.policeforum.org/assets/30%20guiding%20principles.pdf>
- 5) Philadelphia Police Department:
<https://www.phillypolice.com/assets/directives/D10.1.pdf>
- 6) Police Use of Force Project: <http://useofforceproject.org/#analysis>
- 7) The Principal of Policing: https://link.springer.com/chapter/10.1007/978-1-349-17832-2_6
- 8) Campaign Zero: <https://campaignzero.org/force.html>
- 9) Camden County Police Department:
<https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/5d5c89c2e3bc4c000192f311/1566345667504/CCPD+UOF+Policy+%288.21.19%29+%28FINAL%29.pdf>
- 10) California State Legislative Information:
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB230

Use of Force

300.1 PURPOSE AND SCOPE

The BART Police Department's highest priority is safeguarding the life, dignity, and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible. This Department policy builds upon the Supreme Court's broad principles in *Graham v. Connor* (1989) 490 U.S. 386 and is more restrictive than the constitutional standard and state law. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, non-biased, and reasonable manner.

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose. Officers must strive to use the minimal amount of force necessary.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Feasible - Capable of being done or carried out to successfully achieve a legitimate law enforcement objective without increasing the risk to the officer or bystander(s).

Force - The application of physical techniques or tactics, chemical agents or weapons to another person.

Legitimate law enforcement objective - Effect a lawful arrest, detention, or search; overcome resistance or prevent escape; prevent the commission of a public offense; in defense of others or in self-defense; gain compliance with a lawful order; to prevent a person from injuring himself/herself.

Minimal amount of force necessary - The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

Non-deadly Force - Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or very serious bodily injury shall be considered non-deadly force.

Personal Body Weapons - An officer's use of his/her body part, including but not limited to hand, foot, knee, elbow, shoulder, hip, arm, leg or head by means of high velocity kinetic energy transfer (impact) to gain control of a subject.

Proportionality - Considers whether a particular use of force is proportionate and appropriate to the totality of the circumstances, and requires officers to consider whether alternative lesser or non-force options are feasible and likely to be effective. Proportional force does not imply equal force; officers may use superior force, consistent with this policy.

Reasonable Belief - An objective belief determined by the facts and circumstances reasonably available to the officer at the time (on-scene and without hindsight) and viewed from the perspective of a reasonable peace officer in the same situation, guided by the principles set forth in this policy.

Reasonable Force - An objective standard of force viewed from the perspective of a reasonable officer, without the benefit of 20/20 hindsight, and based on the totality of the circumstances known to or perceived by the officer at the time.

Serious Bodily Injury - A bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose. Officers must strive to use the minimal amount of force necessary.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force. Retreating for a tactical advantage should be considered and utilized, when feasible and appropriate.

Officers shall not use force with bias, based upon: race; ethnicity or nationality; religion; sex; sexual orientation; economic status; age; cultural group; disability; or affiliation with any other similar identifiable group.

Use of force against vulnerable populations (such as, without limitation, children, elderly, pregnant women, people with physical and mental disabilities, and people with limited English proficiency) can undermine public trust and should only be used if no other options appear reasonable or effective. It is recognized that the above may not be readily apparent or known to the officer. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

The Department recognizes that transparency and accountability in the use of force is essential to preserving the trust of the community and to maintaining professional standards. This policy therefore requires rigorous reporting and review of all instances of the use of force.

300.2.1 DUTY TO INTERCEDE

A use of excessive force by law enforcement personnel is a matter of serious concern to the community, and even a single instance of excessive force may critically undermine public trust in the Department. Accordingly, any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when feasible, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law shall promptly report these observations to a supervisor.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

300.2.2 DE-ESCALATION TECHNIQUES

Officers shall use de-escalation techniques whenever feasible and appropriate: to potentially reduce or eliminate the need to use force; and to prevent injuries to the subject, the public and the officer(s). Use of de-escalation techniques must allow for the fact that officers are often forced to make split-second decisions, with limited information, and in circumstances that are tense, uncertain and rapidly evolving.

- (a) Officers shall, when feasible, continually assess the dynamics of a situation, and modulate their response and actions appropriately. Officers may be justified in using force at one moment, but not justified in using force the next moment due to a change in dynamics.
- (b) De-escalation techniques may include verbal persuasion, warnings and tactical de-escalation techniques, such as: slowing down the pace of an incident; “waiting out” subjects; creating distance (and thus the reactionary gap) between the officer and the threat; and requesting additional resources (e.g., specialized units, mental health care providers, negotiators, etc.) to resolve the incident.
 - 1. Officers should recognize that they may withdraw to a position that is tactically advantageous or allows them greater distance to de-escalate a situation.
 - 2. Officers should consider a variety of options, including lesser force or no force options.
 - 3. Officers should perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others.
 - 4. Officers shall not intentionally and unnecessarily escalate and/or create a need to use force.
 - 5. Officers should attempt to understand and consider possible reasons why a subject may be noncompliant or resisting arrest. A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject’s situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety.
 - 6. Officers should continue de-escalation techniques, when feasible and appropriate, and take as much time as reasonably necessary to resolve the incident, in effort to avoid and/or minimize the use force.
- (c) When an officer recognizes that mental illness, post-traumatic stress disorder, alcohol and/or drug addictions, or other health issues are causing an individual to behave erratically, the officer shall, when feasible and appropriate, try to de-escalate the situation using de-escalation and/or Crisis Intervention techniques.

Establishing Communication - Communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.

Use of Force

Supervisors conducting a use of force investigation will indicate de-escalation as a force option in BlueTeam whenever de-escalation was attempted or used in an incident.

300.3 FACTORS TO DETERMINE THE REASONABLENESS OF FORCE

The United States Supreme Court in *Graham v. Connor* (1989) 490 U.S. 386 held that an officer's use of force must be objectively reasonable under the totality of circumstances known to the officer at the time. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 20/20 hindsight, and without regard to the officer's underlying intent or motivation.

There are circumstances in which a force option may be legally justified under the principles set forth in *Graham v. Connor*, but the use of that force option may not be appropriate, warranted, and/or necessary.

This policy builds upon the broad principles in *Graham v. Connor* by adding additional, more restrictive factors upon which an officer's use of force shall be evaluated. These factors should be considered when determining whether to apply force (as time and circumstances permit), and in evaluating whether an officer has used reasonable force.

Factors from *Graham v. Connor*:

- (a) The severity of the crime at issue.
- (b) Whether the suspect poses an immediate threat to the safety of the officer and others.
- (c) Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Factors from the California Penal Code:

- (a) Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835a).
- (b) An officer may not, under color of authority, without lawful necessity, assault or beat any person (Penal Code § 149).

Additional factors set forth by case law and by this Policy:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The feasibility, efficacy, and safety of alternative lesser or non-force options, including the availability of de-escalation techniques that might reduce or eliminate the need to use force, or prevent injuries to the subject, the public and the officer(s).
- (c) Whether the force option is proportionate and appropriate to the totality of the circumstances, and whether alternative lesser or non-force options are feasible and likely to be effective. Proportional force does not imply equal force; officers may use superior force, consistent with this policy.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

- (d) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (e) The conduct of the officer prior to the use of force. Specifically, did the officer violate policy and unnecessarily escalate the situation to a use of force.
- (f) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (g) The effects of drugs or alcohol.
- (h) Subject's mental state or capacity, including any apparent/known mental health issues.
- (i) Proximity of weapons or dangerous improvised devices.
- (j) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (k) The availability of other options and their possible effectiveness.
- (l) Seriousness of the suspected offense or reason for contact with the individual.
- (m) Training and experience of the officer.
- (n) Potential for injury to officers, suspects and others.
- (o) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (p) The risk and reasonably foreseeable consequences of escape.
- (q) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (r) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (s) Prior contacts with the subject or awareness of any propensity for violence.
- (t) Any other exigent circumstances.
- (u) Officers must strive to use the minimal amount of force necessary.

300.3.1 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer
- (c) Whether the person has been given sufficient opportunity to comply.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.2 PERSONAL BODY WEAPONS

Personal body weapon strikes, punches, lifts or kicks for which the officer has received department-approved training, may be used when the officer reasonably believes that the use of such force appears necessary to further a legitimate law enforcement purpose.

Personal body weapon strikes, punches, or kicks to the rear of the head, neck or spine are prohibited. The only exception to this prohibition would be under exigent circumstances when deadly force is justified and reasonable.

300.3.3 CAROTID CONTROL HOLD

The use of the carotid restraint is prohibited. The only exception to this prohibition would be under exigent circumstances when deadly force is justified and reasonable.

300.3.4 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Department for this specific purpose.

300.3.5 DRAWING/DEPLOYING A FIREARM

Whenever an officer draws/deploys a firearm during the performance of his/her duties to defend, detain or take any person into custody (the suspect is contacted or arrested, the officer is present and is within potential sight of the suspect), it is considered a use of force and an account of the incident must be made in a police report. The officer should include in the narrative of the report how the weapon was used in the incident, as well as the justification for such action. The documentation of how the weapon was used should include information on how the weapon was presented. The officer must notify a supervisor as soon as practical, and the supervisor will complete a Use of Force Investigation with accompanying documentation as outlined in this policy.

Whenever an officer draws/deploys a firearm during the performance of his/her duties in the presence of others, but does not use the firearm to defend, detain or take any person into custody (the suspect is not contacted or arrested), it is not considered a use of force and an account of the incident must be made in a police report.

Whenever an officer draws/deploys a firearm during the performance of his/her duties in the not presence of others, it is not considered a use of force and no documentation is required. An example of that type of incident would include, but is not limited to, the search of an empty building or car where no person is contacted during the search.

Use of Force

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

- (a) The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
- (b) The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

Strikes, punches, or kicks to the rear of the head, neck or spine are prohibited, unless exigent circumstances exist and use of deadly force is justified.

Choke holds are also prohibited, unless exigent circumstances exist and use of deadly force is justified.

The use of deadly force against a person who presents only a danger to himself/herself is prohibited.

When feasible, officers should immediately attempt to administer or obtain medical aid for a person who has been subject to injury resulting from the use of deadly force.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. It is also noted that in many circumstances, disabling the driver of a vehicle may increase the potential for harm to bystanders and/or the officer.

- Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.
- Officers shall not intentionally and unnecessarily move into the path of an approaching vehicle to create their own exigent circumstance.
- Officers should not shoot at any part of a moving vehicle in an attempt to disable the vehicle.
- Officers shall not discharge a firearm at a moving vehicle or its occupants when there are other reasonable means available to avert the threat.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

- Officers shall not discharge a firearm from a moving vehicle when there are other reasonable means available to avert the present threat.
- Officers may only shoot at a moving vehicle under exigent circumstances, when the driver and/or occupants are targeting others with the intent to cause great bodily injury or death and there are no other reasonable means available to avert the threat.

300.4.2 WARNING SHOTS

Discharging a firearm for the purpose of a “warning shot” is prohibited.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

Supplemental reports will be completed by personnel who are present when force is used by another officer. Officers have a duty to report all pertinent facts known to them.

All police reports, inclusive of any supplemental reports, involving the documentation of a use of force must be reviewed and approved by a supervisor prior to the employee going off duty.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a control device as defined in Policies 308 and 309:
 1. Batons and other impact weapons
 2. Chemical agents (OC Spray)
 3. SIMS Projectile
 4. Conducted Electrical Weapon (any activation whether effective or not)
- (f) Any application of a restraint device other than handcuffs or the WRAP.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An officer draws/deploys a firearm during the performance of his/her duties to defend, detain or take any person into custody (the suspect is contacted or arrested, the officer is within potential sight of the suspect).

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

- (j) An individual alleges any of the above has occurred.

300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Records Manager or the authorized designee shall ensure that data required by the Department of Justice (DOJ) regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is collected and forwarded to the DOJ as required by Government Code § 12525.2.

300.5.3 EMPLOYEES WHO USE FORCE WHILE ON A SPECIAL ASSIGNMENT

When a BART Police employee has a use of force as defined in this policy, the use of force must be reported to a BART Police supervisor and investigated in accordance with this policy.

When two or more BART Police officers are temporarily assigned to assist an outside agency or multi-agency task force in the performance of law enforcement activities, a BART police supervisor should also be present.

300.5.4 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Records Division policy.

300.6 MEDICAL CONSIDERATION FOLLOWING A USE OF FORCE

Prior to booking or release, and as soon as possible under the circumstances, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple

Use of Force

officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage nearby if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

An uninvolved supervisor should respond to the scene of a reported use of force. The supervisor is expected to do the following:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. This interview should not be conducted in the presence of officers who were involved in using force. If this interview is conducted without the person having voluntarily waived his/ her Miranda rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The recording should be saved and attached in the BlueTeam entry for the use of force investigation.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses to the use of force. Interview and record witness statements for inclusion in the use of force investigation.
- (f) Review the portion(s) of the Axon Flex video pertaining to the use of force and/or allegation of misconduct.
- (g) Review and approve all related reports.

In the event that an uninvolved supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit. The investigation will be documented in a Use of Force Investigation checklist and narrative as warranted.

When practical, supervisors who use force or witness the use of force by another officer in a given situation should not obtain statements from other officers as part of a report on the use of force, as such is the responsibility of an uninvolved supervisor. Furthermore, involved supervisors

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

and officers shall not attempt to influence other officers' or civilian witnesses' accounts of what occurred during the incident or otherwise compromise the integrity of the use of force investigation.

Use of Force Investigation Reports will be forwarded and reviewed through the chain of command. Each reviewer in the process will make a determination as to whether the use of force was justifiable or non-justifiable.

300.7.1 USE OF FORCE INVESTIGATION, DOCUMENTATION, AND REVIEW

Use of force must be documented in a police report and reviewed by a supervisor who was not directly involved in the incident.

The following categories and parameters will explain levels of force and the respective reporting, investigation, documentation, and review requirements. Incidents will be categorized as Level 1, Level 2, Level 3, or Level 4.

Level 1: Not a Reportable Use of Force:

Level 1 Incident Parameters:

- (a) Subject allowed him/herself to be searched, escorted, and/or handcuffed. The suspect offered no resistance, and the officer did not use force to overcome resistance. The officer did not use force in the absence of resistance.
- (b) No suspect injury or complaint of injury due to interaction with officer.
- (c) No allegation of misconduct against officer, regarding force.
- (d) Officer body camera was activated in a timely manner, per policy.
- (e) Officer used any of following:
 - 1. Professional presence and/or verbalization
 - 2. TASER/LLIMs Deployed (no activation)
 - 3. Drawn/deployed firearm, but no suspect contacted or arrested

Level 1 Incidents should be documented by an officer in an appropriate police report, citation, Field Interview, and/or CADS entry. Supervisors will review police report narratives for approval.

Level 2: Use of Force

Level 2 Incident Parameters:

- (a) No suspect injury or complaint of injury due to interaction with officer.
- (b) No allegation of misconduct against officer, regarding force.
- (c) Officer body camera was activated in a timely manner, per policy.
- (d) Officer used any of the following force options:
 - (a) Control holds/pressure point application

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

- (b) Leverage
- (c) Grab
- (d) Bodyweight
- (e) Takedown that is non-dynamic (no forceful impact)
- (f) Vehicle pursuit with no collision
- (g) Firearm drawn/deployed but not fired, suspect contacted

An uninvolved supervisor will respond to the scene and conduct a Use of Force Investigation, including taking statements from the suspect and witnesses, and taking photos of the involved parties. If the incident fits the parameters for a Level 2 incident, the supervisor will enter all applicable data into BlueTeam and attach a completed Use of Force Investigation Checklist.

Supervisors do not need to take witness statements from fire and medical personnel under the following circumstance: an officer assists medical personnel to restrain and/or secure a subject to a gurney for medical transport in a non-criminal detention (i.e. 5150 or 5170 detention), and all of the following conditions are met:

- (a) The officer only used force options limited to the following: grab, hold, leverage, and/or bodyweight.
- (b) No subject injury or complaint of injury due to interaction with officer.
- (c) No allegation of misconduct against officer, regarding force.
- (d) Officer body camera recorded the use of force.
- (e) The unit number for the fire and medical personnel is obtained.

Level 3: Use of Force

Level 3 Incident Parameters:

- (a) Would have otherwise been classified as a Level 2, except one of more of the following apply:
 - 1. Suspect injury or complaint of injury due to interaction with officer.
 - 2. Allegation of misconduct against officer, regarding force.
 - 3. Officer body camera was not activated during use of force.
- (b) The use of force is Level 3 if the officer used any of the following force options:
 - 1. Dynamic/forcible takedown
 - 2. TASER Activation/LLIMS Activation
 - 3. Chemical Agents/Munitions
 - 4. Impact Weapon Strikes Personal
 - 5. Body Weapons

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

6. Police canine deployment resulting in injury

An uninvolved supervisor will respond to the scene and conduct a Use of Force Investigation, including taking statements from the suspect and witnesses. If the incident fits the parameters for a Level 3 incident, the supervisor will enter all applicable data into BlueTeam and attach a completed Use of Force Investigation Checklist. The supervisor will also complete a Use of Force Investigation Report narrative for review through the Use of Force Review process. Use of Force involving police canines will be documented and reviewed additionally per Policy 318.

Level 4: Use of Deadly Force

Level 4 Incident Parameters:

- (a) Use of firearm, officer involved shooting
- (b) Or any force likely to cause death or serious bodily injury

An uninvolved supervisor will respond to the scene. The incident will be investigated, documented, and reviewed in adherence to Policy 310.

300.7.2 WATCH COMMANDER RESPONSIBILITY

A watch commander will review the Use of Force Investigation Report to ensure compliance with this policy and that any training issues are addressed.

Nothing in the policy precludes the watch commander from requiring that a supervisor complete a Use of Force Investigation Report for any incident involving force.

The on-duty watch commander shall promptly notify the Office of the Independent Police Auditor in the event that a use of force resulted in significant (i.e. life threatening) injury, notwithstanding the notification requirements regarding officer-involved shootings and in-custody deaths pursuant to Policy 310.

300.8 TRAINING

Officers will receive annual training on this policy (at a minimum) and demonstrate their knowledge and understanding.

300.9 USE OF FORCE ANALYSIS

At least annually, the Operations Bureau Deputy Chief should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police, the Office of the Independent Police Auditor, and the BART Police Citizen Review Board. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Use of Force

- (d) Policy revision recommendations.

Use of Force

300.1 SANCTITY OF LIFE

The Berkeley Police Department's highest priority is safeguarding the life, dignity, and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force. Officers must respect the sanctity of all human life, act in all possible respects to preserve human life, do everything possible to avoid unnecessary uses of force, and minimize the force that is used, while still protecting themselves and the public.

300.1.1 PURPOSE AND SCOPE

This policy sets forth criteria governing the use of force. All officers are responsible for knowing and complying with this policy and conducting themselves in a manner that reflects the Berkeley Police Department's Use of Force Core Principles. Violations of this policy may result in disciplinary action, including and up to termination, and may subject the officer to criminal prosecution. Supervisors shall ensure that all personnel in their command know the content of this policy and operate in compliance with it.

300.1.2 USE OF FORCE STANDARD

In dealing with suspects, officers shall use alternatives to physical force whenever reasonably possible. In all cases where physical force is used, officers shall use a minimum amount of force that is objectively reasonable, objectively necessary, and proportional to effectively and safely resolve a conflict.

The United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), held that, in order to comply with the U.S. Constitution, an officer's use of force must be objectively reasonable under the totality of circumstances known to the officer at the time. Additionally, Penal Code section 835(a) imposes further restrictions on an officer's use of force. But these standards merely set the minimum standard for police conduct, below which an officer's conduct would be regarded as unlawful.

In fulfilling this Department's mission to safeguard the life, dignity, and liberty of officers themselves and all members of the community they are sworn to protect and serve, this policy requires more of our officers than simply not violating the law. As a result, this policy is more restrictive than the minimum constitutional standard and state law in two important respects.

First, it imposes a higher duty upon officers to use a minimal amount of force objectively necessary to safely achieve their legitimate law enforcement objective. And, second, this policy imposes a stricter obligation on officers to exert only such force that is objectively proportionate to the circumstances, requiring a consideration of the seriousness of the suspected offense, the availability of de-escalation and other less aggressive techniques, and the risks of harm presented to members of the public and to the officers involved.

Berkeley Police Department

Law Enforcement Services Manual

Use of Force

Additionally, Penal Code section 835(a) imposes further restrictions on an officer's use of force.

300.1.3 CORE PRINCIPLES

A. DE-ESCALATION AND FORCE MINIMIZATION. Every officer's goal, throughout an encounter with a member of the public, shall be to de-escalate wherever possible and resolve the encounter without resorting to the use of force. Wherever possible, officers shall employ de-escalation techniques to increase the likelihood of voluntary compliance with law enforcement requests or directives and, thereby, decrease the likelihood that a use of force will become necessary during an incident. Further, in any encounters that do call for applying force, officers must always use a minimal amount of force that is objectively reasonable and objectively necessary to safely achieve their legitimate law enforcement objective.

B. PROPORTIONALITY. When determining the appropriate level of force, at all times officers shall balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is unarmed or armed with a weapon other than a firearm.

C. MINIMIZING THE USE OF DEADLY FORCE. Deadly force may only be used when it is objectively reasonable that such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm. Officers shall not use deadly force if it is objectively reasonable that alternative techniques will eliminate the imminent danger and ultimately achieve the law enforcement purpose with less risk of harm to the officer or to other persons

D. DUTY TO INTERCEDE. Whenever possible, officers shall intervene when they know or have reason to know that another officer is about to use, or is using, unnecessary force. Officers shall promptly report any use of unnecessary force and the efforts made to intervene to a supervisor.

E. VULNERABLE POPULATIONS. Officers should be particularly sensitive when considering the use of force against vulnerable populations, including children, elderly persons, pregnant women, people with physical and mental disabilities, and people with limited English proficiency.

F. FOSTER STRONG COMMUNITY RELATIONSHIPS. The Berkeley Police Department understands that uses of force, even if lawful and proper, can have a damaging effect on the public's perception of the Department and the Department's relationship with the community. The Department is committed to fostering strong community relations by building on its historic tradition of progressive policing, ensuring accountability and transparency, and striving to increase trust with our community.

G. FAIR AND UNBIASED POLICING. Members of the Berkeley Police Department shall carry out their duties, including the use of force, in a manner that is fair and unbiased, in accordance with Policy 401, Fair and Impartial Policing.

300.1.4 DEFINITIONS

Definitions related to this policy include:

Berkeley Police Department

Law Enforcement Services Manual

Use of Force

Minimal amount necessary – The least amount of force within a range that is objectively reasonable and objectively necessary to safely effect an arrest or achieve some other legitimate law enforcement purpose.

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows themselves to be searched, escorted, handcuffed or restrained.

Less-Than-Lethal Force – Any use of force which, due to possible physiological effects of application, presents less potential for causing death or serious injury than conventional lethal force options. Less-than-lethal force options include, but are not limited to, a specialized launcher, or other authorized device that can discharge, fire, launch or otherwise propel single or multiple flexible or non-flexible projectiles designed to cause physiological effects consistent with blunt force impact.

Non-Lethal Force – Any use of force other than lethal force or less-than lethal force.

Compliant Suspect – Cooperative and/or responsive to lawful commands.

Passive Resistance - When an individual does not follow the lawful verbal commands of a police officer, but does not physically resist in any way.

Examples: A person who goes completely limp, sits down and refuses to stand or walk, or who may stand with arms at their sides without attempting to strike at or physically resist officers.

Active Resistance - An individual who is uncooperative and fails to comply with the lawful verbal commands of a police officer, and attempts to avoid physical control and/or arrest by physically struggling to free oneself from being restrained. The individual may also use verbal non-compliance (refusing a lawful order or direction).

Examples: A person who attempts to avoid physical control and/or arrest by pulling or pushing away from the officer, tensing arm or muscles, hiding from the officer, and/or fleeing.

Combative Resistance - An individual not only resists the officer, but poses a threat of harm to the officer or others, in an aggressive manner that may cause physical injury.

Examples: A person who violently attempts to or attacks an officer. This action is sometimes preceded by “pre-assault” cues such as taking a threatening stance (clenching fists, facial expressions, threats, etc.) and verbal non-compliance.

Berkeley Police Department

Law Enforcement Services Manual

Use of Force

Control Hold - Any Department approved hold, designed to allow an officer to control the movement of a subject (e.g., twist lock, rear wrist lock, finger lock, etc.). A control hold can be applied without implementing pain.

Pain Compliance Technique - Involves either the manipulation of a person's joints or activating certain pressure points intended to create sufficient pain for the purpose of motivating a person to comply with verbal commands (examples of pressure points include buccal nerve, gum nerve, sternum rub).

Control Techniques – Personal Impact Weapons and Take Downs.

Personal Body Weapons - An officer's use of his/her body part, including but not limited to hand, foot, knee, elbow, shoulder, hip, arm, leg or head by means of kinetic energy transfer (impact) to gain control of a subject.

Blue Team (BT) – Computer software that allows officers to enter use of force and other incidents from a Department computer.

Concealment - Anything which conceals a person from view.

Cover - Anything which provides protection from bullets or other projectiles fired or thrown. Cover is subjective and its effectiveness depends upon the threat's ballistic capability (handgun, rifle, etc.).

Blocking - The positioning of a police vehicle in the path of an occupied subject vehicle where contact between the vehicles is not anticipated or is anticipated to be minimal.

Ramming - The use of a vehicle to intentionally hit another vehicle

Serious bodily injury - A bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement or results in a prolonged loss or impairment of the functioning of any bodily member or organ

Officer (or) Police Officer - Any sworn peace officer.

Authorized Employee - Any non-sworn employee who has received defensive tactics training and has been authorized by the Chief of Police to use non-lethal force.

Employee – Any non-sworn employee of the Berkeley Police Department, including those deemed “authorized employees.”

Objectively Reasonable – “Objectively reasonable” means an officer's conduct will be evaluated through the eyes of the hypothetically reasonable officer standing in the shoes of the involved officer.

Totality of the circumstances – All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force.

Use of Force

300.2 DUTY TO INTERCEDE AND DUTY TO REPORT

Any officer who observes another officer or member of the Berkeley Police Department using force that is clearly in violation of this policy shall immediately take reasonable action to attempt to mitigate such use of force. This may include verbal intervention or, when in a position to do so, physical intervention. Further, any officer who learns of a potentially unauthorized use of force, even if the officer did not witness it personally, shall promptly report this information to an on-duty sergeant or a command officer at the first opportunity.

Any officer who observes an employee or member of a different law enforcement agency use force that exceeds the degree of force permitted by law shall promptly report these observations to an on-duty sergeant or a command officer at the first opportunity.

300.3 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use objectively reasonable, objectively necessary, and proportional force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. For the purpose of this policy, "retreat" does not mean tactical repositioning or other de-escalation tactics.

300.3.1 FACTORS USED TO DETERMINE THE REASONABLENESS, NECESSITY, AND PROPORTIONALITY OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable, objectively necessary, and proportional force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer.
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity.
- (g) The individual's apparent ability to understand and comply with officer commands.
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness.

Berkeley Police Department

Law Enforcement Services Manual

Use of Force

- (k) Seriousness of the suspected offense or reason for contact with the individual.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

The level of resistance that an officer encounters is a key factor in determining the proportionate amount of force. It is not possible to determine ahead of time what the proportionate level of force is for every possible situation that officers may face. Nevertheless, one of the key factors in determining what level of force is objectively reasonable, objectively necessary, and proportionate in a given situation is the level of resistance that an officer encounters. In general, the less resistance an officer faces, the less force the officer should use. The types of resistance officers may encounter fall along a continuum, from a cooperative person to an active assailant. Consistent with training, the following general rules apply when officers are exercising judgment in determining what level of force is necessary and proportionate:

- Compliant – In general, when dealing with a compliant person, officers may rely on police presence and/or verbal control techniques, but should not use greater force.
- Passive resistance – In general, when dealing with a suspect involved in passive resistance, officers may rely on police presence, verbal control techniques, or control holds, but should not use greater force.
- Active resistance – In general, in dealing with a suspect involved in active resistance, in addition to the options available for passive resistance, officers may rely on pain compliance techniques or takedowns, but should not use greater force.
- Combative resistance – In general, in dealing with a suspect involved in combative resistance, officers have all use-of-force options available to them, but deadly force shall only be used in compliance with this policy as described in Section 300.4.

300.3.2 USE OF FORCE CONTINUUM

The Department uses a “use of force continuum” that refers to the concept that there are reasonable responses for every threat an officer faces in a hostile situation. The force utilized need not be sequential (e.g., gradual or preceded by attempts at lower levels of force) if those lower levels are not appropriate. All Uses of Force must be objectively reasonable, objectively necessary, and proportional, based on a totality of the circumstances. All progressions must rest

Use of Force

on the premise that officers shall escalate and de-escalate their level of force in response to the subject's actions.

Continuum of Force

- **Officer Presence — No force is used. Considered the best way to resolve a situation.**
 - The mere presence of a law enforcement officer works to deter crime or diffuse a situation.
 - Officers' attitudes are professional and nonthreatening.
- **Verbalization — Force is not physical.**
 - Officers issue calm, nonthreatening commands, such as "Let me see your identification and registration."
 - Officers may increase their volume and shorten commands in an attempt to gain compliance. Short commands might include "Stop," or "Don't move."
- **Weaponless defense — Officers use bodily force to gain control of a situation.**
 - Pain Compliance and control holds. Officers use grabs, holds and joint locks to restrain an individual.
 - Personal body weapons. Officers may use punches and kicks to restrain an individual.
- **Less-Lethal Force Methods — Officers use less-lethal technologies to gain control of a situation.**
 - Blunt impact. Officers may use a baton or projectile to immobilize a combative person.
 - Chemical. Officers may use chemical sprays or projectiles embedded with chemicals to restrain an individual (e.g., pepper spray).
- **Lethal Force — Officers may use lethal weapons only in compliance with Section 300.4.**

300.3.3 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Berkeley Police Department for this specific purpose.

300.3.4 DE-ESCALATION TACTICS

De-escalation tactics and techniques are actions used by officers which seek to minimize the need to use force during an incident. Such tactics and techniques may increase the likelihood of

Use of Force

voluntary compliance when employed and shall be used when it is safe to do so, De-escalation tactics emphasize slowing an incident down to allow time, distance and flexibility for the situation to resolve. Officers shall continually assess the dynamics of a situation, and modulate their response and actions appropriately. Officers may be justified in using force at one moment, but not justified in using force the next moment due to a change in dynamics.

The application of these tactics is intended to increase the potential for resolution with a minimal reliance on the use of force, or without using force at all.

If immediate action is not necessary, an officer(s) shall attempt to use verbal de-escalation techniques. When available and when practicable, a Crisis Intervention Team (CIT) officer, crisis negotiator, or Berkeley Mental Health Mobile Crisis Team member shall be called upon as a resource.

Officers shall gather information about the incident, assess the risks, assemble resources, attempt to slow momentum and communicate and coordinate a response. In their interaction with subjects, officers should use advisements, warnings, verbal persuasion and other tactics and alternatives to any levels of force. Officers should move to a position that is tactically more secure or allows them greater distance to consider or deploy a greater variety of force options.

- (a) De-escalation techniques may include verbal persuasion, warnings and tactical de-escalation techniques, such as: slowing down the pace of an incident; “waiting out” subjects; creating distance (and thus the reactionary gap) between the officer and the threat; and requesting additional resources (e.g., specialized units, mental health care providers, negotiators, etc.) to resolve the incident.
- (b) Officers should recognize that they may withdraw to a position that is tactically advantageous or allows them greater distance to de-escalate a situation.
- (c) Officers should consider a variety of options, including lesser force or no force options.
- (d) Officers should attempt to understand and consider possible reasons why a subject may be noncompliant or resisting arrest.
- (e) A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject’s situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety.
- (f) Officers should continue de-escalation techniques, when feasible and appropriate, and take as much time as reasonably necessary to resolve the incident, in effort to avoid and/or minimize the use of force.
- (g) When an officer recognizes that mental illness, post-traumatic stress disorder, alcohol and/or drug addictions, or other health issues are causing an individual to behave erratically, the officer shall, when feasible and appropriate, try to de-escalate the situation using de-escalation and/or crisis Intervention techniques.

Berkeley Police Department

Law Enforcement Services Manual

Use of Force

- (h) Establishing communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.
- (i) The officer's physical actions may also de-escalate a potentially volatile/violent situation; e.g., exhibiting relaxed body language.

When time and circumstances allow, officers shall consider the following tactical principles:

- (a) Make a tactical approach to the scene.
- (b) Maintain a safe distance.
- (c) Use available cover or concealment and identify escape routes.
- (d) Stage Berkeley Fire Department.
- (e) Control vehicle and pedestrian traffic.
- (f) Establish communication, preferably with one officer.
- (g) Create an emergency plan and a deliberate plan with contingencies.
- (h) The officer's physical actions may also de-escalate a potentially volatile/violent situation; e.g., exhibiting relaxed body language.

300.3.5 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The purpose of pain compliance is to direct a person's actions. The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.6 USE OF NON-LETHAL FORCE

When lethal force and less-than-lethal force are not authorized, officers and authorized employees may use objectively reasonable, objectively necessary, and proportional approved non-lethal force techniques and weapons in the following circumstances:

- (a) To protect themselves or another person from physical injury;
- (b) To restrain or subdue a resistant individual; or
- (c) To bring an unlawful situation safely and effectively under control.

Use of Force

300.3.7 RESTRAINT AND CONTROL DEVICES

Restraint and control devices shall not be used to punish, to display authority or as a show of force. Handcuffs, body wraps and spit hoods shall only be used consistent with Policy 302. Batons, approved less-lethal projectiles, and approved chemical agents shall only be used consistent with Policy 303. As per City Council resolution (June 9, 2020), the use of tear gas by employees of the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, is prohibited. Pepper spray or smoke for crowd control by employees of the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, is prohibited during the COVID-19 pandemic, or until such time as the City Council removes the prohibition.

300.3.8 CHOKEHOLD PROHIBITION

The use of a Carotid Restraint Hold is prohibited. Carotid Restraint Hold: Council Resolution No. 52,605 - N.S., February 14, 1985, "Prohibiting use of 'chokehold' for law enforcement purposes in the City of Berkeley" states: "Be it resolved by the Council of the City of Berkeley as follows: That the chokehold, including but not limited to the carotid restraint and the bar-arm hold, is hereby banned from use for law enforcement purposes in the City of Berkeley."

The term bar-arm refers to a variety of techniques. The use of any chokehold is strictly prohibited. A chokehold is any hold or contact with the neck -- including a carotid restraint -- that may inhibit breathing by compression of the airway in the neck, may inhibit blood flow by compression of the blood vessels in the neck, or that applies pressure to the front, side, or back of the neck. As defined in the City Council Resolution, "bar-arm hold" refers to use of the forearm to exert pressure against the front of the neck. However, other types of arm hold techniques (e.g., those that involve control of the arm, wrist or elbow) remain authorized.

300.4 USE OF DEADLY FORCE

An officer's use of deadly force is justified only when it is objectively reasonable, based on the totality of the circumstances, that such force is objectively necessary to, 1) defend against an imminent threat of death or serious bodily injury to the officer or another or 2) apprehend a suspected fleeing person for any felony that threatened or resulted in death or serious bodily injury, provided that it is objectively reasonable that the person will cause imminent death or serious bodily injury to another unless immediately apprehended.

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless it is objectively reasonable that the person is aware of those facts.

An officer shall not use deadly force against another person if it reasonably appears that doing so would unnecessarily endanger innocent people.

Lethal force is prohibited when its sole purpose is to effect an arrest, overcome resistance or prevent a subject from escaping when the subject does not present an immediate danger of death or serious bodily injury. Lethal force is also prohibited solely to prevent property damage or prevent the destruction of evidence.

Use of Force

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention.

300.4.1 DRAWING AND POINTING FIREARMS

Given that individuals may perceive the display of a firearm as a potential application of force, officers should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines:

- (a) If the officer does not initially perceive a threat but it is objectively reasonable that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.
- (b) If it is objectively reasonable that a significant threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward said threat until the officer no longer perceives such threat.

Once it is reasonably safe to do so, officers should carefully secure all firearms.

300.4.2 DIRECTED FIRE

Officers may use controlled gunfire that is directed at the suspect, reducing the suspect’s ability to return fire while a group or individual movement is conducted, such as in a rescue operation.

Officers may only employ this tactic when dealing with a suspect who poses an immediate and ongoing lethal threat and only under circumstances where the use of deadly force is legally justified. Target acquisition and communication are key elements in the successful use of this tactic. Officers remain accountable for every round fired under these circumstances. Officers must consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.

300.4.3 SHOOTING AT OR FROM MOVING VEHICLES

Absent exigent circumstances, officers shall not discharge firearms from a moving vehicle.

Firearms shall not be discharged at a stationary or moving vehicle, the occupants of a vehicle, or the tires of a vehicle unless a person in the vehicle is imminently threatening an officer or another person present with deadly force. The moving vehicle alone does not presumptively constitute a threat that justifies the use of deadly force.

Officers shall not move into, remain, or otherwise position themselves in the path of a vehicle in an effort to detain or apprehend the occupants. Any officer in the path of a moving vehicle shall immediately attempt to move to a position of safety rather than discharging a firearm at the vehicle or any of the occupants.

Use of Force

Because this policy may not cover every situation that may arise, a deviation from this policy may be objectively reasonable and objectively necessary depending on the totality of the circumstances. A deviation from this policy would, for instance, be justified if the officer used a firearm in an attempt to stop an imminent vehicle attack on a crowd or a mass casualty terrorist event.

Factors that may be used to evaluate the reasonableness of the use of a firearm against a vehicle include:

- (a) The availability and use of cover, distance and/or tactical relocation
- (b) Incident command and personnel placement
- (c) Tactical approach
- (d) Regard for viable target acquisition and background including location, other traffic, the presence of innocent persons, and police officers.

300.5 USE OF VEHICLES

Officers shall not use police vehicles to ram or block other vehicles, persons, or moving objects in a manner that reasonably appears to constitute the use of lethal force, except under circumstances outlined in section 300.4 and in Policy V-6 that covers vehicle operations.

The Vehicle Containment Technique (VCT) is the positioning of a police vehicle in the path of a suspect vehicle where contact between the vehicles is not anticipated or is anticipated to be minimal. VCT shall only be used on vehicles that are either stationary or moving at a slow speed. This technique is designed to contain a suspect vehicle to a single stationary location, thereby preventing a pursuit from initiating, or a potentially violent situation (e.g. a hostage situation or person barricaded inside a vehicle) from becoming mobile.

When properly utilized, the VCT can give officers time, distance, and cover in order to safely and effectively resolve a situation.

300.6 REPORTING REQUIREMENTS

All uses of force shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident and the level of force used. The officer should articulate the factors perceived and why they believed the use of force was objectively reasonable and objectively necessary under the circumstances. Whenever an officer or employee uses Oleoresin Capsicum (pepper spray) they must also complete a "Use of Pepper Spray Report." Whenever an officer or employee use body wrap or spit hood restraint devices they must also complete a "Use of Restraint Device Report" and document, review and report such uses in accordance with section 300.11.

Upon receiving notification of a use of force, an uninvolved supervisor, when feasible, shall determine the level of force reporting level, investigation, documentation and review requirements.

Berkeley Police Department

Law Enforcement Services Manual

Use of Force

300.6.1 SUPERVISOR RESPONSIBILITY

A supervisor should respond to any reported use of force, if reasonably available. The responding supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) Review body worn camera footage related to the incident.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.6.2 USE OF FORCE REPORTING LEVELS

Level 1

The officer used any of the following, and the circumstances of the application would lead an objectively reasonable officer to conclude that the subject did not experience more than momentary discomfort:

1. Control holds/ pain compliance techniques
2. Leverage
3. Grab
4. Bodyweight
5. The officer lowered the subject to a seated position or to the ground while partially or completely supporting the person's bodyweight.
6. Takedown

If the incident fits the parameters for a Level 1 incident, the supervisor will enter all applicable data into the Blue Team template with a brief summary.

Level 2

- (a) No suspect injury or complaint of continuing pain due to interaction with officer.
- (b) Officer's use of force was limited to the following:

Berkeley Police Department

Law Enforcement Services Manual

Use of Force

1. Firearm drawn from the holster or otherwise deployed during an interaction with an individual, and/or pointed at an individual. For the purposes of this section, "interaction" shall be defined as a situation in which an individual could reasonably believe the deployment and/or pointing of a firearm could be an attempt to gain compliance.
2. Control hold, pressure point, leverage, grab, takedown, and/or bodyweight, and the application would lead a reasonably objective officer to conclude that the individual may have experienced more than momentary discomfort.

An uninvolved supervisor, when feasible, will respond to the scene and conduct a Use of Force Investigation, ensuring that statements are taken from the suspect and witnesses, and that photos are taken of all involved parties. If the incident fits the parameters for a Level 2 incident, the supervisor will enter all applicable data into the Blue Team template with a brief summary.

Level 3

- (a) Suspect has sustained an injury or complains of injury or continuing pain due to interaction with the officer.
- (b) Would have otherwise been classified as a Level 2, except officer body worn camera was not activated in a timely manner, prior to the enforcement contact, per policy.
- (c) The officer used any of the following force options:
 1. Chemical Agents/Munitions
 2. Impact Weapon Strikes
 3. Personal Body Weapons

An uninvolved supervisor, when practical, will respond to the scene and conduct a Use of Force Investigation, ensuring that statements are taken from the suspect and witnesses. If the incident fits the parameters for a Level 3 incident, the supervisor will enter all applicable data into the Blue Team template.

The supervisor will also complete a Use of Force Investigation Report narrative in Blue Team for review through the Use of Force Review process. Suspect and witness statements from the crime report will be attached to the use of force investigation.

Level 4

Any incident involving deadly force or any force likely to cause death or serious bodily injury will be investigated under the protocols outlined in Policy P-12.

300.6.3 EMPLOYEE USE OF FORCE

When any Berkeley Police Department employee has engaged in a use of force as defined in this policy, the use of force must be reported to a Berkeley Police supervisor and investigated in accordance with this policy.

Berkeley Police Department

Law Enforcement Services Manual

Use of Force

- (a) In the event a use of force as described as Level 1, Level 2, or Level 3 occurs during an unusual occurrence as described in General Order U-4, the officer shall prepare a supplemental report as soon as practical following the incident.
- (b) Each officer shall include in the report, to the extent possible, specific information regarding each use of force, e.g. the reason for the use of force, location, description of the individual(s) upon whom force was used, type of force used, etc.

300.6.4 PUBLIC RECORDS

Records related to use of force incidents shall be retained and disclosed in compliance with California Penal Code section 832.7, California Government Code section 6254(f), and Department Policy R-23.

300.7 MEDICAL CONSIDERATION

When an officer or employee uses force that results in injury, or when a subject complains that an injury has been inflicted, the officer or employee shall promptly provide, if trained, or otherwise promptly procure medical assistance when reasonable and safe to do so in order to ensure that the subject receives appropriate medical care.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.8 USE OF FORCE ADMINISTRATIVE REVIEW

The Division Captain shall review the Use of Force Report (and when applicable, Use of Pepper Spray Report or Use of Restraint Device Report) and route the report to the Chief of Police with a recommendation of findings. The Chief of Police may convene a Review Board as outlined in Policy 301 instead of utilizing Division Captain Review.

The Chief of Police shall make a finding that the use of force was either within policy or initiate additional administrative review/investigation as may be appropriate.

Any determination concerning the propriety of force used shall be based on the facts and information available to the officer at the time the force was employed, and not upon information gained after the fact.

All Use of Force Reports shall be reviewed to determine whether Departmental use of force regulations, policies, or procedures were: 1) violated or followed; 2) clearly understood, effective,

Use of Force

and relevant to the situation; 3) require further investigation; and/or, 4) require revision or additional training.

Use of Force Reports shall be held in file for at least five (5) years

300.9 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy.

300.10 TRAINING

Officers, investigators, and supervisors will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, the Personnel and Training Sergeant should ensure that officers receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
- (b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

300.11 USE OF FORCE ANALYSIS

The Professional Standards Division Captain or his or her designee shall prepare a comprehensive analysis report on use of force incidents. The report shall not contain the names of officers, suspects or case numbers, and should include but not be limited to:

- (a) An analysis of use of force incidents with demographic details of the individual impacted including, but not limited to race, gender and age.
- (b) All types of force as delineated in Levels 1, 2, 3 and 4 in Section 300.6.(2)
- (c) The identification of any trends in the use of force by members.
- (d) Training needs recommendations.
- (e) Equipment needs recommendations.
- (f) Policy revisions recommendations.

300.11.1 REPORTING FREQUENCY

- (a) On a quarterly basis via the City's Open Data Portal website;
- (b) On a quarterly basis to the Police Review Commission; and
- (c) On a yearly basis as part of the Police Department's Annual Crime Report to Council

Berkeley Police Department

Law Enforcement Services Manual

Use of Force

300.12 CIVILIAN COMPLAINTS

Complaints by members of the public related to this policy may be filed with the Berkeley Police Department Internal Affairs Bureau (IAB) and/or the Police Review Commission (PRC). Complaints will be investigated in compliance with the respective applicable procedures of the IAB and the PRC.

300.13 POLICY REVIEW AND UPDATES

This policy shall be regularly reviewed and updated to reflect developing practices and procedures.

At least annually, the Berkeley Police Department and the Police Review Commission shall convene to review and update the Use of Force Policy to reflect developing practices and procedures per SB 230.

**FERGUSON POLICE DEPARTMENT
GENERAL ORDER**

TITLE: Use of Force		GENERAL ORDERS: 4.1.0
TOPIC: Policy and Procedure Governing the Use of Force		
ISSUE DATE:	EFFECTIVE DATE:	DISTRIBUTION: ALL PERSONNEL
CANCELLED PUBLICATIONS:		NUMBER OF PAGES: 9

INDEX:

De-escalation Tactics and Techniques
Objectively Reasonable Force
Firearms
Lethal Force
Less-Lethal Force
Lethal Weapon
Less-Lethal Weapon
Serious Physical Injury
Administrative Detachment
Discharge of Weapons
Medical Treatment, Use of Force - Arrests
Electronic Conducted Weapon
Training, Use of Force
Use of Force Report, FPD Form 080

I. Purpose:

The purpose of this General Order is to establish policy and procedures for the use of lethal and less-lethal force by officers in this Department.

II. Policy Statement:

It is the policy of the Ferguson Police Department ("FPD" or the "Department") that all officers will use force in accordance with the Constitution, other laws, and FPD policy.

The Department recognizes and respects the value and sanctity of each human life. All FPD officers and employees must have an unwavering commitment to protecting human life, and to upholding the value and dignity of every person. FPD is committed to a use-of-force model that, through policy, training, and supervision, will provide officers with the skills and training necessary to make optimal force decisions and resolve situations without the use of force whenever possible. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Officers are confronted with situations where control must be exercised to effect arrests and to protect the public safety. Whenever possible, control should be achieved verbally through instruction, advice, warnings and persuasion.

While the use of objectively reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under a particular set of circumstances. Therefore, it is the policy of this Department that police officers shall only use force that is objectively reasonable, proportional to the level of resistance or threat encountered, and necessary to accomplish a legitimate public safety objective. The Department is committed to close supervision and management of its officers' use of force. Officers will de-escalate situations at the earliest possible moment, and will avoid escalating situations through words or actions. Verbal or physical abuse is forbidden.

III. Definitions:

Critical Incident: Any officer-involved shooting, death in police custody, or death as a result of being in police custody.

Electronic Control Weapon: A weapon designed primarily to discharge electrical charges into an individual that will cause involuntary muscle contractions and override the individual's voluntary motor responses.

Firearms: A handgun, shotgun, or any other weapon designed to expel a projectile or the action of an explosive not to include the Electronic Control Weapon.

Lethal Force: Any use of force likely to cause death or serious physical injury, including the use of a firearm; neck hold; or strike to the head, neck, or throat with a hard object.

Neck Hold: Any of the following types of holds:

- (a) Arm-bar control hold, which inhibits breathing by compression of the airway in the neck;
- (b) Carotid restraint hold, which inhibits blood flow by compression of the blood vessels in the neck;
- (c) Lateral vascular neck constraint;
- (d) A hold with a knee or object to the back of a prone individual's neck.

Less-Lethal Force: Force neither intended nor likely to cause death nor serious physical injury, but that can cause death or serious physical injury. Less-lethal force includes, but is not limited to, the use of an Electronic Control Weapon ("ECW"), an impact weapon such as an asp or baton, and Oleoresin Capsicum ("OC") spray.

Low-Level Force: Force lesser than lethal and less-lethal force. Low-level force includes but is not limited to takedowns; physical striking to parts of the body other than the head, neck, or throat; hand controls; pressure point techniques; and physical escort techniques.

Necessary Force: The minimum amount of force required, because no reasonably effective alternative appears to exist, to effect a legitimate public safety objective. Legitimate public safety objectives include protecting any person from injury, effecting a lawful detention or arrest, and conducting a lawful search.

Proportional Force: Force that reflects the totality of the circumstances surrounding the situation, including the presence or absence of imminent danger to officers or others. Proportional force does not require officers to use the same type or amount of force that the individual uses. The more immediate the threat and the more likely that threat will result in death or serious physical injury, the greater the level of force that may be objectively reasonable and necessary to counter it.

Objectively Reasonable Force: That force which is objectively reasonable under the circumstances and the minimum amount of force necessary to effect an arrest or protect the officer or other person.

Oleoresin Capsicum Spray: Spray containing an inflammatory agent. With proper use, it is meant to assist officers in the control of aggressively resistant subjects.

Passive Resistance: A person is not compliant with officer commands but is taking only minimal physical action to prevent being taken into custody and control and does not pose an immediate threat to the officer or the public. Bracing, tensing, linking arms, or verbally signaling an intention to avoid or prevent being taken into custody constitute passive resistance.

Active Resistance: A person's physical actions are intended to prevent an officer from placing the individual in custody and taking control, but are not intended to harm the officer. Examples include breaking the officer's grip and hiding to avoid detection. Verbal statements, bracing, pulling away, or tensing alone do not constitute active resistance.

Aggressive Resistance: A person attempts to attack or does attack an officer. Lunging toward the officer and striking the officer with hands, fists, kicks, or any weapon are examples of aggressive resistance. Neither passive nor active resistance constitutes aggressive resistance.

Aggravated Aggressive Resistance: A person's actions create an objectively reasonable perception on the part of the officer that the officer or another person is subject to imminent death or serious physical injury as a result of the attack or attempted attack. Aggravated aggressive resistance represents the least encountered but most serious threat to the safety of an officer or another person.

Lethal Weapon: Any weapon that is likely to cause death when properly used according to training.

Less-Lethal Weapon: A weapon not likely to cause death when properly used according to training.

Serious Physical Injury: A physical injury that creates a substantial risk of death, causes death or serious and protracted disfigurement, or causes impairment of the function of any bodily organ or limb.

Reportable Use of Force: Any use of force that is greater than that required for unresisted searching or handcuffing. Additionally, upholstering a firearm when someone is present or pointing a firearm, and any use of force which results in injury or a complaint of pain are reportable uses of force.

IV. Principles:

- A. FPD officers will display a commitment to protecting human life, upholding the value and dignity of every person, and ensuring adherence to the Constitution and all other laws.
- B. All FPD officers, including civilian officers assigned to the Jail, will:
 - 1. Use force only when necessary to accomplish a legitimate public safety objective;
 - 2. Use de-escalation techniques and tactics to minimize the need to use force and increase the likelihood of voluntary compliance with legitimate police orders;
 - 3. Provide a verbal warning prior to any use of force, whenever feasible;
 - 4. Use force in a manner that avoids unnecessary injury or risk of injury to officers and civilians, is proportional to the level of resistance or threat encountered, and is de-escalated at the earliest possible moment;
 - 5. Use age-appropriate responses for children and juveniles at all times;
 - 6. Appropriately respond to individuals in crisis (see General Order XX on Crisis Intervention)
 - 7. Recognize and act upon the duty to intervene to stop any officer from any agency or civilian correctional officer from using force that is unreasonable or unnecessary;
 - 8. Immediately provide any necessary emergency medical assistance after using force and immediately summon additional medical assistance as necessary;
 - 9. Accurately and completely report to supervisors all reportable force used or observed by themselves or other officers;
 - 10. Be recognized and supported when they achieve public safety goals while avoiding the deployment of force; and
 - 11. Be disciplined when they use force that is unnecessary or objectively unreasonable or otherwise violates law or policy.
- C. FPD officers will always consider whether force is necessary and what tactical options are available beyond use of force.

V. Requirements:

- A. De-escalation:
 - 1. Officers have the ability to impact the direction and outcome of the situation with their decision making and employed tactics. Policing, at times, requires that an officer may need to exercise control over a violent or resisting individual or an individual experiencing a mental or behavioral crisis. At other times, policing may require an officer to serve as a mediator between parties, or defuse a tense situation.
 - 2. When safe under the totality of the circumstances, officers shall use de-escalation tactics in order to reduce the need for force.
 - 3. FPD officers will, when possible, slow down or stabilize a given incident, through tactical retreat and/or other de-escalation techniques, to create more time, space, resources, and options to resolve incidents peaceably, and to enhance officer safety.
 - 4. Whenever possible, FPD officers will gather information before using force to determine:
 - a. Whether the situation truly presents a threat to public safety;

- b. Whether it may involve a medical/mental health crisis rather than a criminal matter;
 - c. If a threat is present, what tactical options are available, including communication and negotiation;
 - d. What other law enforcement personnel or resources should be involved;
 - e. Whether the officer's actions would be consistent with the Department's principles including respect for the sanctity of life and the dignity of all persons.
5. Mitigating the immediacy of threat gives officers time to utilize extra resources, and increases time available to call more officers or specialty units.
6. Officers will consider a range of tactics that may increase the available force options and the ability to reduce the overall force used. Such tactics may include:
- a. The number of officers on scene
 - b. Placing barriers between an uncooperative individual and an officer
 - c. Containing a threat
 - d. Moving from a position that exposes officers to potential threats to a safer position or tactical retreat
 - e. Decreasing the exposure to potential threat by using
 - i. Distance
 - ii. Cover
 - iii. Concealment
 - f. Communication from a safe position intended to gain the individual's compliance, using:
 - i. Verbal persuasion
 - ii. Advisements
 - iii. Warnings
 - g. Avoidance of physical confrontation, unless immediately necessary (for example, to protect one's self or another or stop dangerous behavior)
 - h. Using verbal techniques to calm an agitated individual and promote rational decision making, including using a calm voice, engaging the person with questions, and affirming the individual's expressed emotions (e.g., "I understand why you're feeling angry")
 - i. Calling extra resources or officers to assist the officers on scene, including officers equipped with additional less-lethal weapons, or members of the Crisis Intervention Team, where appropriate:
7. In addition to de-escalating whenever possible, officers shall also avoid escalating situations by using unnecessarily aggressive language and/or an aggressive or confrontational tone of voice.
8. FPD officers and supervisors who engage in thoughtful, proactive efforts to avoid the use of force, including through de-escalation, will be recognized for doing so in officer performance evaluations and, when applicable, in consideration of department awards. Consistent excellence in this area will also be considered in assignment and promotion decisions.

B. Duty To Intervene

- 1. Officers who are present at the scene of a police use of force are obligated to ensure that the use of force complies with the requirements of the law, Division rules, policy, and training.
- 2. Each officer at the scene of a use of force incident has a duty to intervene by taking all reasonable actions to stop any use of force that is perceived to be unauthorized by this policy.

3. Officers witnessing suspected unreasonable force shall factor into their response their ability to de-escalate the use of force. The officer's response may range from physical intervention, to voice commands, to appropriate after-action notification. If reasonably able to do so, the officer shall:
 - a. Physically intervene to stop the objectively unreasonable force.
 - b. Take protective custody of the individual being subjected to the apparent unreasonable force.
 - c. Ensure that medical care is provided as needed.
 - d. Report the suspected unreasonable use of force to the next non-involved supervisor in their chain of command, document the same in their duty report, and complete a [name/number of UOF report] detailing the use of force and surrounding circumstances as soon as safe and practical, but no later than the end of the current tour of duty.

C. General Procedures:

1. FPD officers may only use force that is necessary, objectively reasonable, and proportional to a person's level of resistance or threat posed.
2. Officers shall continue to assess/evaluate whether the force response being deployed remains proportional to the changing nature of the threat or circumstances being encountered, while still achieving the lawful objective. Officers shall reduce the level of force applied as the nature of the threat diminishes.
3. Prior to using any type of force, all FPD officers will, wherever safely possible:
 - a. Identify themselves as officers;
 - b. Allow individuals the opportunity to submit to arrest before force is used;
 - c. If deployment of an FPD-authorized weapon is about to be initiated, communicate to the individual and other officers that the use of a weapon is imminent, and to allow the individual an opportunity to comply (e.g., "I am going to use my OC Spray if you do not comply.")
4. When circumstances reasonably permit, officers shall consider whether an individual's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:
 - a. Medical conditions
 - b. The effect of a prior application of force on the individual, such as an ECW or OC spray application
 - c. Mental impairment
 - d. Developmental disability
 - e. Physical limitation, including hearing vision, or speech impairment
 - f. Language barrier
 - g. Drug or alcohol interaction
 - h. Behavioral crisis
 - i. Age

An officer's awareness of these possibilities, when circumstances reasonably permit, shall then be balanced against the facts of the incident facing the officer when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.

When noncompliance appears to be due to such a condition, FPD officers will employ de-escalation tactics and techniques where possible [Section V.A of this General Order], including the techniques outlined in [[General Order XX on Crisis Intervention]].

D. Use of Lethal Force:

1. FPD officers will not use lethal force unless less-intrusive methods to control the individual or avoid harm have been tried and were ineffective or would be ineffective; **AND**
 - a. A person is displaying aggravated aggressive resistance, thereby leading the officer to an objectively reasonable belief that the person poses an imminent threat of death or serious physical injury to the officer or others; **OR**
 - b. To prevent escape of a violent felon who used or threatened to use lethal force, where the officer has probable cause to believe that the suspect poses a threat of immediate, serious physical injury either to the officer or others.
2. If feasible, a verbal warning shall be given prior to the use of force.
3. FPD permits the use of firearms as a lethal weapon. FPD officers must use their firearms only in accordance with the policies and procedures governing the use of that weapon contained in *"General Order 4.2.0 Firearms"*.
4. FPD officers will not discharge their firearms at or from a moving vehicle, unless the occupant(s) of the vehicle represents a direct and immediate threat to the life or safety of the officer or a third party, and then only as a last resort. Officers shall avoid tactics that could place them in a position where a vehicle could be used as a weapon against them. Officers will not place themselves in the path of or reach inside a moving vehicle. When confronted with an oncoming vehicle, officers shall make every attempt to move out of its path rather than discharging a firearm. A fleeing vehicle, in and of itself, will not be considered a threat of immediate serious injury or death. *See also General Order 4.8.0 Vehicle Pursuits.*
5. FPD officers will consider their surroundings before discharging their firearms and will avoid unnecessary risk to bystanders, victims, and other officers.

E. Use of Less-Lethal Force:

1. FPD officers may use less-lethal force if:
 - a. A person is displaying aggressive resistance by attacking or attempting to attack the officer or another person, and
 - b. Less-intrusive methods to control the person or avoid harm have been tried and proven to be ineffective or would be ineffective.
2. Prior to using less-lethal force, FPD officers should assess the incident in order to determine which techniques would best de-escalate the incident and bring it under control in a safe manner. Only the appropriate amount of force necessary to bring an incident under control is authorized.
3. Less-Lethal Weapons Regulations
 - a. This Department permits the use of the following less-lethal weapons: ASP Collapsible Baton, Oleoresin Capsicum (OC) Spray, Less Lethal Shotgun Ammunition, the Electronic Control Weapon, and canines. Use of any less-lethal weapon not authorized by this policy is prohibited.
 - b. All less-lethal weapons shall be worn only on the officer's duty belt, which must be worn when the officer is in uniform.
 - i. Officers in uniform must carry at least two less lethal weapons on their duty belt at all times.
 - ii. Plain clothes officers must carry at least one less lethal weapon.

- c. Officers may utilize these items only in accordance with the policies and procedures governing each item. See General Orders:
 - i. Electronic Controlled Weapons (ECW) - 4.3.2
 - ii. Less Lethal Shotgun Ammunition - 4.3.3
 - iii. Baton - 4.3.4
 - iv. OC Spray - 4.3.5
 - v. Canine Unit - 4.3.6
- d. Officers will not utilize any tool or object such as a flashlight, clipboard, knife, etc., to protect themselves or another, unless there is an immediate need to strike and the officer is unable to use an authorized lethal or less-lethal weapons.

F. Prohibitions on the Use of Force:

- 1. FPD officers are prohibited from using force in the following circumstances:
 - a. On restrained individuals (e.g., individuals handcuffed or contained in a police vehicle) except:
 - i. when the individual's actions must be immediately stopped to prevent imminent or ongoing injury to any person;
 - ii. to prevent the individual's escape or significant destruction of property; or
 - iii. when the individual is refusing to get out of a police vehicle and reasonable attempts to gain voluntary compliance have failed, and a supervisor has approved the use of force to remove the individual
 - b. Only because another officer is using force;
 - c. Against persons who only verbally confront them;
 - d. In a retaliatory manner, including force used after a threat has diminished and that is thus not reasonably necessary; force intended to punish an individual for fleeing or otherwise resisting arrest; and force used in response to the expression of criticism or disrespect for an officer or any other person;
 - e. Against individuals who may be observing or recording officer behavior, absent a basis for the use of force consistent with law and FPD policy; and
 - f. To effect compliance with a command that is unlawful.
- 2. FPD officers are prohibited from using lethal force against individuals who pose a threat only to themselves.
- 3. FPD officers may not employ any neck hold, a form of lethal force.

G. Post Use of Force Requirements:

- 1. Duty to Provide Medical Care
 - a. Immediately following a use of force, officers—and, upon arrival, a supervisor—will inspect and observe individuals for injury or complaints of pain resulting from the use of force.
 - b. Officers will render or obtain medical assistance, including emergency life-saving care where appropriate, for any person who exhibits signs of physical distress, has

sustained a visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious.

- c. As necessary, officers will provide emergency first aid until professional medical care providers arrive on the scene.
- d. Whenever Emergency Medical Services (“EMS”) are requested, officers shall be sure the scene is tactically safe, or, when tactically unsafe for EMS response, as soon as practical, but without unnecessary delay, the individual shall be transported to a safe location for treatment.
- e. FPD officers will continuously monitor any individual exhibiting signs of physical distress until medical care providers can assess the individual.

2. Restraint and Handcuffing Guidelines

- a. Officers will handcuff individuals against whom lethal force has been used only when there are objective articulable facts indicating that the individual remains a threat;
- b. Officers will not restrain individuals in a manner that compromises their ability to breathe.

3. Critical Incident Procedures: For all critical incidents, FPD supervisors will follow the procedures outlined in General Order 4.9.0, Critical Incident Response.

4. Reporting Obligations

- a. FPD officers will report all uses of force they are involved in or witness according to the policies and procedures outlined in *General Order 4.9.0,– Use of Force: Reporting*. Officers will report force consistent with the duty of candor outlined in *General Order 5.4.0*, and the duty to report misconduct in *General Order 5.5.0*
- b. FPD officers will notify supervisors immediately of all relevant information that comes to their attention regarding a suspected or known improper use of force.
- c. Every employee of this Department has the responsibility to immediately contact the Professional Standards Office or the on-duty Watch Commander and report any act which they believe involves the use of unreasonable, unnecessary, or disproportionate force as described in this Order.
- d. FPD officers and supervisors who do not follow FPD policy and training regarding use of force will be subject to administrative action, including discipline.

A.	DEVELOPED BY:	DATE:
B.	REVIEWED BY:	DATE:
C.	APPROVED BY:	DATE:
D.	APPROVED BY:	DATE:

Replaces FPD G.O. #410.00

DRAFT

Police use of force: Ending excessive use of force by law enforcement is a crucial step toward healthy, safe communities.

Indicator group

People

Choose your indicator

Police use of force

Geography

SELECT

COMPARE

Choose your geography type

Region

Choose your geography

Nine-County Bay Area

Police use of force ? Nine-County Bay Area

Use of force incidents per 100,000 people by race/ethnicity of civilians involved: Nine-County Bay Area; **Year:** 2016-2019

SELECT BREAKDOWN

FILTERS:

YEAR

GET ATLAS UPDATES

Bay Area Equity Atlas

Last Name

Mixed/other

4.0

People of color

5.7

White

4.0

WHAT IT SHOWS

WHY IT MATTERS

Department of Justice; American Community Survey | Bay Area Equity Atlas

Powered by the National Equity Atlas

Insights & Analyses

- Large racial disparities are evident in police use-of-force incidents in the Nine-County Bay Area: the rate of use of force incidents on Black and Latino residents are higher than all other groups over the four-year period of 2016 to 2019.
- Over the four-year period of 2016 to 2019, the rate of use of force incidents on Black civilians was 21 per 100,000 compared with only five per 100,000 overall.
- The overwhelming majority of law enforcement use-of-force incidents involve men.
- Of nearly 400 use-of-force incidents between law enforcement and civilians in the Nine-County Bay Area from 2016 to 2019, nearly three-quarters resulted in serious bodily injury to civilians and about one-fifth resulted in civilian death.
- Solano County has the highest incidence of police use-of-force per 100,000 people (10 incidents per 100,000 people), while Marin County has the lowest (about 1 incident per 100,000 people).

ANALYSIS

GET ATLAS UPDATES

Last Name

June 26, 2020: From Suburbs to Cities, Police Violence is a Regionwide Issue



Drivers of Inequity

Police brutality is a longstanding issue in the US and in the Bay Area, where the Black Panther Party and Black Lives Matter movements took root to counter police violence toward the Black community. Historically, vagrancy laws gave the police license to arrest Black citizens with little cause. Today law enforcement is still not held accountable for the shooting deaths of civilians, who are often unarmed and predominantly Black and brown men. Permissive use-of-force policies and the lack of standards, transparency, and robust data perpetuates the challenge. In addition, police unions have generally organized against any attempts at reform aiming for greater accountability.

Strategies

Invest in people: Strategies to protect and value the lives of all residents

- Support campaigns to decrease **use-of-force and officer-involved shootings**.
- Support **initiatives** to increase police **transparency and accountability** and end special privileges for police.
- Reduce or eliminate police involvement and prioritize hiring and training counselors and mental health professionals to work with **students, unsheltered populations, individuals with mental health concerns**, and individuals in intimate partner violence situations.
- Advocate for divestment from police and **investment in communities**.
- Support **community-led alternatives to policing**.

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Last Name

ultimately used community feedback and research to implement systemic departmental changes: acknowledgment of past harms by the police; routine follow-up with victim's families; and officer training. Between 2017 and 2018, **police shooting decreased by 73 percent** compared to the previous year. By 2018, homicides and nonfatal shootings declined and anonymous tips increased. The homicide clearance rate increased from about 40 percent in 2017 to 66 percent in 2018. [Learn more.](#)



Resources

- **Organizations:** [Campaign Zero](#); [Center on Juvenile and Criminal Justice](#); [Impact Justice](#); [Lawyer's Committee for Civil Rights Under Law](#); [ACLU Southern California](#); [Anti Police-Terror Project](#); [PolicyLink](#)
- **Reports:** [Report of The Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement](#); [What to do Instead of Calling the Police](#); [Emerging Issues: Alternatives to Enforcement](#); [Turning Back the Tide: Promising Efforts to Demilitarize Police Departments](#); [Police Scorecard](#)
- **Data:** [Police Shootings Database](#); [Gun Violence Archive](#); [The Counted](#)
- **Toolkits:** [Building Momentum from the Ground Up: A Toolkit for Promoting Justice in Policing](#)

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Neighborhood opportunity





Disconnected youth



INDICATOR

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Race/ethnicity

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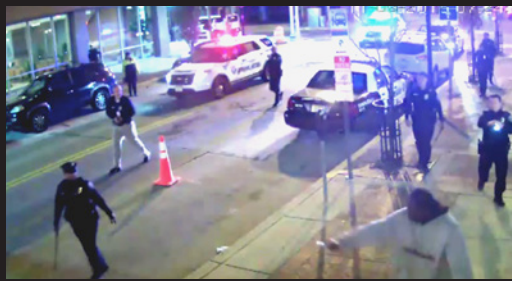
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Guiding Principles On Use of Force



SANCTITY OF LIFE • PROPORTIONALITY • DUTY TO INTERVENE • DE-ESCALATION
• OFFICER SAFETY • DISTANCE + COVER = TIME • CRISIS INTERVENTION •
CRITICAL DECISION-MAKING MODEL • CONTAIN AND NEGOTIATE • TIME
IS ON OUR SIDE • TACTICAL COMMUNICATIONS • CHALLENGING CON-
VENTIONAL THINKING • TACTICS • SCENARIO-BASED TRAINING • LESS-LETHAL
OPTIONS • ETHICS • AGENCY VALUES • RENDER FIRST AID • OFFICER
WELLNESS • TRAINING AS TEAMS • PERSONAL PROTECTION SHIELDS •
SUPERVISORY RESPONSE • SLOWING THE SITUATION DOWN • TACTICAL
REPOSITIONING • COMMUNITY-POLICE TRUST • POLICE CULTURE • SAFE
ZONE • CALL-TAKERS AND DISPATCHERS • TRANSPARENCY • ACCOUNTABILITY



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CRITICAL ISSUES IN POLICING SERIES

Guiding Principles on Use of Force

March 2016



POLICE EXECUTIVE
RESEARCH FORUM

Cover photos:

Left: New York Police Department Emergency Service Unit officers demonstrate a response to a mentally ill man barricaded in a room with a pickaxe (see page 103).

Middle: In November 2015, Camden County, NJ officers responded to a man on the street brandishing a knife. The officers followed the man, kept a safe distance, and were able to safely arrest him when he dropped the knife. No shots were fired and no one was injured (see pp. 31–32). Video available here: <https://www.youtube.com/watch?v=YtVUMT9P8iw>

Right: Two Police Scotland officers demonstrate tactics for responding to a person wielding a bat (see pp. 88–113).

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Contents

Acknowledgments	1
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Why We Need To Challenge Conventional Thinking on Police Use of Force, by Chuck Wexler..... 4

A Focus on Mental Illness and Non-Gun Incidents	5
What Use-of-Force Statistics Tell Us.....	6
The Research and Conferences of Police Officials Behind This Report.....	8
Key Insights from PERF's Work	13
<i>Sidebar: How Professional Policing Standards Can Become Legal Standards.....</i>	18
Enhancing Officer Safety and Wellness	22
<i>Sidebar: Officer Wellness Is Fundamental to Officer Safety and Effectiveness: The San Diego Model</i>	23
What You Will Find in This Report	25
<i>Sidebar: Camden's Ethical Protector Program Is Similar to the PERF 30, by Camden County, NJ Police Chief J. Scott Thomson</i>	31

PERF's 30 Guiding Principles on Use of Force 33

<i>Sidebar: With Better Policies, Training, and Equipment, We Can Reduce Police Shootings and Keep Officers Safe, by Former Miami Police Chief John F. Timoney</i>	45
<i>Sidebar: Managing Use of Force in the NYPD, by Police Commissioner William J. Bratton</i>	50
<i>Sidebar: Seattle Police Department Data Demonstrates How Crisis Intervention Training Reduces Use of Force, with Commentary by Police Chief Kathleen O'Toole.....</i>	58
<i>Sidebar: Dash Cam Captures Seattle Officer Talking Calmly to Man with a Knife</i>	60
<i>Sidebar: The Importance of Supervisors and Emergency Dispatch Personnel, by St. Paul, MN Police Chief Thomas Smith</i>	70
<i>Sidebar: We Are Using the PERF 30 to Refine Our Policies and Training, by Nashville Police Chief Steve Anderson.....</i>	72
<i>Sidebar: Police Agencies Are Adopting Elements of the "PERF 30" Guiding Principles</i>	74

PERF’s Critical Decision-Making Model..... 79

*Sidebar: How Nassau County PD Is Using the Critical Decision-Making Model,
by Inspector Ronald Walsh83*

Lessons Learned from Police Scotland 88

*Sidebar: For Insight into Use-of-Force Issues, Look Back Two Centuries
to Sir Robert Peel, by Robert K. Olson.....94*

Conclusion: The Policing Profession is Moving Forward 116

About PERF..... 121

About Motorola Solutions
and the Motorola Solutions Foundation 123

Appendix: Participants at the PERF Summit,
“Guiding Principles on Use of Force” 124



PERF’s January 29, 2016 Summit at the Newseum in Washington, DC

Acknowledgments

THIS REPORT, THE 30TH IN PERF'S CRITICAL ISSUES IN POLICING SERIES, represents the culmination of 18 months of research, field work, and national discussions on police use of force, especially in situations involving persons with mental illness and cases where subjects do not have firearms.

The Critical Issues series has always focused on the most consequential emerging issues facing police agencies. In 2016, no issue is of greater consequence to the policing profession, or to the communities we serve, than the issue of police use of force. Beginning in the summer of 2014 and continuing over the past year and a half, our nation has seen a series of controversial cases, many of them captured on videos taken by the police, bystanders, or nearby security cameras.

These events have sparked protests across the country and soul-searching among police executives. They have also threatened community-police relationships in many areas and have undermined trust.

This report is grounded in four national conferences; a survey of police agencies on their training of officers on force issues; field research in police agencies in the United Kingdom and here at home; and interviews of police trainers and other personnel at all ranks, as well as experts in mental health.

PERF members and other police officials have defined the issues detailed in this report, and have shared information about the strategies they are undertaking to improve the police response to critical incidents in ways that increase everyone's safety. The 30 Guiding Principles and the Critical Decision-Making Model contained in this report reflect the vision of hundreds of police chiefs and other PERF members, and we are grateful for everyone's contributions.

Once again I thank the Motorola Solutions Foundation for supporting the Critical Issues in Policing series. By supporting our conferences and the dissemination of our reports, Motorola helps PERF to identify and address the most important issues facing the policing profession.

Thanks go to Motorola Solutions Chairman and CEO Greg Brown; Jack Molloy, Senior Vice President for Sales, North America; Jim Mears, Senior Vice President; Gino Bonanotte, Executive Vice President and Chief Financial Officer; Cathy Seidel, Corporate Vice President, Government Relations; Matt Blakely, Director of the Motorola Solutions Foundation; and Rick Neal, retired Vice President at Motorola Solutions and now President of the Government Strategies Advisory Group, who continues to help us with these projects.

This effort has benefited from numerous police officials not only in the United States, but in the United Kingdom as well. As described in one of this report's chapters, Police Scotland offers valuable perspectives on the police response to certain types of calls—particularly those that involve people with a mental illness who are brandishing a knife or baseball bat, but who do not have a gun. Because the vast majority of Scottish police officers do not themselves carry firearms, they receive extensive training on how to resolve such incidents without using a firearm.

In November 2015, Police Scotland hosted a delegation of police chiefs and other high-ranking officials from nearly two dozen American police agencies, for four days of training demonstrations, presentations, and candid discussions. In addition, Police Scotland sent representatives to Washington, D.C., where they provided information and perspectives as we developed the framework for our January 29 national conference which is summarized in this report. While the cultures and crime problems of our two countries are different in certain ways, we share many of the same challenges, and we have learned a great deal from each another.

I especially want to recognize Sir Stephen House, the first Chief Constable of Police Scotland, whom I have known since his days at the Metropolitan Police Service of London, for opening up Police Scotland to us and for exemplary leadership throughout his career. We are also grateful to Chief Constable Philip Gormley (who succeeded Sir Stephen in January 2016); Deputy Chief Constable Ian Livingstone; Assistant Chief Constable Bernard Higgins; Superintendent Alan Gibson (Head of Training Delivery at Police Scotland College); Superintendent Kirk Kinnell; Superintendent Catriona Paton; Chief Inspector Alison Higgins; Inspectors Adam Barnie, Murdoch MacLeod, Graham Miller, and Joe Thomson; Sergeants Claire Fletcher, Dale Martin, Ian Scott, and James Young; and Constable John Brownlie. The dedication and professionalism demonstrated by these individuals and the entire Police Scotland team were exemplary. PERF is especially indebted to Bernie Higgins and to Sergeant Young, who led many of the discussions in Scotland, and then traveled to the United States to share his knowledge and experience with American colleagues.

I am also very grateful to the members of the New York City Police Department Emergency Service Unit (ESU). The ESU welcomed PERF during our field visit in December 2015, showing us how they train and operate in responding to incidents involving mental illness and knives. Perhaps the most important insight was that the NYPD's ESU response is very similar to what we saw in Scotland. I am grateful to Commissioner William Bratton for understanding our objective and making the resources of the NYPD available to us. Several members of the ESU participated in PERF's two meetings in January 2016, sharing ESU training and tactics and demonstrating the variety of shields that the unit employs to increase officer safety. I want to acknowledge Deputy Chief Vincent Giordano, Deputy Inspector Matthew Galvin, Lieutenant Sean Patterson, Sergeant John Flynn, and Detectives Steven Stefanakos and Robert Zajac. New York City is safer because of the work of the ESU, and the policing profession will benefit from their contributions to this report.

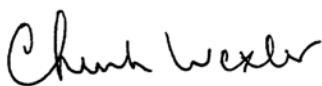
Thanks also go to the men and women of the Police Service of Northern Ireland, led by Chief Constable George Hamilton. In January 2016, PSNI

allowed PERF staff members to ride the streets of Belfast with their officers and learn how they approach use-of-force issues in a society that has experienced problems with gun violence and terrorism, and where police officers are armed. A special thank-you to Deputy Chief Drew Harris; Superintendent Bobby Singleton; Una Williamson, who coordinated our visit; and Sergeant Dave McNally, who spent considerable time explaining the PSNI's use-of-force policies and practices.

Finally, I'm grateful for the talented and hard-working members of the PERF staff. There was not a single member of the PERF team who did not contribute to this effort in one way or another. Arranging and planning our field visits, conferences, and research for this project required an "all hands on deck" approach, and my staff responded with typical determination. Tom Wilson, Director of Applied Research and Management, skillfully directed the overall effort and provided valuable perspectives from his 24 years with the Anne Arundel County, MD Police Department. Kevin Morison, Director of Program Management, was extensively involved in this work from the ground up. Kevin skillfully drafted this report, pulling together information from countless sources and organizing it clearly. Deputy Chief Pam Davis of the Anne Arundel County Police Department served as a PERF Fellow throughout much of this project and offered insights from an operational perspective into the difficult issues we confronted.

Research Assistant Sarah Mostyn oversaw logistics and planning for the key meetings in January, and served as PERF's photographer as well. Senior Research Associate Lindsay Miller Goodison; Research Associates Rachael Arietti and Jason Cheney; and Research Assistants Matt Harman, Allison Heider, and Adam Kemerer all assisted with meeting preparations and staffing. My Executive Assistant, Soline Simenauer, once again provided superb administrative and planning support, serving as my right arm on two continents this time. Communications Director Craig Fischer and Communications Coordinator James McGinty developed important content and assisted with the drafting of this report. James also provided flawless handling of the training videos and other visual aids at our conferences. PERF's graphic designer, Dave Williams, produced the report. My Chief of Staff, Andrea Luna, oversees the entire Critical Issues in Policing series. Once again, she provided vital direction to this effort.

This report, and the months of hard work that preceded it, represent one of PERF's most significant undertakings in our 40-year history. I hope you find this report valuable as the policing profession continues to develop new use-of-force policies, training, strategies, and tactics that protect everyone's safety and strengthen the foundation of trust between our communities and our police.



Executive Director
Police Executive Research Forum
Washington, D.C.

Why We Need To Challenge Conventional Thinking On Police Use of Force

By Chuck Wexler

ULTIMATELY, THIS REPORT IS ABOUT THE SANCTITY OF ALL HUMAN LIFE—the lives of police officers and the lives of the people they serve and protect. The preservation of life has always been at the heart of American policing. Refocusing on that core ideal has never been more important than it is right now.

American policing is at a critical juncture. Across the country, community members have been distressed by images of police officers using deadly force in questionable circumstances. These incidents are an infinitesimal fraction of the millions of interactions that take place between the police and the public every week. Most police officers never fire their guns (except during training) throughout their entire careers, yet they face enormous challenges and risks to their own safety on a regular basis and they perform their jobs admirably. But police chiefs tell us that even one bad encounter can damage trust with the community that took years to build.

Others tell us that there is an upheaval within the policing profession itself. Officers who in the past exuded great pride in wearing the badge now feel underappreciated by some members of the public, who seem to question their every move and motive.

PERF members also tell us that there is a crisis of public safety and officer safety. Violent crime shot up in many U.S. cities last year—the result, some have said, of the so-called “You Tube effect,” with some officers hesitant to police proactively for fear of becoming the subject of the next viral video, and residents who have grown reluctant to partner with the police in community policing efforts. At the same time, violence against police officers, including attacks on officers *just for being police officers*, seems to have become more brutal and senseless.

As a research organization of law enforcement executives, PERF hears from police chiefs and other officials every day. And what we are hearing is that the policing profession must take the initiative and address the serious challenges confronting it today. That means rethinking some of the fundamentals of policies, training, tactics, and equipment regarding use of force. We need to challenge the conventional thinking on how the police approach some potential

use-of-force situations, in particular those that involve people with mental illness who do not have a firearm.

Many of the strategies recommended in this report, such as Crisis Intervention Team training and de-escalation, are already in place in many police agencies, and have been for years. Other strategies, such as the Critical Decision-Making Model, are just beginning to be adopted by leading police agencies.

This report reflects the latest thinking on police use-of-force issues from the perspective of many of the nation's leading police executives. These leaders are quoted in this report and in four previous PERF reports on these issues, three of which were released within the last year.¹

A Focus on Mental Illness and Non-Gun Incidents

This document details 18 months of intensive work on the issue of police use of force and its impact on community-police relationships and on officer safety and public safety. PERF members and other experts provided the information and insights that are the foundation of this report. Our work has centered on how the profession can improve in the key areas of use-of-force policies, training, tactics, and equipment.

We have focused especially on two types of police encounters:

- 1. With subjects who have a mental illness, a developmental disability, a condition such as autism, a drug addiction, or another condition that can cause them to behave erratically or threateningly; and**
- 2. With subjects who either are unarmed, or are armed with a knife, a baseball bat, rocks, or other weapons, *but not a firearm.***

It is these situations—not incidents involving criminal offenders brandishing guns—where we see significant potential for reducing use of force, while also increasing officer safety.

It is important to note that in nearly all of the use-of-force incidents that have proved controversial, *the officers should not be faulted*, because their actions reflected the training they received. What PERF and leading police chiefs call for in this report are changes in policies, training, tactics, and equipment that *provide officers with better tools for handling difficult situations*. And we recommend discontinuing outdated concepts, such as use-of-force continuums, the so-called “21-foot rule,” and the idea that police must “draw a line in the sand” and resolve all situations as quickly as possible.

In short, this report attempts to move policing to a higher standard when it comes to how and when officers use force in situations where they and the public are not threatened with firearms. By adopting the Guiding Principles and other approaches presented in this report, police agencies can make policing

1. *Re-Engineering Training on Police Use of Force; Advice from Police Chiefs and Community Leaders on Building Trust; Defining Moments for Police Chiefs; and An Integrated Approach to De-Escalation and Minimizing Use of Force.* <http://www.policeforum.org/free-online-documents>

safer for officers and the public they serve—and, in the process, restore public trust and advance as a profession.

What Use-of-Force Statistics Tell Us

As PERF began examining this issue in depth, we discovered what many police chiefs, criminologists, federal officials, and others have been noting for some time: There is a lack of complete and reliable national data on police use of force. The FBI currently reports justifiable homicides by law enforcement officers, but those figures are limited to cases in which the subject was killed while committing a felony, and they rely on voluntary reporting by individual police agencies. From 2010-2014, the FBI reported approximately 428 such cases a year.²

At PERF's Town Hall meeting in October 2015, FBI Director James B. Comey acknowledged that current data collection systems are unacceptable, because they fail to provide a full picture of how often, and under what circumstances, police in the United States use force. Director Comey has announced that the FBI is launching a major initiative to collect more detailed information on police use of force and to report it in a more timely manner.

"We hope this information will become part of a balanced dialogue in communities and in the media—a dialogue that will help to dispel misperceptions, foster accountability, and promote transparency in how law enforcement personnel relate to the communities they serve," Mr. Comey wrote in a special message that accompanied the release of the 2014 Uniform Crime Reports data.³ Reporting of the new use-of-force data is not expected to begin until 2017, however.

In the meantime, two news organizations—*The Washington Post* and *The Guardian*—have undertaken major projects to gather police use-of-force statistics. Using open-source data from news reports and other resources, these news outlets have begun compiling data on civilians who die during encounters with the police. *The Washington Post* reported that 990 people were shot and killed by police in 2015.⁴ *The Guardian*, which counts both fatal shootings and other in-custody deaths, reported 1,134 deaths last year.⁵

Having to rely on unofficial data is hardly ideal. However, the numbers provide important context and point to areas where, through improved policy and training, police agencies can look to reduce deadly encounters.

The Washington Post reported that 990 people were shot and killed by police in 2015. In approximately 25 percent of the incidents, the subject displayed signs of mental illness. In 16 percent, the subject was armed with a knife. In 9 percent, the subject was unarmed.

2. *Crime in the United States, 2014*. Expanded Homicide Data, Table 14, "Justifiable Homicide." FBI. https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/expanded-homicide-data/expanded_homicide_data_table_14_justifiable_homicide_by_weapon_law_enforcement_2010-2014.xls

3. "Message from the Director," 2014 Crime in the United States, 2014. <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/resource-pages/message-from-director>

4. <https://www.washingtonpost.com/graphics/national/police-shootings/>

5. <http://www.theguardian.com/us-news/2015/dec/31/the-counted-police-killings-2015-young-black-men>

For example, the *Washington Post* data show that in 28 percent of the fatal shootings, the person who died was shooting at officers or someone else, and in 31 percent of the incidents, the person was pointing a gun.⁶

These cases are not the focus of PERF's work. When a criminal suspect is threatening an officer or a member of the public with a firearm, the officer generally has limited options besides deadly force for stopping the threat.

Several Hundred Officer-Involved Shootings Last Year Did Not Involve Subjects with Firearms

Regarding non-firearm encounters, the *Washington Post* data indicate the following:⁷

- In approximately 25 percent of the 990 fatal officer-involved shootings in 2015, the subject displayed signs of mental illness.
- In 16 percent of the cases, the subject was armed with a knife.
- In 9 percent, the subject was unarmed.
- In 5 percent, the subject was “armed” with a vehicle.

It is in these types of cases, representing as many as one-third of the annual total of fatal officer-involved shootings, that leading police executives believe there is significant potential for de-escalation and resolving encounters by means other than the use of deadly force.

To mention one type of case as an example, family members sometimes call police when they need to have a loved one with mental illness transported to a treatment facility, and the person, typically “off his meds,” does not want to go. In some of these cases, police have perceived a threat when they arrived and found the person holding a knife, screwdriver, or other implement. In some instances, the officers have used deadly force, resulting in tragic news stories in which the family members say they called the police because they needed help, not because they ever expected that police would use deadly force against their loved one.

Of course, there will be some non-firearm situations in which officers face an immediate and severe threat to themselves or others. In these circumstances, officers may have little choice but to take immediate steps—up to and including the use of deadly force—to mitigate the threat. Such was the case in October 2014 when a man wielding an 18-inch hatchet suddenly charged four New York City Police Department officers on a street in Queens. One officer was struck in the head and another in the arm before other officers drew their firearms and shot and killed the attacker.⁸ The entire incident occurred in seven seconds, police said.⁹

6. <https://www.washingtonpost.com/graphics/national/police-shootings-year-end/>

7. <https://www.washingtonpost.com/graphics/national/police-shootings-year-end/>

8. “New York City Police Kill Man Who Hit 2 Officers With Hatchet,” *The New York Times*, October 23, 2014. <http://www.nytimes.com/2014/10/24/nyregion/new-york-police-fatally-shoot-man-who-attacked-officer-with-a-hatchet.html>

9. “NYPD: Hatchet attack an act of terror,” *CNN*, November 5, 2014. <http://www.cnn.com/2014/10/24/us/new-york-police-attacked/>

But in other cases when police respond to non-firearms cases, the threat is not immediate and the officers will have options for considering a more methodical, organized approach that may involve bringing additional personnel and resources to the scene. By focusing efforts on those cases, there is a potential that hundreds of lives per year might be saved. And for each life that is saved, there is a police officer who will not have to endure the emotional trauma and professional turmoil associated with being involved in a fatal shooting.

This aspect of officer-involved shootings is rarely talked about but is widely known among police executives. Officers who have to use deadly force often face serious challenges for the rest of their lives, including legal issues as well as possible emotional, physical, and psychological issues. Rethinking use-of-force policies and training can not only save lives but save careers as well.

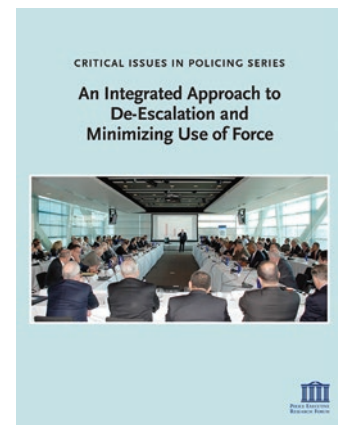
The Research and Conferences Of Police Officials Behind This Report

PERF has been studying use-of-force issues for decades. In 1992, we published “Deadly Force: What We Know,” a comprehensive police practitioner’s reference on police-involved shootings.¹⁰ In 2005 and 2007, PERF released two Critical Issues in Policing reports on reducing use of force.¹¹ In 2005 and again in 2011, PERF worked with the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office) to develop guidelines on Electronic Control Weapons.¹² And in 2012, when the term “de-escalation” was still relatively new in policing circles, PERF published “An Integrated Approach to De-Escalation and Minimizing Use of Force,” which provides guidance on minimizing use of force in situations involving mental illness and other conditions that can cause erratic behavior.¹³

These and other efforts have helped to inform and shape our most recent work on use of force.

Following is a summary of the major elements of research over the past 18 month underlying this report:

“Defining Moments” conference and report: In the summer of 2014, several controversial uses of force and resulting protests generated headlines nationwide and around the world. At that time, PERF was planning to hold



10. *Deadly Force: What We Know* (1992). Police Executive Research Forum.

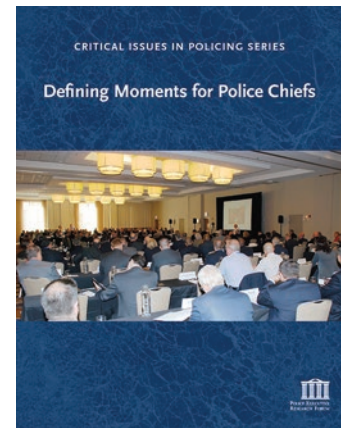
11. *Chief Concerns: Exploring the Challenges of Police Use of Force* (2005) and *Strategies for Resolving Conflict and Minimizing Use of Force* (2007). These reports and others are available online at <http://www.policeforum.org/free-online-documents>.

12. *Electronic Control Weapon Guidelines* (2011). Police Executive Research Forum. http://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf

13. *An Integrated Approach to De-Escalation and Minimizing Use of Force* (2012). Police Executive Research Forum. http://www.policeforum.org/assets/docs/Critical_Issues_Series/an%20integrated%20approach%20to%20de-escalation%20and%20minimizing%20use%20of%20force%202012.pdf

a national conference in September 2014 on “Defining Moments for Police Chiefs”—the types of incidents that put a police chief’s judgment and skills to the test. The police chiefs on PERF’s Board of Directors agreed that PERF should lengthen the Defining Moments conference from one to two days, in order to allow for a full day of discussion of the events in Ferguson, Missouri as “A National Defining Moment for Policing.”

On September 16–17, 2014, approximately 180 police executives and others met in Chicago for this discussion. Specifically, the police chiefs and other participants discussed three major topics: (1) whether and how police agencies should publicly release the name of the officer and other critical information following an officer-involved shooting; (2) perceptions of “militarization” of police in response to large-scale demonstrations; and (3) de-escalation strategies, particularly new concepts for reviewing the moments *before* a use of lethal force, to see if officers missed opportunities for de-escalating the situation, rather than focusing solely on the moment when lethal force was considered necessary and was used. The report on the “Defining Moments” conference was published in February 2015.¹⁴



National survey on use-of-force training: One of the key issues to emerge from the “Defining Moments” conference was the need to rethink the training that police officers receive on use of force, specifically on de-escalation strategies and tactics. So in the spring of 2015, PERF conducted a survey of PERF member agencies on the training they provide to new recruits in the police academy and to experienced officers during in-service training.¹⁵ The survey found that while agencies spend a median of 58 hours of recruit training on firearms and another 49 hours on defensive tactics (much of it state-mandated), they spend only about 8 hours of recruit training each on the topics of de-escalation, crisis intervention, and Electronic Control Weapons (see page 10). A similar imbalance was noted with in-service training.

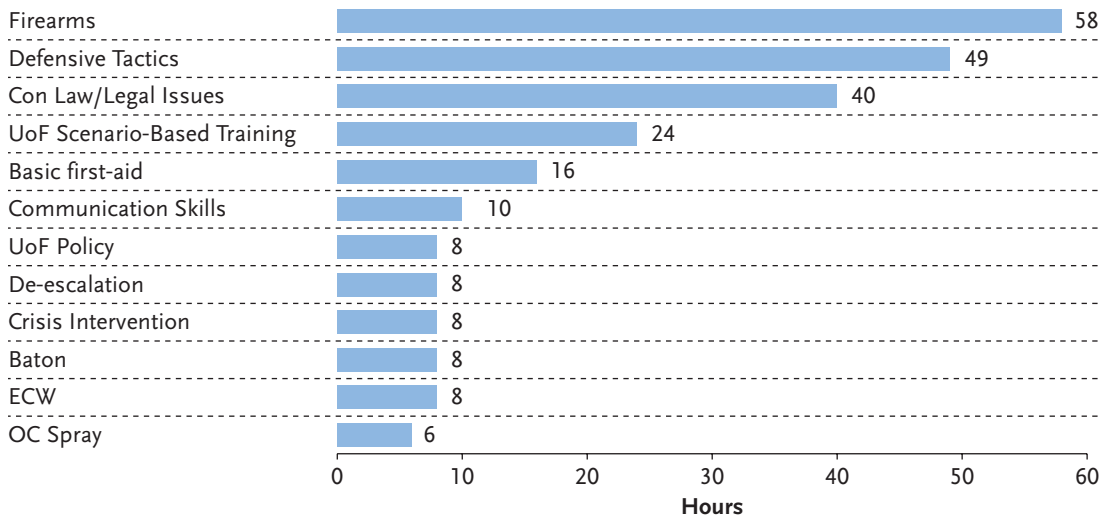
PERF also has noted that officer training on use of force should be more integrated and scenario-based. Often, police academies begin with training officers on the mechanics of using firearms, and the legal issues governing use of force, de-escalation and crisis intervention strategies, and other related topics are not covered until weeks later, usually in separate sessions. PERF has called for integrated training that combines these related topics in scenario-based sessions. Officers should be trained to consider all of their options in realistic exercises that mirror the types of incidents they will encounter, such as persons with a mental illness behaving erratically or dangerously on the street.

“Re-Engineering Training” conference and report: With the survey and other information in hand, PERF convened another national conference on May 7, 2015, to elicit more specific ideas on new approaches to training on

14. *Defining Moments for Police Chiefs* (2015). Police Executive Research Forum. <http://www.policeforum.org/assets/definingmoments.pdf>

15. The survey findings are summarized in the PERF Report, *Re-Engineering Training on Police Use of Force*, <http://www.policeforum.org/assets/reengineeringtraining1.pdf>, pp. 11–12.

Recruit Training: Hours Spent on Use-of-Force Topics (median values)

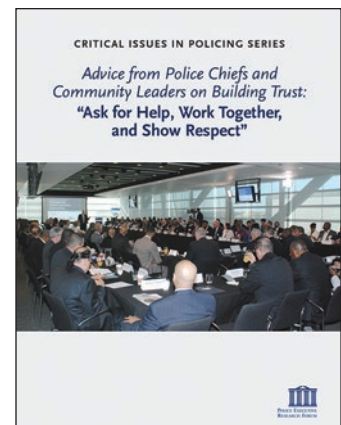
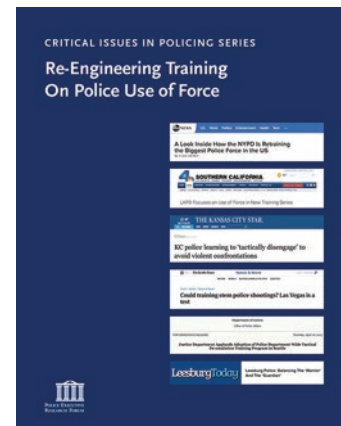


Source: Police Executive Research Forum

use of force. That conference, in Washington, D.C., brought together nearly 300 police chiefs and other law enforcement executives, federal government officials, academic experts, and, importantly, representatives from policing agencies in the United Kingdom. Because the vast majority of police officers in England and Scotland do not carry firearms, agencies there have developed innovative ways to train their officers on how to deal with suspects armed with knives, baseball bats, and other weapons besides firearms. The dialogue and findings from the conference were captured in PERF's August 2015 report, "Re-Engineering Training on Police Use of Force."¹⁶ The "Re-Engineering Training" report includes discussions by police chiefs and others about many of the concepts in this report.

"Building Police-Community Trust" conference and report: Recognizing the importance of community-police relationships and trust to both public and officer safety, PERF organized a conference in Washington, D.C., on July 10, 2015 that brought together the police chief and one respected community leader from each of 75 cities across America. The chiefs and community leaders engaged in a candid discussion of the state of community-police relationships, how recent use-of-force incidents have impacted those relationships, and the strategies they have found most effective for building trust with each other. The report from that conference, published in March 2016 as part of our Critical Issues in Policing series, presents 18 specific suggestions on strengthening community-police relationships.¹⁷

Field study at Police Scotland: Next, PERF arranged for police chiefs and other high-ranking executives from 23 American police agencies to travel to



16. Ibid.

17. Advice from Police Chiefs and Community Leaders on Building Trust: "Ask for Help, Work Together, and Show Respect." <http://www.policeforum.org/assets/policecommunitytrust.pdf>

Scotland to witness how officers there are trained in the concepts described in the “Re-Engineering Training” report. On November 10–13, 2015, PERF led a delegation of these American police officials to the Police Scotland College at Tulliallan Castle. There, in both classroom discussions and scenario-based training exercises, the American officials experienced first-hand the training and tactics that Police Scotland employs when dealing with persons with mental illness and those who are armed with knives or other non-firearm weapons. (See pages 88–115 of this report for a detailed description of PERF’s field work in Scotland.)

One of the key elements of the UK response is a training and operational tool called the “National Decision Model” (NDM). It is used by personnel at all levels of the agency to structure and support their decision-making. Using the NDM, officers ask themselves a series of questions to guide their response to a variety of situations, including incidents that have the potential for the use of force. In this way, officers can often buy themselves more time to gather information about the incident, establish and maintain communication with the person, bring in additional officers and resources as needed, and otherwise try to resolve it with a response that is proportional to the threat, as well as ethical and safe.

Representatives of Police Scotland attended two subsequent meetings in Washington, D.C., to explain their approach to American police officials and answer questions.

Field study at the New York City Police Department Emergency Service

Unit (ESU): As noted in PERF’s “Re-Engineering Training” report, many of the approaches PERF was hearing about from police chiefs, such as tactical disengagement, preservation of life training, tactical communications to minimize use of force, scenario-based training, emotional intelligence training, and stress management for officers during critical incidents, are already being implemented in some U.S. police agencies.¹⁸

PERF learned that the New York City Police Department Emergency Service Unit (ESU) is considered a leader in these strategies, and in the training it receives to handle a very wide range of incidents. The ESU responds to hundreds of critical incidents every year, many involving people experiencing a mental health or substance abuse crisis.

PERF staff members conducted field research at NYPD’s Floyd Bennett Field in December 2015. We observed their training, tactics, and specialized equipment. A key focus was on how some of the principles used by the specially-trained ESU personnel in responding to critical incidents could be used by patrol officers as well, because they are typically the first responders on most scenes. Deputy Inspector Matthew Galvin, the ESU executive officer,



Two Scottish officers demonstrate tactics for responding to a person wielding a bat

18. See “Re-Engineering Training” report, pp. 5-6. <http://www.policeforum.org/assets/reengineeringtraining1.pdf>



NYPD ESU officers demonstrate their response to a mentally ill person brandishing a knife

and members of his team participated in subsequent PERF meetings to further share their knowledge and expertise.

In addition, PERF staff members visited the NYPD Training Academy to observe its three-day class for all police officers focusing on communication, conflict resolution, and de-escalation. In 2015, the NYPD presented this class to all of its nearly 35,000 sworn members, who trained as teams across all shifts.¹⁹

Field study at the Police Service of Northern Ireland: In January 2016, PERF staff members visited Belfast to learn how the principles of de-escalation and the National Decision Model are used in Northern Ireland. Northern Ireland has experienced significant problems with both firearms violence and terrorism, and its police officers are armed, unlike the police forces in England and Scotland, where large majorities of officers do not carry firearms.

Despite these differences, PSNI personnel told us that, like their colleagues in other parts of the UK, they rely on communications, de-escalation, and the National Decision Model in their encounters with combative subjects. Officers rarely use their firearms against offenders with edged weapons.

Police Service of Northern Ireland Sergeant Dave McNally:

Our Officers Are Seldom Required To Use Firearms Because They Have Other Options

It's a consequence of the terrorist threat that our police officers are all armed with a handgun, which isn't the case in Scotland, England, and Wales. Our officers are armed for their protection, but there are many, many circumstances that routine officers respond to—domestic disturbances, robberies, burglaries—where they are not required to use their firearms because they have other options available to them.

I can't think of an example where a police officer in Northern Ireland has had to use live rounds against an individual with a knife or a bat. There are numerous calls to those individuals that are dealt with daily by routine officers, armed only with a handgun for personal protection. There are numerous calls on a weekly basis. I can't think of an example where officers have had to open fire.



19. See "Training: Bringing the NYPD into the 21st Century," NYPD. <http://www.nyc.gov/html/nypd/html/home/POA/pdf/Training.pdf>



January 12–13, 2016
meeting

Focus group meetings to obtain a range of perspectives: PERF organized two focus group meetings to refine our approach and narrow the issues. First, on December 17, 2015, we convened a group of approximately two dozen police trainers from agencies in the Washington, D.C. area—officers, sergeants, and mid-level managers—to discuss next steps in the process. This group recommended that we develop Guiding Principles that could be used by individual training academies to help develop and update their use-of-force curricula.

Then, on January 12–13, 2016, we held a larger meeting in Washington, D.C. with approximately 90 representatives from a cross-section of police agencies, including the departments that participated in the Scotland field study and outside experts. Again, this meeting included members at all ranks, from police officers to police chiefs. At this meeting, we presented and received feedback on the Guiding Principles and the Critical Decision-Making Model that are detailed in this report.

Conference on the PERF 30 Guiding Principles: Finally, on January 29, 2016, in Washington, D.C., PERF brought together close to 200 police chiefs and other executives, federal agency representatives, mental health experts, academics, and others to discuss a draft of PERF’s 30 Guiding Principles and to review our proposed Critical Decision-Making Model. Many of the comments in this report are from participants in this conference, as well as the earlier meeting in January. (See the Appendix, page 124, for a list of participants at the January 29 conference.)

Key Insights from PERF’s Work

Eighteen months of work on this issue yielded important insights that have come to guide our thinking. To some, these ideas are controversial, while to others, these principles have been in place for some time and are part of the culture of their organizations. On several points, PERF is challenging conventional wisdom and practices that have dominated police thinking for decades.



January 29, 2016 meeting

PERF member police chiefs who have participated in the national and regional conferences described above tell us that adherence to old ways of thinking has contributed to the upheaval taking place in policing today, and that breaking out of these old approaches represents the best path forward for the policing profession, for individual officers, and for the communities they serve.

At the heart of many of these concerns is officer safety, and the fear that any changes to current use-of-force practices could put officers in danger. Concern for officer safety is understandable. Tragically, since 2000, an average of approximately 55 police officers have been shot and killed each year in the United States.²⁰ But our research has led us to an alternative conclusion: that changing how agencies approach certain types of critical incidents can *increase officer safety* in those situations.

Rather than unnecessarily pushing officers into harm's way in some circumstances, there may be opportunities to slow those situations down, bring more resources to the scene, and utilize sound decision-making that is designed to keep officers safe, while also protecting the public. Through de-escalation, effective tactics, and appropriate equipment, officers can prevent situations from ever reaching the point where anyone's life is in danger and where officers have little choice but to use deadly force.

Police agencies must continue to develop innovative policies, practices, and training on use of force.

Following are some of the key insights that guide this report:

For decades, individual police agencies have been developing innovative best policies, practices, and training on use-of-force issues. That process must continue—and accelerate.

20. National Law Enforcement Officers Memorial Fund. <http://www.nleomf.org/facts/research-bulletins/>

There are approximately 18,000 law enforcement agencies in the United States, and these agencies have a variety of policies and practices on use of force. For example, more than 40 years ago, the New York City Police Department adopted a prohibition on officers shooting at or from a moving vehicle, unless a person in the vehicle is using or threatening deadly force by means other than the vehicle itself. That NYPD policy, adopted in 1972, resulted in an immediate, sharp reduction in uses of lethal force in New York City. Police shooting incidents declined from nearly 1,000 a year in 1972 to 665 the following year, and have fallen steadily ever since, to fewer than 100 per year today. (See the commentary by John F. Timoney, pages 45–47, for details on the effects of this policy change.)

Many other police agencies have since adopted a similar policy. And yet, many other departments have not adopted such a policy, and continue to give officers much wider discretion to shoot at moving vehicles.

Police agencies also have a wide range of policies and training on use of Electronic Control Weapons (ECWs), such as Tasers. In 2005 and then in 2011, PERF and the U.S. Justice Department’s Office of Community Oriented Policing Services (COPS) released guidelines on the use of ECWs. Police departments nationwide have adopted some or all of those guidelines to varying degrees.

PERF recognizes that police agencies will always have a variety of policies on particular issues with respect to use of force. As best policies and practices emerge, agencies should move quickly to adopt them.

The U.S. Supreme Court’s landmark 1989 decision in *Graham v. Connor* outlines broad principles regarding what police officers *can legally do* in possible use-of-force situations, but it does not provide specific guidance on what officers *should do*. It is up to individual police agencies to determine how to incorporate the Court’s principles into their own policies and training.

Under *Graham*, police use of force is judged against a standard of “objective reasonableness” under the 4th Amendment ban on “unreasonable searches and seizures.”²¹ Specifically, the court stated:

Determining whether the force used to effect a particular seizure is “reasonable” under the Fourth Amendment requires a careful balancing of the nature and quality of the intrusion on the individual’s Fourth Amendment interests against the countervailing governmental interests at stake.... Because the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application,... its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.... The “reasonableness” of a particular use of

21. *Graham v. Connor*, 490 U.S. 386 (1989). <http://caselaw.findlaw.com/us-supreme-court/490/386.html>

force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.... The calculus of reasonableness must embody allowance for the fact that police 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.

The *Graham* decision offers little guidance, other than the four sentences quoted above, on *how* police agencies should devise their policies, strategies, tactics, and training regarding the wide range of use-of-force issues. The entire *Graham* decision is less than 10 pages, and nearly all of the opinion is devoted to detailing the facts of what happened in the case, the alternative legal arguments and approaches to considering use-of-force issues that the Supreme Court considered but rejected, and a concurring opinion by three justices.

Thus, the Supreme Court provides broad principles, but leaves it to individual police agencies to determine how to incorporate those principles into their policies and training, in order to teach officers how to perform their duties on a daily basis. As a number of police chiefs have noted, the legal precedent tells officers what they *can* do. But in the words of Chief Cathy Lanier of the Metropolitan Police Department of Washington, D.C., “The question is not, ‘*Can* you use deadly force?’ The question is, ‘Did you *absolutely have* to use deadly force?’ ... And the decisions *leading up to* the moment when you fired a shot ultimately determine whether you had to or not.”²²

Most police uses of deadly force involve officers who are faced with a gun threat. There is seldom disagreement about police actions in those cases.

And in practice, officers’ uses of deadly force almost never result in criminal charges against the officer, even in incidents where the circumstances and threats are less clear, and in incidents that provoke consternation among the general public. Prosecutors and judges generally heed the Supreme Court’s language above, recognizing that officers “are often forced to make split-second judgments,” and should not be subjected to “the 20/20 vision of hindsight.”

Graham v. Connor is the common denominator across the United States; all police agencies must have use-of-force policies that meet *Graham’s* standards. Neither PERF nor anyone else (other than the Court itself) can alter that precedent. But many police departments have chosen to go beyond the bare requirements of *Graham*. For example, many police agencies have detailed policies and training on issues such as shooting at moving vehicles, rules on pursuits, guidelines on the use of Electronic Control Weapons, and other use-of-force issues, that are not mentioned in or required by *Graham*.

Likewise, many police agencies have policies, practices, and training on issues such as de-escalation and crisis intervention strategies, while others do not. *Graham v. Connor* allows for significant variations in police agencies’ individual policies and practices.

22. Re-Engineering Training on Police Use of Force. (2015). Police Executive Research Forum, pp. 16-17. <http://www.policeforum.org/assets/reengineeringtraining1.pdf>

Over time, the courts' definition of objective reasonableness gradually is refined by new court rulings. For example, a 2016 ruling by the U.S. Court of Appeals for the Fourth Circuit quoted the PERF/COPS Office guidelines on Electronic Control Weapons in ruling that "[i]mmmediately tasing a non-criminal, mentally ill individual, who seconds before had been conversational," was not objectively reasonable.²³ (See sidebar, "How Professional Policing Standards Can Become Legal Standards," page 18.)

In the meantime, police agencies are always within their authority to adopt new policies, training, and tactics that they consider best practices in the policing profession, even if the new policies are not specifically required by court precedents. By adopting policies that go beyond the minimum requirements of *Graham*, agencies can help prevent officers from being placed in situations that endanger themselves or others, where the officers have no choice but to make split-second decisions to use deadly force.

>> continued on page 19

Hampton, VA Police Chief Terry Sult:

*The Policing Profession Defines
What Is Objectively Reasonable*

I think what the Supreme Court did in *Graham v. Connor* was give us an opportunity. What we have failed to realize is that they have given us the objective reasonable officer standard.

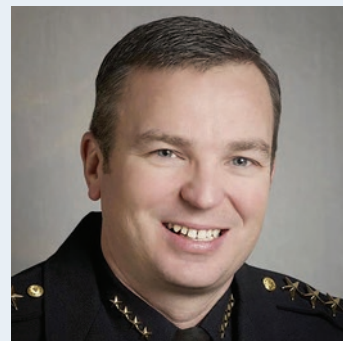
Who defines what the reasonable officer standard is? We do, through policy, equipment, training, and the teachings we do. If we don't refine and evolve what the reasonable officer standard is through these initiatives that we are talking about here today, the courts are going to do it for us. And I do think that we've got the opportunity to make that definition, and we're doing it here today. So I don't think there's a conflict between what the Court is doing and what we're doing here today.



Truckee, CA Police Chief Adam McGill:

*We Have an Opportunity to Raise the Bar
And Protect Our Officers and Communities*

I believe that we can do better and rise to a higher standard with policy and training that keep our officers safer, and keep our communities safer too. Our role and our responsibilities as chiefs are larger than the minimum legal standard. Policing never remains the same; we are always striving to advance and improve on what we do. I see our current situation as an opportunity to raise the bar, while honoring the incredible work performed every day by our officers.



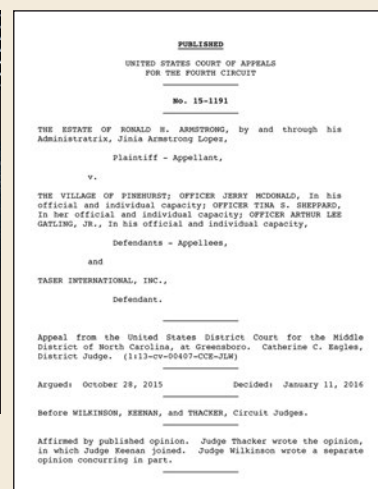
23. *Armstrong v. the Village of Pinehurst*, No. 15-1191. January 11, 2016. <http://www.ca4.uscourts.gov/Opinions/Published/151191.P.pdf>

How Professional Policing Standards Can Become Legal Standards

A 2016 decision by the federal appeals court in Richmond, VA demonstrates how the policing profession can adopt policies and practices that are more detailed and stricter than what is required by existing case law—and how those professional standards sometimes become incorporated into new legal standards.

The case, *Armstrong v. the Village of Pinehurst et al.*, handed down on January 11, 2016, involved the use of an Electronic Control Weapon (ECW) by police in Pinehurst, NC against a mentally ill man who was resisting being taken to a hospital.²⁴ The man, Ronald H. Armstrong, had diagnoses of bipolar disorder and paranoid schizophrenia and had stopped taking his medication. Armstrong wrapped himself around a signpost and refused to be transported for medical attention.

Police responded and used an ECW in “drive-stun” mode against Armstrong five times over a period of approximately two minutes. (In drive-stun mode, the ECW is applied directly to the subject, typically in an attempt to gain compliance through the administration of pain.) Armstrong became unresponsive and died shortly after being taken to a hospital.



Court Decision Cites PERF/COPS Office Guidelines

The U.S. Court of Appeals for the Fourth Circuit found that the officers “used unconstitutionally excessive force” against Armstrong, based in part on its analysis of the facts under the Supreme Court’s 1989 precedent, *Graham v. Connor*.

The Court also based its decision in part on the fact that the Pinehurst officers’ actions went against guidance provided in 2011 by the Police Executive Research Forum and the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS).²⁵ The Fourth Circuit court quoted the PERF/COPS Office guidelines, noting that they caution that using the drive-stun mode “to achieve pain compliance may have limited effectiveness and, when used repeatedly, may even exacerbate the situation.”²⁶

Use of an ECW Was Not a “Proportionate Response”

Thus, the Fourth Circuit said, “The taser use at issue in this case ... contravenes [the] current industry ... recommendations” provided by PERF and the COPS Office.²⁷ The Fourth Circuit concluded that, “Immediately tasing a non-criminal, mentally ill individual, who seconds before had been conversational, was not a proportional response.”²⁸

The Court granted the officers qualified immunity in the case, because the use of ECWs was “an evolving field of law” at the time of the incident, so the officers could not have been expected to know that their actions would be found unconstitutional. (The Armstrong incident occurred in April 2011, only one month after the PERF/COPS Office guidelines were released.)

At the same time, the Court warned that going forward, “While qualified immunity shields the officers in this case from liability, law enforcement officers *should now be on notice* that such taser use violates the Fourth Amendment.”²⁹ In response, several agencies in jurisdictions covered by the Fourth Circuit ruling amended their use-of-force and ECW policies to reflect the ruling and the PERF/COPS Office guidelines.

24. For a summary of the case, see “4th Circuit rules use of Taser can be unconstitutionally excessive force.” ABA Journal, Jan. 26, 2016. http://www.abajournal.com/news/article/4th_circuit_rules_use_of_taser_can_be_unconstitutionally_excessive_force/

25. 2011 Electronic Control Weapon Guidelines. PERF and the COPS Office, 2011. http://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf

26. *Armstrong v. the Village of Pinehurst*, No. 15-1191. January 11, 2016. <http://www.ca4.uscourts.gov/Opinions/Published/151191.P.pdf> Page 21.

27. *Ibid.*

28. *Ibid.*, page 19.

29. *Ibid.*, page 39, emphasis added.

*Old ways of thinking continue
to permeate police training, tactics, and culture.*

In our research, PERF repeatedly encountered examples of outdated concepts that are pervasive in police training and police culture. In some instances, we heard officials say that the concepts described below were no longer taught or practiced, only to find that they continue to be publicly cited in the defense of controversial uses of force.

- **Use-of-force continuums:** Some agencies still rely on rigid, mechanical, escalating continuums of force, in which levels of resistance from a subject are matched with specific police tactics and weapons. While the models themselves have become more complicated over time, continuums suggest that an officer, when considering a situation that may require use of force, should think, “If presented with weapon A, respond with weapon B. And if a particular response is ineffective, move up to the next higher response on the continuum.”

This pattern is often seen in news stories about officer-involved shootings. For example, following an officer-involved shooting, police often explain that officers attempted to use bean-bag projectiles or Electronic Control Weapons. When those tools were not effective, they used firearms.³⁰

PERF’s field studies at the NYPD Emergency Service Unit, Police Scotland, and the Police Service of Northern Ireland revealed that there are more effective ways to respond to many threats than through a use-of-force continuum. In all three organizations, officers are trained to evaluate the totality of the situation—for example, to look beyond the mere fact that a suspect has a knife and to assess the actual threat posed by the knife.

Such an evaluation involves asking questions such as: Does the subject appear to have a mental illness? Is the subject threatening anyone other than himself? Is the subject using the knife in an aggressive, offensive manner (striking out and moving toward the officer or others) or a defensive manner (holding the knife close to himself, and brandishing it only if the officer tries to get close to the person)?

Depending on their assessment of the threat, officers are expected to make decisions based on the range of options available to them. For example, if the person appears to be mentally ill, possibly suicidal, and acting defensively, not offensively, officers may call in additional personnel and resources in order to contain the person safely while trying to talk to him, ask him questions about what is going on in his mind, and buy time in order to give

30. See, for example, “How effective are Tasers? Experts weigh in after Officer Lisa Mearkle tases, then shoots man.” Penn Live, March 25, 2015. http://www.pennlive.com/midstate/index.ssf/2015/03/how_effective_are_tasers_exper.html

See also “Shoplifting suspect killed in officer-involved shooting identified as Folsom man.” The Sacramento Bee, February 2, 2016. <http://www.sacbee.com/news/local/crime/article58084653.html> and

“Family calls for independent inquiry of police shooting that killed man with broomstick.” The Miami Herald, February 18, 2015. <http://www.miamiherald.com/news/local/community/miami-dade/miami-gardens/article10637288.html>

the person many opportunities, over an extended period of time if necessary, to calm down, talk to the officers, build trust and rapport, and ultimately to drop the knife.

In short, assessing a situation and considering options as circumstances change is not a steady march to higher levels of force if lower force options prove ineffective. Rather, it entails finding the most effective and safest response that is proportional to the threat. Continued reliance on rigid use-of-force continuums does not support this type of thinking.

- **The “21-foot rule”:** In 1983, a firearms instructor with the Salt Lake City Police Department conducted a rudimentary series of tests that purported to show that an adult male, armed with a knife and charging at full speed, could cover 21 feet before a police officer has time to draw, aim, and shoot a firearm. In 1988, Calibre Press, Inc., featured the tests in a police training video, and many police agencies and officers have embraced the “21-foot rule” ever since.

Some have argued that the original study was merely intended to warn officers about maintaining a “safety zone” between themselves and offenders with edged weapons. But over time, police chiefs have said that this “safety zone” concept was corrupted, and in some cases has come to be thought of as a “kill zone”—leading some officers to believe they are automatically justified in shooting anyone with a knife who gets within 21 feet of the officer.

Although some have claimed that few officers today are formally trained in the “21-foot rule,” many police chiefs have said that the 21-foot-rule continues to be disseminated informally. PERF’s research into recent incidents revealed examples of the “rule” being cited by officers or their attorneys to justify shootings of suspects with edged weapons.³¹

“When I first came on, we would always use the 21-foot rule. If they’re within 21 feet, they can be on top of you and stabbing you before you react to that. But now I think they’re trying to extend that distance out even further, because I think there is documentation now that someone armed with a knife can literally run up on someone before you’re able to react to that, or already being stabbed.”

— *San Diego Police Officer Neal Browder, in a statement to investigators about shooting Fridoon Rawshan Nehad in April 2015, indicating that the 21-foot rule continues to influence some officers’ thinking and behavior*³²



31. See, for example, the statement that San Diego Police Officer Neal Browder made to investigators citing the 21-foot rule following his fatal shooting in April 2015 of a man he believed to be armed with a knife. Letter from San Diego County District Attorney Bonnie M. Dumanis to San Diego Police Chief Shelley Zimmerman, November 9, 2015. <http://www.voiceofsandiego.org/wp-content/uploads/2015/11/Midway-OIS-Letter-FINAL-11-9-15.pdf> (pp. 5–6).

See also the comments of attorney Dan Herbert who is representing Chicago Police Officer Jason Van Dyke, who is charged with murder in the October 2014 shooting death of Laquan McDonald. “Laquan McDonald Video: When Will It Be Released?” CBS Chicago, November 20, 2015. <http://chicago.cbslocal.com/2015/11/20/laquan-mcdonald-video-when-will-it-be-released/>.

32. <http://www.voiceofsandiego.org/wp-content/uploads/2015/11/Midway-OIS-Letter-FINAL-11-9-15.pdf>

- **“We need to draw a line in the sand. We can’t wait around forever.”**

These expressions are sometimes heard in policing following a controversial officer-involved shooting. For example, in December 2015, after several San Francisco police officers shot and killed Mario Woods, an apparently mentally unstable man armed with a knife, a spokesman for the California Commission on Peace Officers Standards and Training was quoted as saying, “How long are they supposed to walk along the sidewalk with the suspect? At some point you have to draw a line in the sand.”³³ Police training and culture for decades have emphasized that officers need to immediately take control of every situation, to never back up or tactically reposition, and to resolve every matter as quickly as possible.

This rush to action is essential in some circumstances, such as active shooters or other crimes in progress where the public’s safety is in jeopardy. But in many other instances, particularly incidents involving a person with mental illness who may find it difficult to understand and respond to what officers are saying, rushing in, speeding things up, and “drawing a line in the sand” can lead to tragic and unnecessary consequences.

Furthermore, rushing in unnecessarily can endanger the responding officers. If an officer justifiably uses deadly force, under legal standards, that means the officer believed the suspect was posing “*a significant threat of death or serious physical injury* to the officer or others.”³⁴ When officers can keep their distance from a person who is holding a knife or throwing rocks and attempt to defuse the situation through communication and other de-escalation strategies, they can *avoid ever reaching that point* where there is a significant threat of death or serious physical injury to anyone, including themselves.

This type of approach gets to the concept of *proportionality*, which is Guiding Principle #3 in this report, and which lies at the heart of the Critical Decision-Making Model that PERF is introducing. Proportionality considers whether a particular police use of force is proportional to the threat faced by the officers and is appropriate given the totality of the circumstances. Proportionality requires officers to consider if they are using only the level of force necessary to mitigate the threat, and whether there is another, less injurious option available that will safely and effectively achieve the same objective.

Proportionality also requires officers to consider how their actions will be viewed by their own agencies and by the general public, given the circumstances. **This does not mean that officers, at the exact moment they have determined that a use of force is necessary to mitigate a threat, should suddenly stop and consider how the public might react. Rather, it is meant to be one factor that officers should consider long before that moment, and throughout their decision-making on what an appropriate and proportional response would be.**

33. <http://www.sfexaminer.com/shields-for-sfpd-are-not-enough-culture-of-killing-must-change/>

34. See *Tennessee v. Garner*, U.S. Supreme Court (1985). <http://caselaw.findlaw.com/us-supreme-court/471/1.html>

Finally, proportionality does not mean that officers should ever jeopardize their own safety. In some circumstances, such as a gunman threatening officers or the public, deadly force is a proportional response. In other situations, such as a person with mental illness holding a knife at his side, a proportional response could be tactically repositioning (i.e., moving away from the threat and using cover, such as a squad car), bringing in additional resources such as specially trained officers, and initiating communications with the person.

Enhancing Officer Safety and Wellness

Protecting police officers from physical and emotional harm is at the heart of PERF's work on use of force and other issues.

Last year, for example, PERF worked with the U.S. Justice Department's Office of Community Oriented Policing Services (COPS) and national police labor organizations to issue a joint recommendation for mandatory-wear policies for body armor and seat belts.³⁵ Over the last two decades, traffic-related incidents have been the leading cause of death of America's police officers, with shootings the second most common cause of death.³⁶ By addressing concerns about officer benefits and specifying that mandatory-wear policies should not allow for denial of death or disability benefits to officers or their families if officers failed to use the protective equipment, PERF and the labor organizations reached an agreement that will ultimately save officers' lives.

Similarly, the use-of-force recommendations presented in this report are designed to keep officers out of harm's way in many instances. This is accomplished by providing new approaches and new tools for handling certain critical incidents in which there are alternatives to rushing in and acting immediately. Teaching officers to "slow down" some situations can help them avoid reaching a point where they or members of the public become endangered and officers have no choice but to use deadly force. Slowing a situation down often allows more time to bring supervisors and additional personnel, additional equipment such as personal protective shields, and other resources to the scene, and to develop a coordinated response plan, all of which promote officer safety.

At the same time, nothing in our recommendations suggests that officers should back down from dangerous situations, such as active shooters or other serious crimes in progress, where an immediate and forceful police response is necessary. Nor should officers ever hesitate to use force to protect themselves or members of the public when deadly force is being used against them. These are not the types of situations at issue in this report. Rather, this report is about the incidents where officers do have time to assess the threat and develop a response that best protects everyone, including themselves.

>> *continued on page 25*

35. See *Labor and Management Roundtable Discussions: Collaborating to Address Key Challenges in Policing*. Police Executive Research Forum and DOJ Office of Community Oriented Policing Services. Pp. 11-19, 47-48. <http://ric-zai-inc.com/Publications/cops-p325-pub.pdf>

36. National Law Enforcement Officers Memorial Fund. <http://www.nleomf.org/facts/research-bulletins/>

Officer Wellness Is Fundamental to Officer Safety and Effectiveness: The San Diego Model

Recognizing that the term “officer safety” encompasses both physical protection as well as psychological and emotional well-being, the San Diego Police Department established a dedicated Wellness Unit for its members in 2011. Sarah Creighton, then a captain with the police department, was tasked with organizing and standing up the unit. PERF asked Assistant Chief Creighton and her colleague, Dr. Daniel Blumberg, to describe the department’s ground-breaking work in creating and running a Wellness Unit for police officers.

By Sarah Creighton and Dr. Daniel Blumberg

Police officer wellness is fundamental to police officer effectiveness. Every discussion about officer safety, police-community relations, police integrity and corruption, and the difficulties faced by law enforcement families should include explicit attention to the psychological and emotional well-being of police officers. However, despite growing attention to this important topic, it remains, in many organizations, shrouded in stigma, because of the mistaken belief that it has, historically, represented weakness.

The San Diego Police Department has a long tradition of providing psychological services to its employees and their families. Additionally, in 2011, the department established a dedicated Wellness Unit. The unit’s vision is to create a culture promoting employee wellness by tending to the whole person—mind, body, and spirit. The San Diego Police Department recognizes all three will be challenged by the nature of our work. What happens at work often interferes with home life, and vice-versa. Offering resources to assist in navigating both worlds serves the officers and the department.

Promoting Honest Discussions about Anger and Fear

One benefit of this wellness culture is that it allows for robust and ongoing discussions about emotions such as anger and fear. Understanding the impact of an officer’s emotions early in a police career encourages personal responsibility in dealing with personal biases. This includes understanding how previous traumas may interfere with a future successful interaction.

It has been said by many, “You cannot give away what you do not possess yourself.” Awareness of emotions and self-management allows officers to recognize the need to take a break from a highly charged call (if they can), or to evaluate and mediate a situation where a peer may need to be pulled away from a highly charged and deteriorating interaction.

Emotional Intelligence Helps to Enhance Officer Safety

The San Diego Police Department believes that, in addition to managing the intra-psychic rigors of the job, competent police officers must possess and demonstrate exceptional interpersonal skills. To develop and reinforce this, the department’s Wellness Unit, in collaboration with police psychologist Dr. Daniel Blumberg, created a two-day course which integrates psychological job dimensions of peace officers with the theory of Emotional Intelligence. The course focuses on the application of techniques to enhance the emotional regulation and competence of officers in their interactions with the public, fellow officers, superiors, and all members of the department. Emphasis is placed on how officer safety increases when these techniques are mastered and applied.

The course provides brief explanations and video examples of the four primary skills of Emotional Intelligence. Each component is followed by modeling by experienced officers, practice, class exercises, and role-playing scenarios. The class also includes unscripted one-on-one interactions with community member volunteers, which allows for shared learning and relationship building.

The training teaches officers to view each interaction from a skill-based model. Each skill builds upon the previous ones, and provides officers with a clear understanding of how *they themselves are fundamentally responsible for making each and every interpersonal interaction more effective*. The class is

provided immediately upon the completion of new officer field training phases. It provides an opportunity to evaluate interactions experienced while in phase training to reinforce and integrate the concepts of the class.

A Progressive Series of Wellness-Focused Training

The two-day training follows a progressive series of wellness-focused training introduced to recruits while they are in the academy. Recruits are introduced to the Wellness Unit staff at their orientation even prior to starting the academy. All help resources, including police psychologists, police chaplains, and the department's peer support program, are immediately available and directly accessible to recruits and their families.

While in the academy, recruits receive four hours of employee wellness training based upon Dr. Kevin Gilmartin's Emotional Survival Model. Following their graduation from the academy, officers attend New Officer and Family Psychological Preparedness Training, where family members are encouraged to attend alongside their loved ones.

The emphasis on proactively tending to wellness is stressed throughout the day. Speakers include officers who have been involved in traumatic incidents, including deadly shootings as well as other personal crises which can threaten a law enforcement career. Detailed accounts from tenured officers about the effectiveness of their coping, both good and bad, are shared in the interest of mentally preparing new officers for a variety of experiences they are likely to encounter through their years of service.

Most new officers tend to focus disproportionately on officer safety from a physical standpoint. The wellness training is intended to encourage officer safety through mental health, resiliency, and self-care. This forum allows for candid discussion about rarely discussed emotional trauma associated with having to take the life of another, or losing a peer in the line of duty or to suicide.

A Culture of Wellness Improves Officer Safety

The San Diego Police Department believes that all training, whether predominately tactical in nature or from the wellness perspective, requires officers to be consciously aware of how the manner in which we treat the public can significantly impact the next officer's encounter. It cannot be stressed enough that *a culture promoting wellness and resilience in officers should precede de-escalation training*. Law enforcement agencies that intend to bring about changes in the way officers approach residents need to equip their officers to be able to examine their own biases, predisposition, and emotions, not just the community member's behavior.

In the end, organizations that maintain a culture of wellness improve officer safety and increase the likelihood of nonviolent police encounters with the community.

Sarah Creighton joined the San Diego Police Department in 1984. Over the years, she rose through the ranks, working in a variety of assignments, including several in area commands. In 2011, then-Captain Creighton was tasked with creating the department's first-ever Wellness Unit, dedicated to helping officers manage their psychological and emotional well-being. In 2014, she was promoted to Assistant Chief. Assistant Chief Creighton holds a master's degree in human behavior.



Dr. Daniel Blumberg is an associate professor of psychology at Alliant International University in San Diego. A licensed clinical psychologist, Dr. Blumberg has over 23 years of experience as a public safety psychologist and has provided all facets of clinical and consulting psychological services to numerous public and private organizations. In addition to his expertise in workplace stress prevention and trauma recovery, Dr. Blumberg is a renowned authority on undercover police operations and the selection, training, and supervision of undercover operatives.



Protecting officers' physical and emotional well-being

A number of police executives who participated in recent PERF conferences emphasized the importance of protecting officers' emotional well-being as well as their physical safety. Police leaders who have themselves used deadly force at some point in their careers said it is not something they ever forget. Even in situations where no one questions an officer's use of deadly force, the officer may experience feelings of anxiety, isolation, and even depression, not only in the immediate aftermath of the incident, but sometimes for the rest of their careers.

Police agencies increasingly recognize the emotional toll that police work in general, and use-of-force incidents specifically, can have on their members. Forward-thinking agencies have created robust employee assistance and wellness programs.

Training and equipping officers in how to manage certain types of situations so that the use of deadly force does not become necessary will reduce the emotional stress on the officers and will promote employee safety and wellness.

What You Will Find in This Report

The remainder of this report includes two main sections:

PERF's 30 Guiding Principles on Use of Force

The report presents 30 Guiding Principles on Use of Force that are designed to provide officers with guidance and options, and to reduce unnecessary uses of force *in situations that do not involve suspects armed with firearms*. Our Guiding Principles reflect 18 months of research and discussion on the most critical use-of-force issues facing police agencies today.

Hundreds of police professionals at all ranks, as well as mental health officials and other experts, contributed to this project, and their collective ideas and insights are reflected in the final product.

The Guiding Principles are organized into four areas:

- **Policy:** Thirteen of the principles deal with policy, including embracing the sanctity of human life, adopting de-escalation as agency policy, establishing a duty to intervene with officers who may be using excessive force, prohibiting firing at moving vehicles, and documentation and reporting requirements for use-of-force incidents.
- **Training and Tactics:** Eleven of the principles relate to training and tactics in use of force. A major focus here is on de-escalation strategies (especially communications); using distance, cover, and time when appropriate; ensuring a strong supervisory response; and training as teams when possible.

- **Equipment:** Four of the principles pertain to equipment, in particular less-lethal options such as chemical spray and Electronic Control Weapons. PERF also recommends that agencies make greater use of personal protection shields to increase officer safety during de-escalation efforts.
- **Information Exchange:** The last two Guiding Principles involve training for call-takers and dispatchers, who are critical to every police response, and educating family members of people with mental illness on what to report when they call 9-1-1.

Some of the Guiding Principles have been adopted by many police agencies for years or even decades. For example, Guiding Principle #8 provides that shooting at a moving vehicle should be prohibited unless deadly physical force is being used against an officer or another person by means other than the moving vehicle itself. As noted earlier, the *New York City Police Department adopted this policy in 1972*, at a time when NYPD officers were involved in nearly 1,000 shooting incidents a year. Immediately after the policy took effect, those numbers dropped sharply, with a 33-percent reduction in shooting incidents in 1973, and have declined steadily ever since, dropping below 100 officer-involved shootings per year in recent years.³⁷ Importantly, the numbers of NYPD officers injured or killed in the line of duty have also declined significantly since the policy was adopted, with no indication that officer safety was in any way jeopardized by the change in policy.³⁸

Similarly, Principle #6, establishing a duty to intervene when officers see colleagues using excessive force, is similar to policies established in New York in the 1990s, as well as other agencies.

Other Guiding Principles will be new to some agencies, such as the first principle, which encourages departments to adopt policies or mission statements stating that the sanctity of all human life is the cornerstone of policing. Using a critical decision-making model to guide the police response to critical incidents, as Guiding Principle #5 recommends, will also be a new approach for many agencies. In some cases, the concepts may exist informally, but have never been stated explicitly in agency policy.

Other principles build on existing policies in many agencies. For example, Guiding Principle #19 calls for comprehensive crisis intervention training of officers, to help them manage situations involving persons with mental illness or other conditions that cause them to behave erratically. The “Memphis Model” of Crisis Intervention Teams (CIT) dates to the late 1980s, and has been adopted to varying degrees by many police agencies. **However, PERF’s research for this project uncovered a gap in crisis intervention training, namely, that it provides an important focus on officers’ communication skills, but does not provide guidance on how officers should combine communications**

Some of the Guiding Principles have been adopted by many police agencies for years. Others will be new to some agencies.

37. “Annual Firearms Discharge Report 2014.” New York City Police Department, http://www.nyc.gov/html/nypd/downloads/pdf/analysis_and_planning/nypd_annual_firearms_discharge_report_2014V3.pdf.

38. Ibid., Figures 40 and 41, page 54. http://www.nyc.gov/html/nypd/downloads/pdf/analysis_and_planning/nypd_annual_firearms_discharge_report_2014V3.pdf

with tactics. PERF's Guiding Principle #20 calls for police agencies to interweave mental health education with tactical training.

Taken together, PERF's 30 Guiding Principles represent a new way of approaching many critical incidents for some agencies, and for other agencies, a reaffirmation and strengthening of their current policies. We are calling on agencies to discard outdated concepts, and to consider new approaches that can help defuse some critical incidents in ways that protect officers, the persons they encounter, and the general public.

PERF's Critical Decision-Making Model

As a practical complement to the 30 Guiding Principles, this report also presents a new tool to support decision-making in the field, including during critical incidents.

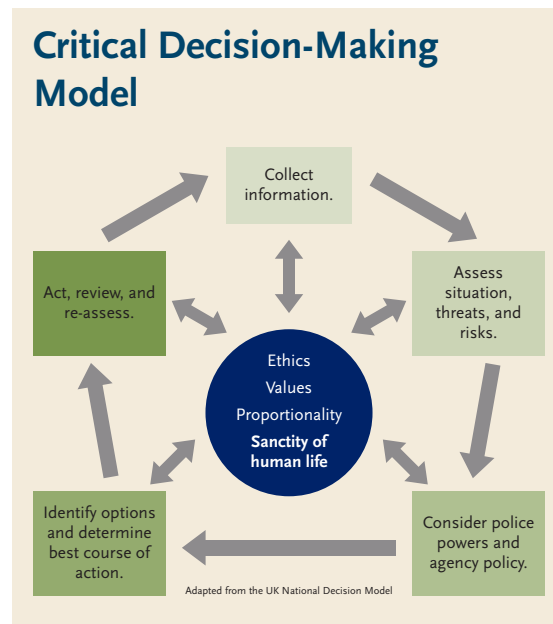
The five-step Critical Decision-Making Model (CDM) is based largely on the National Decision Model that has been used effectively in the UK for several years. PERF's CDM is designed to meet the needs of U.S. police agencies seeking a better way to teach officers how to think critically about various situations and how to make decisions that are more effective and safe.

At PERF's "Re-Engineering Training" conference, Chief Inspector Robert Pell of the Greater Manchester Police in England explained why their Decision Model was created, following a controversial fatal shooting of a man in north London in 2011:

Officers were making poor decisions in critical incidents. In situations where there was a threat, officers were immediately closing the gap and engaging very quickly without any structured thought or process about what they were doing. And the resulting outcomes were messy.... Some were going beyond what was proportionate and engaging in physical violence, leading to them being charged with criminal offenses. Some were sentenced to prison, and we were starting to lose public support. About 45 percent of the public were telling us they didn't have any confidence in us.³⁹

Following the deployment of the Decision Model, the reaction from officers and the community has been positive, Chief Inspector Pell said:

The feedback from officers has been excellent. They tell us it's the best training they have ever had, and they now feel far safer and better equipped when dealing with incidents involving conflict....The reaction of the community has been fantastic. Currently we have a public confidence level of 94 percent.⁴⁰



39. *Re-Engineering Training on Police Use of Force*, Police Executive Research Forum. Page 39. <http://www.policeforum.org/assets/reengineeringtraining1.pdf>

40. *Ibid.*, page 42.

PERF's Critical Decision-Making Model, like the UK version, is designed to train officers how to think more critically about their response to various types of situations. For example, officers responding to a call about a man on the street, apparently with a mental illness and brandishing a knife, would be asking themselves the following types of questions:

- What do I know about the person I'm responding to? Has he been the subject of previous calls to the police? What was the nature of those calls?
- What exactly is happening? How can I communicate with this person to get an idea of what is going on in his mind?
- Is this person presenting a threat to me or anyone else? If so, what is the nature of the threat, and how serious is the threat?
- Do I need to take action immediately?
- If I do not need to take action immediately, are there additional resources that could help resolve this situation? Additional police or crisis intervention personnel? Should I ask a supervisor to respond? Is there special equipment such as less-lethal tools that could be helpful?
- What are my legal authorities and what are my department policies governing this situation?
- What am I trying to achieve? What options are open to me?

Asking and answering these types of questions will help officers determine the most effective and safest actions to take. Even after taking an action, officers continue to ask themselves questions about whether the response had the desired effect and what lessons were learned. If the desired outcome was not achieved, they begin the process again, which is called "spinning the model."

Importantly, the CDM is anchored by the ideals of ethics, values, proportionality, and the sanctity of human life. Everything in the model flows from that principled core.

While the CDM may seem complicated at first glance, officers who have used such a model told us that they quickly became accustomed to using it every day for making decisions about all types of situations, not just incidents that could end with a use of force.

As a result, these officers said, the model becomes second-nature to them. At one of the PERF conferences, Inspector Ron Walsh of the Nassau County, NY Police Department compared using a decision-making model to driving a car—a process that involves dozens of individual decisions and actions minute by minute, but which becomes automatic over time. (See pp. 83–84.)

In Fairfax County, Virginia, the police department has already adopted the Critical Decision-Making Model and embedded it in its training on managing critical incidents.

Adapting the Concepts of Specialized Tactical Units to Patrol

This report proposes some fundamental shifts in the way police think about use of force and in their policies, training, tactics, and equipment. Embracing, implementing, and sustaining these efforts will not be easy or simple.

However, an interesting and hopeful perspective was offered by Houston Executive Assistant Police Chief George Buenik, who was part of the PERF-led delegation to Police Scotland, and who participated in the January 29, 2016 conference and other discussions. As he reflected on the presentations and scenario-based training in Scotland and the PERF proposals, he made this simple observation: “We’re already doing this—it’s called SWAT.”

Chief Buenik pointed out that most of the major principles PERF chiefs and Scottish police executives were discussing—slowing situations down; using distance and cover to officers’ advantage; de-escalation by engaging in communications and negotiations; assessing threats through a structured process; and responding proportionally from a range of options—have been staples of specialized tactical units for years. That is precisely what SWAT officers do. PERF staff members saw that in the field when they visited the NYPD Emergency Service Unit.

The concepts in this report are not foreign to U.S. police agencies. They are part and parcel of what some of our best-trained and most elite officers already do. The challenge ahead lies in how to transfer these principles and approaches to our patrol officers, who are often the first ones on the scene at critical incidents.

Major principles of the PERF 30 have been staples of SWAT for years.

Minneapolis Police Chief Janeé Harteau:

Change Can Come with New Officers

As a society, we’re rather impatient; we expect police to resolve issues quickly. Our success, according to the public, is often tied to rapid response times and not necessarily our outcomes or quality of service. But if we give officers permission to slow down in how they resolve these situations, that’s certainly going to help their mindsets in making tactical decisions more in line with the concept of cover plus distance equals time.

Like others in the room, I’m getting some pushback from my union on the concept of de-escalation and reevaluating the 21-foot rule, but this is about the safety of our officers as well. We’re going to have that resistance, because how do we undo the training drilled into people and the mindset they have had for 20 or 30 years? It’s going to be tough.

But this point in time is also an opportunity because many of us are hiring. I would say that in the next five years, the Minneapolis Police Department is almost going to have a complete turnover from five years ago. So our opportunity is with the new officers who are coming in. We need to instill these concepts of slowing down, and control doesn’t mean an immediate resolution. I totally believe that if we do this collectively, that’s where we have power. It’s an opportunity, but it’s going to be a challenge.



Implementing this new approach will involve changing police culture as well as policies, tactics, training, and equipment. It will mean the following:

- Telling our police officers that sometimes it's best to tactically reposition themselves in order to isolate and contain a person, and not to "draw a line in the sand."
- That it's often preferable to take as much time as needed to safely resolve an incident, and not feel compelled to force a quick (and potentially dangerous) resolution, in order to get back on the radio and race to the next call.
- That engaging a subject in calm and constructive conversation and asking open-ended questions are usually more productive than barking the same commands again and again, and that it's usually best if one officer is designated to communicate with a mentally ill person.
- That intervening with a fellow officer who seems on the verge of using excessive force is best for everyone involved.
- And it means matching performance evaluation systems and officer rewards with the actual goals of the department. If officers are told that it is often preferable to slow a situation down, they should not be evaluated solely according to how many calls for service they handle and how quickly. Officers traditionally receive awards for accomplishments such as taking a violent armed criminal off the street. Moving forward, officers should *also* be recognized for efforts such as talking a suicidal person into safety and life-altering mental health care. The Los Angeles Police Department, for example, recently created a Preservation of Life Medal to acknowledge officers who save lives by showing restraint and finding safe alternatives to the use of deadly force.⁴¹

The PERF 30 Guiding Principles and the Critical Decision-Making Model detailed in this report are intended to take policing to a higher standard of performance and service, and to make policing safer for everyone. They provide a blueprint for agencies looking to make the operational and cultural changes that are needed.

In the short term, these recommended changes will help our police officers do their jobs more effectively and safely, resulting in fewer injuries and fatalities to themselves and members the public. And for the long term, they will help rebuild the bridges of trust between police and the residents they serve. That can only enhance officer safety and community safety as well.

41. See Los Angeles Times editorial, "LAPD's award-winning idea on use of force." November 11, 2015. <http://www.latimes.com/opinion/editorials/la-ed-use-of-force-20151111-story.html>

Camden's Ethical Protector Program Is Similar to the PERF 30

By Camden County, NJ Police Chief J. Scott Thomson

For almost two years, American police chiefs have been looking closely at their use-of-force policies and training, with the goal of de-escalating certain kinds of incidents.

Our focus is not on situations where you have a criminal offender brandishing a gun. Rather, we have been talking about police encounters with people who are more in the nature of “troubled souls”: people with a mental illness or disability, drug addiction, or any condition that affects their ability to behave with some semblance of rationality. We’ve been asking ourselves, “What can we do differently to resolve these situations with less harm to both the suspects and the officers?”

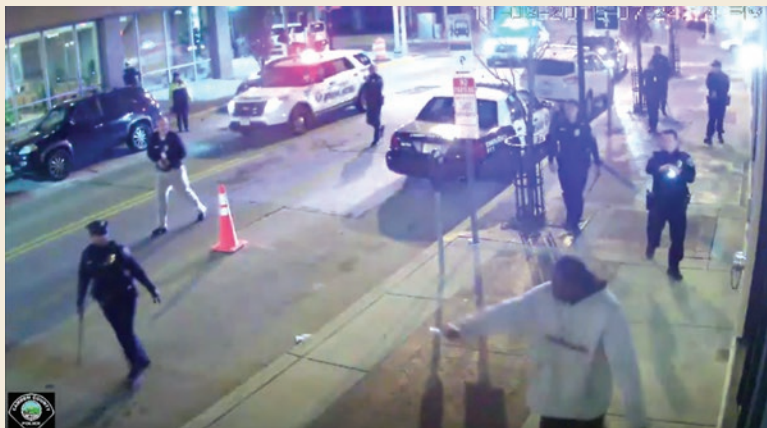
And so we have been talking about the “21-foot rule,” use-of-force continuums, legal standards, and what we can learn from police agencies with best practices in the United States and our brethren from the United Kingdom.

As PERF President, I have been involved in all of these meetings and discussions with my fellow police chiefs here and abroad. And as Chief of Police in Camden, NJ—a city with extraordinary challenges of poverty and crime—I have discussed these issues with my officers and my community members as well.

It is important to point out that what we are proposing in the “PERF 30” is not entirely new or unfamiliar to our profession. As President Harry Truman once said, “The only thing new under the sun is the history you don’t know.” In many ways, this is about giving front-line officers the training we already give to specialized units such as ESU and SWAT: enhanced communication skills, tactical repositioning, techniques and equipment that enable and enhance distance, cover, and time. That’s clearly the bridge that needs to be built over the gap.

My officers in Camden recently demonstrated how to implement elements of the PERF 30

In November 2015, Camden County police officers responded to a man on the street with a knife. The whole incident was captured on camera.⁴² Our Camden officers didn’t rush toward this man or



rigidly put themselves in a position where they had to use deadly force. Instead, they maintained flexibility to reposition themselves throughout the entire incident, until they were eventually able to safely arrest him when he dropped the knife. No shots were fired, and no one was injured. We enveloped him with officers, we protected the public, and we were willing to walk with him as far as he wanted to walk that night.

>> continued on page 32

42. “Broadway & Mickle man with a knife incident.” Camden County Police You Tube channel. <https://www.youtube.com/watch?v=YtVUMT9P8iw>

A critical self-review of the video found some mistakes were made. We are using those as examples to build upon in future training sessions as we continue to learn from ourselves and others. But most importantly, the lessons learned were not written in the blood of either the suspect or the officers.

Fundamentally, we created and utilized opportunities to slow things down and not escalate the situation. Clearly this individual was disturbed, and clearly he had the ability to inflict serious harm or death.

Most remarkable was that these first responders were an eclectic group of officers, whose experience ranged from three weeks to nearly 30 years on the job. A year ago, this likely would have been a “lawful but awful” incident. The absence of enhanced training would have undoubtedly led to an inflexible situation wherein deadly force would have essentially been the most immediate viable option. A life would have been lost, and several lives unnecessarily altered.

The Ethical Protector program—Changing the culture of policing

But about a year ago, we re-evaluated what we do and how we wanted to do it. We developed what we call an Ethical Protector program.⁴³ This is about changing the culture of policing. We knew that to get there, it had to be more than just a traditional training session for officers. So we identified about 20 referent leaders within the organization who, regardless of rank, were the individuals people trust, who they listen to, the people who seem to have influence in a locker room or squad room.

We brought those folks in and we made them our mentors in this process. We invested 86 hours of training in them, on what we want this organization to do. Then we had every officer go through the Ethical Protector training, whose bedrock is PERF’s Guiding Principle #1, the sanctity of human life. This was written into our department’s use-of-force policy, and the mentors presented this in a way that wasn’t just in a classroom, but something that would be reinforced every day at roll call and out on the streets in how officers engage in situations.

The incident of the man on the street with a knife was a case in point of what we are trying to accomplish. So we recognized this and similar types of de-escalation at our quarterly awards ceremony. We are positively rewarding and reinforcing the behavior and holding these officers up as examples of what we want within the organization.

John Scott Thomson was sworn in as chief of the Camden County, NJ Police Department on May 1, 2013. Prior to that, he had served as chief of the former Camden Police Department since 2008. Chief Thomson began his law enforcement career in 1992 and ascended through the ranks of the Camden Police Department. During his career he has served on the New Jersey Supreme Court Special Committee on Discovery in Criminal and Quasi-Criminal Matters, and on the New Jersey Attorney General’s Committees for Officer Involved Shooting Responses, Conducted Energy Devices, and Body Worn Cameras.

Chief Thomson holds a B.A. in Sociology from Rutgers University and an M.A. in Education from Seton Hall University. Chief Thomson is the President of the Police Executive Research Forum, and in 2011 received PERF’s Gary P. Hayes Memorial Award for innovation and leadership in policing.

43. “Armed with respect and compassion, Camden cops making transition to ‘ethical protectors’.” Newsworks, August 13, 2015. <http://www.newsworks.org/index.php/local/new-jersey/85190-armed-with-respect-and-compassion-camden-cops-making-transition-to-ethical-protectors-photos>

PERF's 30 Guiding Principles On Use of Force

THIS CHAPTER PRESENTS 30 GUIDING PRINCIPLES FOR POLICIES, training and tactics, equipment, and information issues with respect to police use of force. These Guiding Principles are the result of 18 months of research, field work, and discussions by hundreds of police professionals at all ranks.

These Guiding Principles are particularly relevant to situations that involve subjects who are unarmed or are armed with weapons *other than firearms*. The Guiding Principles also are relevant to police encounters with persons who have a mental illness, a developmental disability, a mental condition such as autism, a drug addiction, or another condition that can cause them to behave erratically and potentially dangerously.

There will always be situations where police officers will need to use force, including deadly force, to protect the public or themselves. Nothing in these Guiding Principles should be interpreted as suggesting that police officers should hesitate to use force that is necessary to mitigate a threat to the safety of themselves or others.

The policies, training, tactics, and recommendations for equipment and information exchange that are detailed in this chapter amount to significant changes in a police agency's operations and culture. It is important that these changes be undertaken in a comprehensive manner, and not in a piecemeal or haphazard way. Policy and tactical changes must be backed up with thorough retraining and equipping of all of an agency's members. **We caution against announcing and implementing changes on this scale before all of the relevant policies, training, tactics, and equipment are in place. Simply issuing a new directive without the training, tactics, and equipment to back up the policy change would be ineffective and counterproductive.**

Guiding Principles: Policy

POLICY

- 1 **The *sanctity of human life* should be at the heart of everything an agency does.**

Agency mission statements, policies, and training curricula should emphasize the sanctity of all human life—the general public, police officers, and criminal suspects—and the importance of treating all persons with dignity and respect.

Examples

Following are some agencies that currently stress the sanctity of human life in their mission and policy statements:

- **Las Vegas Metropolitan Police Department**⁴⁴ — “It is the policy of this department that officers hold the highest regard for the dignity and liberty of all persons, and place minimal reliance upon the use of force. The department respects the value of every human life and that the application of deadly force is a measure to be employed in the most extreme circumstances.”
- **Philadelphia Police Department**⁴⁵ — “It is the policy of the Philadelphia Police Department, that officers hold the highest regard for the sanctity of human life, dignity, and liberty of all persons. The application of deadly force is a measure to be employed only in the most **extreme circumstances** and all lesser means of force have failed or could not be reasonably employed.”

Montgomery County, MD Police Chief Tom Manger:

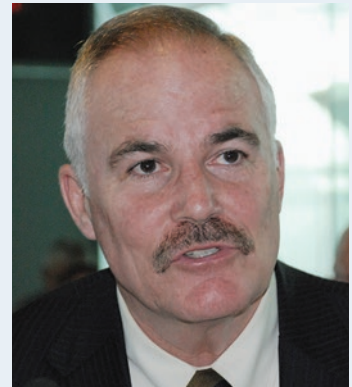
*Officer Safety Is Very Important,
And So Is Everyone Else’s Safety*

Wexler: Tom, what was your takeaway from the Scotland trip?

Chief Manger: It made me realize a couple of things. One was that our use-of-force training, our defensive tactics training, are so wrapped around one issue—the fear of the gun, and the gun culture we have in the United States—that it permeates everything we do in terms of training.

It also made me realize that there are some cultural issues in American policing that we may need to rethink. All of us have heard a sergeant tell us in roll call, “The most important thing is that you go home safe today.” And when you hear that over and over again, it almost gets to the point where we are thinking that our safety is more important than anything else, or that other people’s safety is not as important as ours.

In Scotland, the culture is that the police officer’s safety is in fact very important, but it’s no more important than the safety of everybody else



44. http://www.lvmpd.com/Portals/0/OIO/LVMPD_Collab_Reform_Final_Report_v6-final.pdf

45. <https://www.phillypolice.com/assets/directives/PPD-Directive-10.1.pdf>

Chief Tom Manger continued

among the public. They have this notion of the sanctity of life, which is something that we are talking about more than we did 20 or 30 years ago. I think we've got to emphasize to our cops that their safety is important, but so is the safety of the public and the people that they're dealing with, and our goal should be that everybody goes home safely at the end of the day.

Houston Executive Assistant Police Chief George Buenik:

SWAT Captain: “We’re Not Going To Kill this Person”

Wexler: George, when we were in Scotland, you turned to me and said, “We’re already doing this with our SWAT team in Houston.” By the way, tell everyone what your Captain says when he gets to the scene...

Chief Buenik: When our SWAT captain gets to the scene and meets with all the team members, one of the things he says, especially when it’s someone who is threatening to harm himself, is “We’re not going to kill this person. We’re not going to kill this person. We’re not going to kill this person.” It’s probably the first time we’ve had a SWAT captain go out there, with all the equipment, all the guns, all the high-powered tools, and say we’re not going to kill somebody. It gets to the sanctity of life.



POLICY

- 2 **Agencies should continue to develop best policies, practices, and training on use-of-force issues that go beyond the minimum requirements of *Graham v. Connor*.**

Discussion

The U.S. Supreme Court’s landmark 1989 decision, *Graham v. Connor*, holds that police use of force is to be judged against a standard of “objective reasonableness” under the 4th Amendment ban on “unreasonable searches and seizures.”⁴⁶ Specifically, the Court stated:

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.... The calculus of reasonableness must embody allowance for the fact that police 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.

46. *Graham v. Connor*, 490 U.S. 386 (1989). <http://caselaw.findlaw.com/us-supreme-court/490/386.html>

In *Graham v. Connor*, the Supreme Court outlines broad principles on how police use of force is to be considered and judged. But the Court leaves it to individual police agencies to determine how best to incorporate those principles into their own policies and training, in order to direct officers on how to perform their duties on a daily basis.

Graham v. Connor is the common denominator across the United States, and all police agencies must have use-of-force policies that meet *Graham*'s standards. But many police departments have chosen to go beyond the bare requirements of *Graham*, by adopting more detailed policies and training on issues such as shooting at moving vehicles, rules on pursuits, guidelines on the use of Electronic Control Weapons, and other use-of-force issues, that are not mentioned in or required by *Graham*.

Similarly, many police agencies have policies, practices, and training on issues such as de-escalation and crisis intervention strategies, while others do not. *Graham v. Connor* allows for significant variations in police agencies' individual policies and practices.

This guiding principle does not suggest that agencies should somehow disregard *Graham v. Connor*; that would be impossible. Rather, it encourages agencies to build on the legal foundation established by the Supreme Court and implement best policies, practices, and training that provide more concrete guidance to officers on how to carry out the legal standard.

In this report, PERF recommends a number of policies that, while not currently required by the Supreme Court's standard, should be considered nonetheless, in the view of leading PERF chiefs. Many of these policies have already been adopted in some departments, including a *duty to intervene* if officers witness colleagues using excessive or unnecessary force; requiring officers to *render first aid* to subjects who have been injured as a result of police actions; prohibiting use of deadly force against persons who pose a *danger only to themselves*; and specific limits on *shooting at vehicles*. By adopting these and other policies, departments can take steps that help prevent officers from being placed in situations where they have no choice but to make split-second decisions that may result in injuries or death to themselves or others.

Principal Deputy Assistant Attorney General Vanita Gupta:

*There Is a Mismatch Between Legal Requirements
And What the Community Expects*

I think it's revolutionary and transformative to be talking about going beyond current understanding of what is "objectively reasonable" per *Graham v. Connor*. There is a real mismatch between what community standards are, what the community expects, and what they think the law should be, as opposed to what the law allows for.

At the Civil Rights Division, we have criminal prosecution authority as well as civil "pattern or practice" authority. We know that the public truly doesn't understand what the floor is vis-a-vis *Graham v. Connor*. What PERF is putting out there is changing the paradigm about different expectations for police officers, different ways to rebuild trust, different ways to go above



Vanita Gupta continued

what the Supreme Court jurisprudence requires, that ultimately may be much better for officer safety, much better for public safety, and much better for the kind of mutual understanding between the community and law enforcement.

I think there is a setting of standards within the profession, and that the courts eventually will catch on. Or the definition of what is objectively reasonable will begin to change over time, because of the work that the profession is doing on these issues. It's not going to happen overnight, but I think that what is happening right now in the country, in meetings like this, is in fact changing some of the terms of what is reasonable.

But it can't be up to police departments alone to do that work. Courts will be wrestling with these same questions as well. Across the country, people are watching these videos and feeling that a police shooting may be legal but it's wrong, or at least it doesn't feel right. The profession is setting different standards that ultimately may change the way that the 4th Amendment is understood.

Milwaukee Police Chief Ed Flynn:

*We Must Start Holding Officers Accountable
For Creating Jeopardy that Ends in Deadly Force*

Chief Flynn discussed his handling of Officer Christopher Manney's fatal shooting of Dontre Hamilton, a man suffering from mental illness who was sleeping in a park.⁴⁷ The incident occurred on April 30, 2014.

In this incident, the officer confronted a mentally ill man in a public space, and in the course of the confrontation was disarmed of his nightstick and was assaulted with it, at which time he drew his weapon and shot the man 13 times, killing him.

Within the confines of that use of deadly force and in the context of that physical encounter, it was clear to me immediately that the officer had no options at that point, and ultimately that's what the District Attorney and the U.S. Attorney would rule. But there was a great deal of community consternation about this case. What troubled me about it was that before he confronted this individual, two of our officers had been dispatched, unbeknownst to this officer, on a separate channel. They had handled the encounter peacefully and left the scene without any police action.

What I couldn't quite understand is how that had come to be. Either this fellow was a menace that needed to be confronted, and the situation ended up with a use of deadly force, or he was someone who could have been negotiated with to a peaceful resolution.

The more our Internal Affairs people looked into the case, it became clear that the first two officers used their crisis intervention training to



47. "Complete Statement: Police Chief Ed Flynn addresses firing of officer in Hamilton case." Fox 6 News, October 15, 2014. <http://fox6now.com/2014/10/15/statement-milwaukee-police-chief-ed-flynn-addresses-firing-of-officer-in-hamilton-case/>

Chief Ed Flynn continued

deal with a mentally ill man in a public space who was not engaging in any obnoxious behavior. He wasn't begging, he wasn't harassing people, he was not doing anything wrong except acting somewhat bizarrely.

The other officer, upon his arrival and according to his own reports, encountered this individual lying down and immediately got him to his feet and started patting him down for weapons, at which point the fight was on, and it ended up with a deadly consequence.

I didn't wait for the DA's ruling, which took nine months. Our Internal Affairs investigation was pretty straightforward. **At the time the officer used deadly force, he was within his rights; lawfully he had no options. But his bad decision-making put him in an impossible position. He didn't use his homeless outreach training, he didn't use his crisis intervention training. He sized up the individual quickly as mentally ill, he said he was obviously mentally ill and in crisis, so he patted him down for weapons. That's absolutely opposite of everything we're trained to do. So I made a decision to fire him and announced it at a press conference.**

For me it was a moment of clarity, thinking about it differently. Historically we just look at the use of deadly force. Did the cop have a right? Was his life in danger? OK then.

We need to back that evaluation up, because I truly believe that until we as a profession start holding people accountable in a discipline system for the decisions that *lead up to* that use of deadly force, the public's outcry is always going to be for a criminal justice solution to poor police decision-making. This was a case of "officer-created jeopardy."

POLICY

3

Police use of force must meet the test of *proportionality*.

In assessing whether a response is proportional to the threat being faced, officers should consider the following:

- Am I using only the level of force necessary to mitigate the threat and safely achieve a lawful objective?
- Is there another, less injurious option available that will allow me to achieve the same objective as effectively and safely?
- Will my actions be viewed as appropriate—by my agency and by the general public—given the severity of the threat and totality of the circumstances?

Discussion

How members of the public will react to an officer's use of force is one part of the equation on proportionality. **However, this consideration should be approached from a broad perspective and should take place *before* an officer reaches the instant where a use of force may be necessary.**

The concept of proportionality does not mean that officers, at the very moment they have determined that a particular use of force is necessary and appropriate to mitigate a threat, should stop and consider how their actions will be viewed by others. Rather, officers should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond.

Officers already make these types of judgments all the time. For example, officers would not respond to a noise complaint at a pool party with their firearms drawn, because members of the public would view that as excessive and inappropriate. However, officers might respond with their firearms drawn if there was a report of shots fired at a pool party. In that case, the public would view their actions as appropriate and necessary.

Proportionality also considers the nature and severity of the underlying events. There are some incidents that are minor in nature, but for whatever reason, the mere presence of police officers may escalate the situation. Under the concept of proportionality, officers would recognize that even though they might be legally justified in using force as the situation escalates, given the minor nature of the underlying event, a more appropriate and proportional response would be to step back and work toward de-escalation.

The assessment of how the public will likely view police actions is not meant to be a “check-the-box” step taken immediately before an officer uses force. Rather, it is meant to be one factor that officers should consider *throughout their decision-making* on what a proportional response would be to the situation they face and the totality of the circumstances confronting them.

Washington, DC Metropolitan Police Chief Cathy Lanier:

Here's What Proportionality Means to Me

In the training of our officers and our policy, we have to be able to give officers options. For example, in a traffic stop that starts to go really wrong, like the Sandra Bland case,⁴⁸ once you get into that confrontation to enforce an arrest, when things are that excited, the chances for things to go wrong in that arrest scenario are pretty high.

So we need to teach officers that it's OK in a scenario like that to step back. You've got the person's information, you have the driver's license, you have the tag number, so you can get a warrant and make an arrest later. There's no reason to rush into that heightened environment and make an arrest and pull someone from a car. If the situation is tense, and there's no immediate threat to the public, step back, get the warrant, and go make that arrest later when there's not so much tension.

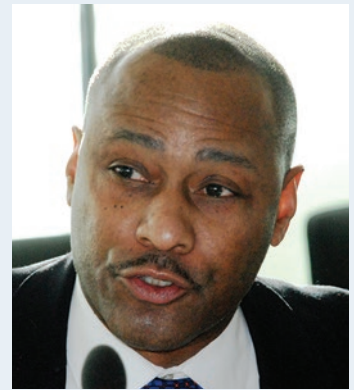


48. “A trooper arrested Sandra Bland after she refused to put out a cigarette. Was it legal?” Washington Post, July 22, 2015. <https://www.washingtonpost.com/news/morning-mix/wp/2015/07/22/a-trooper-arrested-sandra-bland-after-she-refused-to-put-out-a-cigarette-was-it-legal/>

Noble Wray, Chief, COPS Office
Policing Practices and Accountability Initiative:

The First 3 Principles Are Questions of Humanity

As I look at the 30 Principles, I see that the first three, on the sanctity of life, professional standards, and proportionality, are issues of the heart, and where we are as a profession in terms of what we think about humanity. We need to start thinking more in our profession about practical wisdom. How do we develop our people to make decisions that reflect critical thinking? There are times you have to make the right decision for the right reason, and you're not going to have a bright line rule. The other 27 Principles are easier to grasp, because they are things we can just do, and we need to get working on them.



Police Scotland Sergeant Jim Young:

Why Use a Sledgehammer to Crack a Nut?

Proportionality can be thought of as, “Why use a sledgehammer to crack a nut?” The way we view it is, “Was there another force option that could have been used? Why was that force option not used?”

In the end, the question is, “Was the force used the minimum amount or least injurious to achieve that lawful aim?” And if that’s not the case, then we would judge that not to be proportionate.



POLICY

4 Adopt *de-escalation* as formal agency policy.

Agencies should adopt General Orders and/or policy statements making it clear that de-escalation is the preferred, tactically sound approach in many critical incidents. General Orders should require officers to receive training on key de-escalation principles. Many agencies already provide crisis intervention training as a key element of de-escalation, but *crisis intervention policies and training must be merged with a new focus on tactics that officers can use to de-escalate situations*. De-escalation policy should also include discussion of proportionality, using distance and cover, tactical repositioning, “slowing down” situations that do not pose an immediate threat, calling for supervisory and other resources, etc. Officers must be trained in these principles, and their supervisors should hold them accountable for adhering to them.

Example

- **Seattle Police Department**⁴⁹ — “When safe under the totality of the circumstances and time and circumstances permit, officers shall use de-escalation tactics in order to reduce the need for force.”

49. <http://www.seattle.gov/police-manual/title-8---use-of-force/8000---use-of-force-core-principles>

POLICY

5 **The *Critical Decision-Making Model* provides a new way to approach critical incidents.**

Policy on use of force should be based on the concept of officers using a decision-making framework during critical incidents and other tactical situations. Departments should consider adopting the Critical Decision-Making Model (CDM), which PERF has adapted from the United Kingdom's National Decision Model. The CDM provides officers with a logical, easy-to-use thought process for quickly analyzing and responding appropriately to a range of incidents. The CDM guides officers through a process of:

- Collecting information,
- Assessing the situation, threats, and risks,
- Considering police powers and agency policy,
- Identifying options and determining the best course of action, and
- Acting, reviewing, and re-assessing the situation.

For additional information, see “PERF’s Critical Decision-Making Model,” pp. 79–87.

COPS Office Director Ronald Davis:

We Are Creating Professional Standards

We’re talking about building trust, because we’re not just changing the practice of a police officer; we’re changing the culture, the mentality and the philosophy of policing. So for me, this is truly a defining moment. We’re setting the bar at a much higher standard—a professional standard—one that takes into account community expectations and priorities. This is not just about use of force; it applies to everything we do.



POLICY

6 ***Duty to intervene*: Officers need to prevent other officers from using excessive force.**

Officers should be obligated to intervene when they believe another officer is about to use excessive or unnecessary force, or when they witness colleagues using excessive or unnecessary force, or engaging in other misconduct. Agencies should also train officers to detect warning signs that another officer might be moving toward excessive or unnecessary force and to intervene ***before*** the situation escalates.

Examples

- **Phoenix Police Department**⁵⁰ — “All sworn employees will intervene, if a reasonable opportunity exists, when they know or should know another employee is using unreasonable force.”

50. https://www.phoenix.gov/policesite/Documents/operations_orders.pdf

- **Las Vegas Metropolitan Police Department**⁵¹ — “Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, safely intercede to prevent the use of such excessive force. Officers shall promptly report these observations to a supervisor.”

NYPD First Deputy Police Commissioner Benjamin Tucker:

*Duty to Intervene Goes to the Heart
Of Why We Become Police Officers*

We added a “duty to intervene” in our policy. We underscored this because—and you all relate to this in this day and age with respect to videos—everybody is photographing us and the work that we do. One of the things I’m responsible for is the discipline in the department and the processing of our discipline cases. We see examples of this as they come through, as we’re making recommendations to the Police Commissioner. We have instances where multiple officers are at a scene standing around and not taking action, but they witness events that take place by fellow officers.

And so this is a reminder to the officers that this goes to the heart of why you became a police officer. We talk about the foundations of policing, and this notion comes out of the desire to have officers uphold the oath that they took, and to act accordingly. So it’s real simple in that respect.



San Francisco Police Chief Greg Suhr:

*When an Officer Intervenes to Stop Misconduct,
That Can Increase Community Trust*

We’ve all been there, where a suspect is really getting to another officer, but they’re not getting to you. And you know your partner, or your brother or sister officer, so you basically tap them on the shoulder and tell them to stand down.

If they’re really amped up, they might not stand down easily. But last year when we had the PERF meeting with community leaders in this same room, and we watched that Texas video at the swimming club,⁵² I remember that a community leader said that obviously what the one officer did was shocking, but it was equally upsetting that the other officers missed the window to intervene. Nobody told the one officer to stand down.

On that video we just saw of the sergeant who intervened when an officer was pointing his firearm at Ferguson protesters,⁵³ did you hear what



51. http://www.lvmpd.com/Portals/0/OIO/LVMPD_Collab_Reform_Final_Report_v6-final.pdf

52. “McKinney, Texas, Cop Placed on Leave After Pulling Gun on Teens at Pool Party.” NBC News, June 8, 2015. <http://www.nbcnews.com/news/us-news/mckinney-texas-officer-leave-after-wild-pool-party-video-surfaces-n371281>

53. “Officer points gun at me and other media on W. Florissant.” Caleb-Michael Files. YouTube, August 19, 2014. <https://www.youtube.com/watch?v=7jx3WLnt6Q8>

Chief Greg Suhr continued

somebody said to the sergeant, as they were walking away? Somebody yelled, “Good job, sergeant!” So the public is paying attention.

What we try to tell our officers in San Francisco is that something like that will be on video too. It won’t just be the bad stuff; it’ll be the corrective action that somebody took, or the apology. That’ll be on the video as well.

POLICY

7 Respect the sanctity of life by promptly *rendering first aid*.

Officers should render first aid to subjects who have been injured as a result of police actions and should promptly request medical assistance.

Example

- **Seattle Police Department**⁵⁴ — “Following a use-of-force, officers shall render or request medical aid, if needed or if requested by anyone, as soon as reasonably possible.”

Deputy Chief Christy Lopez, U.S. DOJ Civil Rights Division:

*We Must Give Officers Training on
Providing First Aid to Someone They Just Shot*

We’re asking something very difficult of our officers. It asks a lot to be willing to take another human being’s life, so we’re asking them to do that only when it’s necessary, and then to turn around and try to save that person’s life that they just tried to take. That’s a difficult thing to do in the moment. If we train them to do that beforehand, it makes it easier to do that, and it puts them in a better frame of mind to understand the dual role that we are asking them to play as police officers—to be willing to take someone’s life, and then turn around and try to save that same life.

Wexler: You discussed this at our meeting last summer. You were talking about Cleveland, right?

Lopez: Yes, I was. When people watched that Tamir Rice video, and this happens in a lot of videos, unfortunately, to the public, it looks like the officers are idly standing around and waiting for the ambulance to arrive while someone may be bleeding to death. And in that video in particular, you see Tamir Rice’s sister come running up, to try to be by her brother’s side, and then you see the officer tackle her. That’s not a good image. We need to teach officers how to handle that, to treat family members respectfully, to understand what the family is going through, what the community is going through, even as they handle these scenes. And it’s expecting too much of any human being to handle these situations if they haven’t been trained in advance.



54. <http://www.seattle.gov/police-manual/title-8---use-of-force/8200---using-force>

Shooting at vehicles must be prohibited.

Agencies should adopt a prohibition against shooting at or from a moving vehicle unless someone in the vehicle is using or threatening deadly force by means other than the vehicle itself.

Examples

According to the Washington Post database of fatal officer-involved shootings, in approximately 5% of the 990 incidents in 2015, the subject was using a vehicle as a weapon.⁵⁵

The prohibition on shooting at moving vehicles is already in place in many agencies. It has been part of PERF's use-of-force recommendations to individual agencies for years, and is included in the model use-of-force policy from the International Association of Chiefs of Police. Agencies with this policy currently in effect include the following:

- New York Police Department⁵⁶ (enacted in 1972)
- Boston Police Department⁵⁷
- Chicago Police Department⁵⁸
- Cincinnati Police Department⁵⁹
- Denver Police Department⁶⁰
- Philadelphia Police Department⁶¹
- Washington, DC Metropolitan Police Department⁶²

>> continued on page 48

Nassau County, NY Police Commissioner Thomas Krumpter:***Our Police Shootings Dropped Significantly
After We Simply Changed the Policy***

We changed the policy in Nassau County about two years ago, and since then we've only had one incident where a police officer shot at a moving vehicle. The number of shootings was significantly reduced by simply changing that policy. The one case will go before a review board that reviews all use of deadly force, and if appropriate, he'll be held accountable, whether it's retraining or discipline.



55. <https://www.washingtonpost.com/graphics/national/police-shootings/>

56. http://www.nyc.gov/html/oignypd/assets/downloads/pdf/oig_nypd_use_of_force_report_-_oct_1_2015.pdf, Appendix A.

57. <http://static1.squarespace.com/static/5086f19ce4b0ad16ff15598d/t/52af5f30e4b0dbce9d22a80d1387224880253/Rule+303.pdf>

58. <http://directives.chicagopolice.org/lt2015/data/a7a57be2-1290de63-7db12-90f0-e9796f7bbbc1a2d2.html?ownapi=1>

59. <http://www.cincinnati-oh.gov/police/assets/File/Procedures/12550.pdf>

60. http://extras.mnginteractive.com/live/media/site36/2015/0609/20150609_081455_OMS-105-05_APPROVED_06-08-15.pdf

61. <https://www.phillypolice.com/assets/directives/PPD-Directive-10.1.pdf>

62. https://go.mpdconline.com/GO/GO_901_07.pdf

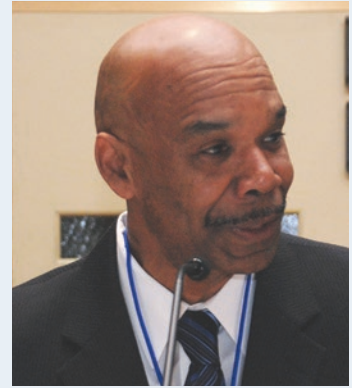
Denver Police Chief Robert C. White:

We Adopted a New Policy and Training To Prevent Shooting at Cars

I got a phone call from Chuck Wexler recently, and that usually does not mean good news [laughter]. We had had seven officers shooting into moving vehicles over the last decade. Chuck heard about this, and told me about NYPD's policy that prohibits shooting at vehicles unless someone in the vehicle is using deadly force by means other than the vehicle itself.

I realized we needed to do something different, and I realized that what Chuck was telling me was accurate and it's actually a great policy. So we changed our policy so it's very similar to theirs.

The other necessary part of this is that we provided our officers with extra training, better tactical training, related to how to get out of the way of a moving vehicle.



With Better Policies, Training, and Equipment, We Can Reduce Police Shootings and Keep Officers Safe

PERF asked John F. Timoney to discuss the PERF 30 Guiding Principles in the context of his experience as First Deputy Commissioner of the New York City Police Department, Commissioner of Police in Philadelphia, and Chief of Police in Miami, FL.

By John F. Timoney

Many of the elements of the PERF 30 Guiding Principles have been tried and tested successfully in the three police departments where I have served.

Shooting at Moving Vehicles

Take PERF's Principle #8, which calls on agencies to adopt "a prohibition against shooting at or from a moving vehicle unless someone in the vehicle is using or threatening deadly force by means other than the vehicle itself."

The New York City Police Department, where I began my career, adopted this policy more than 40 years ago. The policy was part of a package of reforms developed within the NYPD in 1971, which also included a ban on "warning shots," and more thorough investigations by senior officers of all police shooting incidents, regardless of whether anyone was injured or killed.

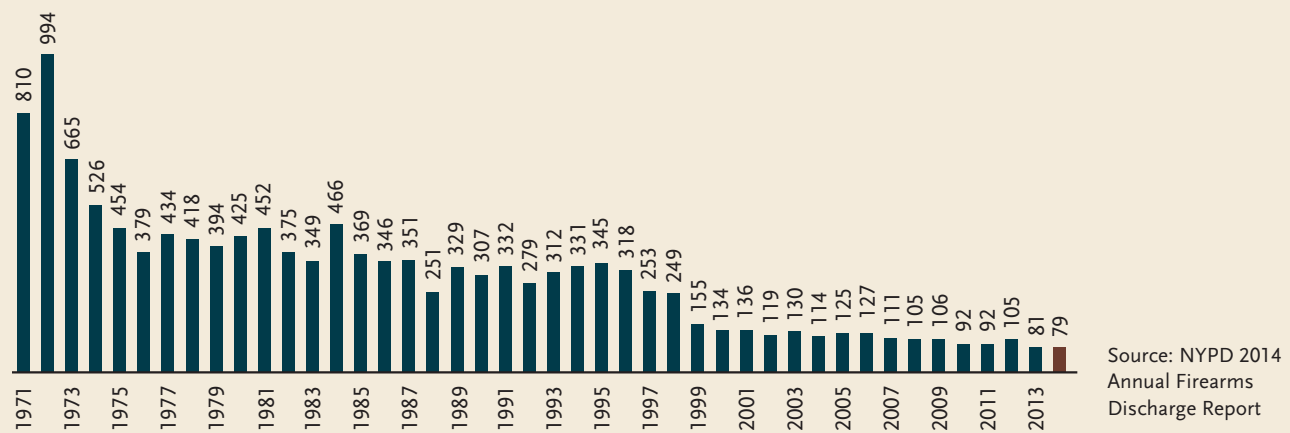
The package of reforms was not implemented immediately, because the top brass in the department were waiting for the right time to announce it. That moment came in August 1972, with the fatal shooting by an NYPD officer of an 11-year-old African-American boy who was fleeing in a stolen car.

When the new policy was announced, the controversy was intense. The police union strenuously objected, saying that the policy would endanger officers and that the department was caving to community pressure. The news media fanned the flames, taking one side or the other depending on their point of view.

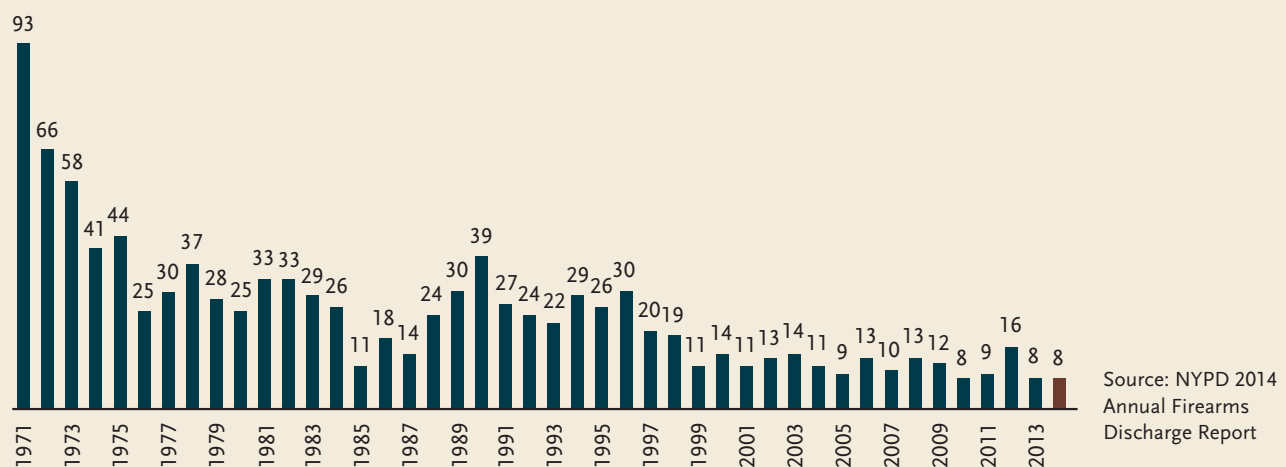
What nobody expected was how quickly the policy caused police shootings to plummet. The policy took effect in August 1972. In 1972, there were 994 shooting incidents involving NYPD officers. The numbers for September–December, immediately after the policy took effect, were down about 40 percent compared to the January–August figures. The following year, total shootings numbered 665—



Total Shooting Incidents Involving Officers, NYPD, 1971–2014



Subjects Shot and Killed by Officers, NYPD, 1971–2014



a 33-percent reduction in the first year.⁶³ Those numbers have continued to decline to this day, and in recent years have been below 100 shootings per year. Fatal shootings show a similar pattern.

A strict policy does not mean that there will never be an exception to the rule. If a cop can give a valid reason why he or she shot at a moving car (I have heard a few in my time), it can be treated as an exception to the rule. But in the large majority of cases, a strict rule against shooting at cars will not only save lives, it will keep our cops out of trouble, out of the press, and God forbid, out of jail.

Duty To Intervene

Let's consider PERF Guiding Principle #6, on the "duty to intervene." This one goes back at least 23 years. In 1993, I was Commanding Officer of the NYPD's Office of Management Analysis and Planning. The Rodney King incident had just happened, and the video showed more than a dozen officers standing by and watching the beating happen. For many of us, seeing the sergeant at the scene watch passively violated every principle of proper supervision. So we wrote a policy for the NYPD creating a duty to intervene.

63. New York Police Department. "2014 Annual Firearms Discharge Report." Figure 45, "Total Shooting Incidents Involving Officers, 1971-2014." Page 56. http://www.nyc.gov/html/nypd/downloads/pdf/analysis_and_planning/nypd_annual_firearms_discharge_report_2014V3.pdf

I made it a point to talk about the duty to intervene at roll calls and sergeants' promotion ceremonies. I used the example of a fellow NYPD officer who was convicted of homicide for the fatal beating of a suspect in a station house in 1975. Other officers and a sergeant failed to intervene to stop the beating. In fact, the sergeant later turned state's witness against his own officer.

Sometimes, in the heat of battle, a cop loses his cool. It's never an excuse for using excessive force, but it happens. In the case I cited, the suspect who was beaten to death had earlier fired a shot in the direction of officers, and apparently this officer was angry about it. The beating was indefensible, but it could have been prevented if the sergeant or other officers had stepped in at the first sign that the officer was losing control of himself. That's what a duty-to-intervene policy is about.

Don't Create an Exigency That Justifies Use of Lethal Force

Many of the PERF Guiding Principles are based on the concept of taking a wider look at the types of incidents in which force is often used. Too often, we only look at the exact moment when an officer uses deadly force. We also need to "go upstream" and see whether officers are missing opportunities to de-escalate incidents, in order to prevent them from ever reaching the point where a use of force is required or justified.

A decade ago, we put such a policy into place in Miami, which states that when officers are attempting to approach, pursue, or stop a motor vehicle or an armed subject, they "shall not unreasonably place themselves in a position where a threat of imminent danger of death or serious physical injury is created."

The point is not to punish officers, or to engage in "Monday-morning quarterbacking." The point is to find ways to prevent unnecessary uses of force from happening in the first place.

These policies protect everyone by teaching officers how to avoid getting into situations where they will be in danger.

We Can Do Better

Based on our remarkable results with use-of-force policies in the NYPD, I adopted similar policies when I went to Philadelphia and later Miami.

On the day I took office as chief in Miami in 2003, there were 13 Miami officers being prosecuted on charges resulting from shootings of civilians. The scandal had damaged public confidence in the police, and morale within the department was low. We implemented new policies, new crisis intervention training, and new less-lethal equipment, based on the philosophical underpinning that all human life is sacred. And again we saw immediate results, going 20 months in 2003-04 without a single shooting by an officer.

We can reduce police shootings without endangering officers' safety. The key is getting buy-in from your executive staff, your union leaders, your trainers, and your officers. The best place to take new policies to officers is at roll call, where the policies can be questioned and defended.

In Miami, implementing reforms was somewhat easier than in New York, because the arrests and trial of 13 officers had gotten the attention of everyone in the department. They knew that we needed to make changes.

The United States is at a similar point today. The nation has seen questionable shootings over the last 18 months and is asking, "Can't we do better than this?" My experience in three large departments has taught me that yes, we can do better.

John F. Timoney began his policing career in the NYPD in 1967, rising quickly through the ranks to become the youngest four-star chief of department in the NYPD's history. In 1995, he became the First Deputy Commissioner, the department's second in command. In 1998 Timoney became Commissioner of Police in Philadelphia, where he implemented a series of reforms in the investigation of sexual assaults, which to this day are considered a model. From 2003 to 2010, he served as Chief of Police in Miami. Timoney, who served as PERF President from 2007 to 2009, is now the senior police advisor to the nation of Bahrain. He is author of "Beat Cop to Top Cop – A Tale of Three Cities."

POLICY

9 Prohibit use of deadly force against individuals *who pose a danger only to themselves*.

Agencies should prohibit the use of deadly force, and carefully consider the use of many less-lethal options, against individuals who pose a danger only to themselves and not to other members of the public or to officers. Officers should be prepared to exercise considerable discretion to wait as long as necessary so that the situation can be resolved peacefully.

San Francisco Police Chief Greg Suhr:

We Adopted This Policy to Prevent Deadly Force Against Suicidal Persons

We initiated this policy in May 2011. You would think it's a no-brainer, but we actually got push-back on this originally. This was designed for that type of situation where somebody calls the police asking for help, and the police end up using deadly force against a person who was threatening suicide or was in mental crisis.

I believe that police officers like absolute rules, because they're easy to follow. And so if they know going in that they cannot use deadly force against someone who is only threatening himself, then they've got to figure something else out. Since May 2011, we haven't had a situation in which an officer used deadly force against a person who was a danger only to themselves.



POLICY

10 Document use-of-force incidents, and review data and enforcement practices to ensure that they are *fair and non-discriminatory*.

Agencies should document all uses of force that involve a hand or leg technique; the use of a deadly weapon, less-lethal weapon, or weapon of opportunity; or any instance where injury is observed or alleged by the subject. In addition, agencies should capture and review reports on the pointing of a firearm or an Electronic Control Weapon at an individual as a threat of force.

This information is critical for both external reporting and internal improvements to policy and training. Agencies should analyze their data carefully and consult with their communities to ensure that use-of-force and enforcement practices are not discriminatory.

Agencies should develop strong policies and protocols for reviewing all use-of-force reports to ensure accuracy and completeness, including comparing written reports with video footage from body-worn cameras, dashboard cameras, and other sources. Special attention should be paid to ensuring that reports provide clear and specific details about the incident and avoid generic, “boilerplate” language.

POLICY

11 To build understanding and trust, agencies should issue regular reports to the public on use of force.

Agencies should publish regular reports on their officers’ use of force, including officer-involved shootings, deployment of less-lethal options, and use of canines. These reports should include demographic information about the officers and subjects involved in use-of-force incidents and the circumstances under which they occurred, and also discuss efforts to prevent all types of bias and discrimination.

These reports should be published annually at a minimum, and should be widely available through the agency’s website and in hard copy.

Examples

- **Los Angeles Police Department, Use of Force Year-End Review**⁶⁴
- **New York City Police Department, Annual Firearms Discharge Report**⁶⁵
- **Palm Beach County Sheriff’s Office, Division of Internal Affairs Annual Report**⁶⁶

>> continued on page 51

64. <http://assets.lapdonline.org/assets/pdf/Use%20of%20Force%20Review-Final.pdf>

65. http://www.nyc.gov/html/nypd/downloads/pdf/analysis_and_planning/nypd_annual_firearms_discharge_report_2014V3.pdf

66. <http://www.pbso.org/documents/2014AnnualReport.pdf>

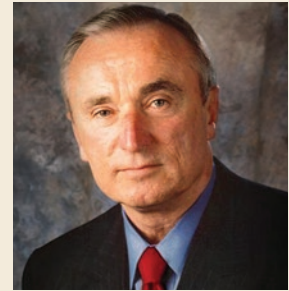
Managing Use of Force in the NYPD

New Use-of-Force Policies and a New Force Investigation Division

By William J. Bratton

Police Commissioner, City of New York

For more than four-and-a-half decades, the New York City Police Department has set the national standard for firearms policy and reporting. In 1969, the NYPD instituted Department Order SOP 9 (s.69), a procedure that required in-depth documentation of firearms discharges during hostile encounters. Within a few years, the NYPD expanded the order beyond police-involved combat. **Since the early 1970s, the Department has recorded and evaluated every instance in which an officer discharges his or her weapon, whether the discharge occurs purposefully, accidentally, or, in rare instances, criminally.**



SOP 9's stated purpose was to "[increase] the safety potential of each member of the force." It also articulated new rules prohibiting the use of warning shots and firing from or at vehicles. The NYPD enacted these new controls at a time when police were the subject of national conversation, and in the wake of the National Advisory Commission on Civil Disorders, also known as the Kerner Commission. It was also a time when violence against officers was rampant, and domestic terrorist groups actively targeted police. When annual recordkeeping began in 1971, 12 NYPD officers were shot and killed by subjects, and 47 officers were shot and injured.

There were also 810 instances of officer-involved shootings that year. Five years later, officer-involved shootings had fallen 53 percent. Training, coupled with a policy of investigating and recording every firearms discharge, radically changed how officers respond to, engage in, and even assess the need for firearms discharges. Since then there has been Department-wide change—tactical, strategic, and cultural—with regard to how officers utilize and control their firearms.

This has had a demonstrable impact on people's lives. In 1971, officers shot and mortally wounded 93 subjects, and another 221 subjects were injured by police gunfire. These statistics are difficult to conceive of today, because the Department has made restraint the norm. In 2015, there were 67 officer-involved shootings—down 92 percent from 1971—and eight subjects were killed and 15 injured.

The department has not stopped evolving its policies and procedures. In 2008, the Department made its Annual Firearms Discharge Report public, creating the most transparent document of its kind in America. The report also made uniform firearms-discharge definitions that have set a national standard. Last year, in July 2015, the NYPD established a new Force Investigation Division to investigate all police officer-involved shootings, all deaths in custody, and all deaths related to police activity. In past practice, these reviews were performed at the borough level in each of the eight patrol boroughs with borough personnel handling policy issues, the Detective Bureau handling criminal aspects the case, and the Internal Affairs Bureau evaluating police misconduct.

The new division functions citywide and handles all aspects of each case, including building cases against shooters who have fired on police and investigating possible police misconduct. The division's 64 experienced detectives and supervisors conduct high quality investigations with an eye toward extracting tactical lessons from each incident that can be used to strengthen training and prevent tactical errors in the future.

Tracking how, when, where, and why officers discharge their weapons is an invaluable tool for working towards the Department's ultimate goal of guaranteeing that, for every discharge, no option exists other than the use of a firearm. But the department has had a less comprehensive set of policies for the use of force other than firearms. This is why, in 2016, the NYPD is introducing a new use-of-force policy that clarifies definitions, establishes levels of appropriate force, and mandates reporting and

review procedures for each level of force used. At the same time it underscores the sanctity of life and the grave responsibilities vested in police officers.

The new policy establishes a new series in our Patrol Guide that gathers all our use-of-force guidelines in one place. It defines three levels of force: Level 1 includes hand strikes, foot strikes, forcible takedowns, wrestling a subject to the ground, the use of pepper spray, and the use of conducted energy weapons or TASERS; Level 2 includes the use of impact weapons and police canine bites; and Level 3 includes firearms discharges and physical force capable of causing death or serious injury. Lesser interventions with a subject, like handcuffing or placing a subject against a wall, are not investigated as uses of force. Each level of force brings with it an appropriate level of oversight that requires recording the use of force. This oversight also allows regular review of whether uses of force were justified and within policy.

We will capture relevant data via a new Threat, Resistance, Injury (TRI) report. The TRI will also record information about how force is used against officers, and what injuries they sustain during enforcement encounters. This is the first time there has been a systematic way to gather data about assaults on police officers, and the form should provide a more complete picture of what happens in many street confrontations.

The policies and procedures we have developed for the NYPD work for our agency. Other departments may embrace different guidelines. Regardless, the profession has an urgent need for better information about how often, why, and in what ways police use force. Collecting that information requires uniform definitions and reporting standards. In the end, however, I believe strongly that when officers lawfully exercise their discretion and apply the training their leaders have provided, those officers must retain their leaders' faith and support. This is true for arrest decisions, and for use-of-force instances, as well.

William J. Bratton, Commissioner of the New York City Police Department, previously held the top positions in the Los Angeles Police Department, the Boston Police Department, several other police agencies, and a previous term as NYPD Commissioner from 1994 to 1996. He is a U.S. Army Vietnam veteran, and is the author of Turnaround: How America's Top Cop Reversed the Crime Epidemic. He served as PERF President twice, during his first term as NYPD Commissioner and again as Chief of Police in Los Angeles. His many honors include both of PERF's awards, the Gary P. Hayes Award and the Leadership Award.

continued from page 49

POLICY

12

All critical police incidents resulting in death or serious bodily injury should be *reviewed by specially trained personnel*.

Incidents that involve death or serious injury as a result of a police action should be reviewed by a team of specially trained personnel. This can be done either within the agency through a separate "force investigation unit" that has appropriate resources, expertise, and community trust, or by another law enforcement agency that has the resources, expertise, and credibility to conduct the investigation. Other uses of force should be investigated by the officer's supervisor and reviewed through the chain of command. Supervisors should respond to the scene of any use-of-force incident to initiate the investigation. Agencies should thoroughly investigate all non-training-related firearms discharges, regardless of whether the subject was struck.

POLICY

13 Agencies need to be *transparent* in providing information following use-of-force incidents.

Agencies that experience an officer-involved shooting or other serious use-of-force incident should release as much information as possible to the public, as quickly as possible, acknowledging that the information is preliminary and may change as more details unfold. At a minimum, agencies should release basic, preliminary information about an incident within hours of its occurrence, and should provide regular updates as new information becomes available (as they would with other serious incidents that the public is interested in).

Guiding Principles: Training and Tactics

TRAINING AND TACTICS

14 Training *academy content and culture* must reflect agency values.

The content of police training and the training academy culture should reflect the core values, attributes, and skills that the agency wants its personnel to exhibit in their work in the community. Chief executives or their designees should audit training classes to determine whether training is up to date and reflects the agency's mission and values. This values-based training culture must extend to the agency's field training and in-service training programs as well.

Charles Ramsey, Philadelphia Police Commissioner (Ret.):

*Police Trainers Sometimes Resist
Changes in Policy and Training*

Wexler: Chuck, when you were commissioner in Philadelphia, you said you had to go into the Academy and see what was being taught. What did you mean by that?

Commissioner Ramsey: This is not unique to Philadelphia. We can write all the policies we want and develop training curriculums, but if that's not being taught in the academy—in other words, if the instructors are telling them something else—that's a problem.

So you have to periodically check to make sure that the academy training is consistent with what you're trying to achieve. Just going by and listening is a good way to do that. Often what you find, at least in the departments I've worked in, is that a lot of the trainers have been in the academy a long time. They've been off the street a long time. And so they're not up to speed with some of the things that are going on that are causing us to make the changes we are making. They don't necessarily agree. And you can't move them out of there.



Charles Ramsey continued

When I was in Chicago and we were trying to put together a community policing training, we actually had to create a small training unit outside the academy to do the training, because the culture in the academy was so resistant to community policing that I wasn't going to risk the strategy by putting the training for it in the academy. With the old-timers in there, it was just not a good situation.

So by dropping in on your training, you can make sure it's consistent down the line. And the same thing applies to Field Training officers—that stuff you hear about FTOs telling recruits, “Forget everything you learned in the academy.” These are key positions, and you've got to have the right folks there.

We also need to think about how we do firearms training, so we won't be reinforcing all the bad things we're talking about. The firearms training everywhere I've been, we have officers stand on a line and fire at a target. There's nothing they can use as cover; it's just shooting at a target that's not shooting back at you. And everyone is firing at once, so sympathetic fire becomes an issue; and there's no judgment about whether you *should* be firing.

TRAINING AND TACTICS

15 Officers should be trained to use a *Critical Decision-Making Model*.

As mentioned in Recommendation 5 in the Policy section, agencies should train officers to use a decision-making framework during critical incidents and other tactical situations.

The Critical Decision-Making Model developed by PERF provides a framework for patrol officers and other agency members to enhance their decision-making in a range of incidents. (See pages 79–87 for details.)

Houston Executive Assistant Police Chief George Buenik:

*We Need to Teach Critical Decision Making
To Personnel Beyond SWAT*

The United Kingdom's National Decision Model is a great concept, and in Scotland they are teaching it at the line level so it doesn't just apply to serious situations. In American policing we're using something like the decision model with our tactical SWAT teams. Our challenge is to try to teach how to apply decision-making to every incident.



TRAINING AND TACTICS

16

Use *Distance, Cover, and Time* to replace outdated concepts such as the “21-foot rule” and “drawing a line in the sand.”

Agencies should train their officers on the principles of using distance, cover, and time when approaching and managing certain critical incidents. In many situations, a better outcome can result if officers can buy more time to assess the situation and their options, bring additional resources to the scene, and develop a plan for resolving the incident without the use of force or only with force that is necessary to mitigate the threat.

Agencies should eliminate from their policies and training all references to the so-called “21-foot rule” regarding officers who are confronted with a subject armed with an edged weapon. Instead, officers should be trained to use distance and cover to create a “reaction gap,” or “safe zone,” between themselves and the individual, and to consider all options for responding.

Springboro, OH Police Chief Jeffrey Kruithoff:

“Distance + Cover = Time” Is a Concept That Is Important and Easy to Understand

“Distance + Cover = Time” was one of the things I walked away with from the last PERF meeting. I think it was a training sergeant from Los Angeles who capsulized it so easily. I found this so concise and easy to convey, it’s almost something you want to post in your building. Or maybe this should be the last thing the sergeant says to the troops before they go out on the road.



TRAINING AND TACTICS

17

***De-escalation* should be a core theme of an agency’s training program.**

Agencies should train their officers on a comprehensive program of de-escalation strategies and tactics designed to defuse tense encounters. De-escalation can be used in a range of situations, especially when confronting subjects who are combative and/or suffering a crisis because of mental illness, substance abuse, developmental disabilities, or other conditions that can cause them to behave erratically and dangerously. De-escalation strategies should be based on the following key principles:

- Effective communication is enough to resolve many situations; communications should be the first option, and officers should maintain communication throughout any encounter.

- In difficult situations, communications often are more effective when they begin at a “low level,” e.g., officers speaking calmly and in a normal tone of voice, and asking questions rather than issuing orders.
- Whenever possible, officers should be trained to use distance and cover to “slow the situation down” and create more time for them to continue communicating and developing options.
- If an encounter requires a use of force, officers should start at only the level of force that is necessary to mitigate the threat. Officers should not unnecessarily escalate a situation themselves.
- As the situation and threats change, officers should re-evaluate them and respond proportionally; in some cases, this will mean deploying a higher force option, in others a lower option, depending on the circumstances.

Palm Beach County, FL Sheriff Ric Bradshaw:

How We Use the “Tactical Pause” For Pre-Event Planning and Strategy

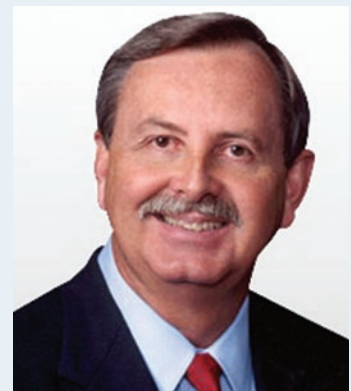
In 2013 and 2014, we began looking at and instituting additional measures in the pre-event phase of an incident, with the goal of reversing an upward trend in our officer-involved shootings. A concept we call the “Tactical Pause” has been at the forefront of this change, with a new and significant emphasis on our “pre-event” approach to calls for service.

Historically, our training focused more on the “event,” or point of engagement. As part of taking a serious look at Tactical Pause, we identified the need for slowing down our response in certain instances and carefully evaluating the level of urgency.

Generally speaking, as first responders, time is on our side. In slowing our response, we have a greater ability to think more clearly and objectively, approach the situation more methodically, and marshal in the needed resources such as personnel and additional less-lethal tools and equipment, all to increase the chances of bringing the incident to a peaceful resolution. The focus on pre-event planning and strategy would also mitigate “officer-created jeopardy.”

We needed to create time and distance to give ourselves an opportunity at communicating and negotiating our way toward a more positive resolution, rather than prematurely committing ourselves to the point of engagement. To reinforce our focus of pre-event planning and strategy, we reversed our training priorities in discretionary decision-making from lethal force scenarios to mostly less-lethal force scenarios, which offer more available options in dealing with a volatile situation.

The paradigm shift appears to be working. There has been a dramatic reduction in officer-involved shootings from nine each in 2012, 2013, and 2014, to just three in 2015. This downward trend is continuing into 2016.



18 De-escalation starts with *effective communications*.

To effectively carry out the agency's de-escalation strategies, all officers should receive rigorous and ongoing training on communications skills. Officers should be trained to effectively communicate in a range of situations, including everyday interactions while on duty, public speaking and meeting facilitation, interacting with victims and witnesses, handling critical incidents, and dealing with people with mental health and/or substance abuse problems. All officers should also receive training on basic negotiations techniques.

NYPD Deputy Inspector Matthew Galvin:

Communication Brings the Subject to Us

Wexler: De-escalation begins with communication. This was one of the biggest things we took away from the NYPD and Scotland. Why is communication so important?

Inspector Galvin: Communication leads to negotiation, and it contributes to slowing the pace. If we slow the pace, we can buy some time and develop a plan. The communication, and talking in a de-escalating tone, brings the subject to us, rather than allowing ourselves to be brought up to the subject's escalated level of tension. If we can bring a feeling of calm to the situation, through time and communicating, and bring that subject to us, hopefully we can resolve it safely.



Fresno, CA Police Chief Jerry Dyer:

*As Technology Has Proliferated,
Our Communications Skills Seem To Have Diminished*

What we experienced in our department when we first started using Tasers many years ago, which led to every officer being required to carry one in the field, was a loss of verbal skills by officers. When many of us came on the job, there was no such thing as a Taser. So we had to rely more on our communications skills, and be more patient with individuals we were dealing with. Once Tasers became prevalent, officers resorted to the use of them frequently in order to resolve situations more quickly.



Mental Illness: Implement a *comprehensive agency training program* on dealing with people with mental health issues.

Officers must be trained in how to recognize people with mental health issues and deal with them in a safe and humane manner. Many agencies already provide some form of crisis intervention training as a key element of de-escalation, but crisis intervention policies and training must be merged with a new focus on tactics that officers can use to de-escalate situations. At a minimum, agencies should seek to:

- Provide all officers with awareness and recognition of mental health and substance abuse issues, as well as basic techniques for communicating with people with these problems.
- Provide in-depth training (for example, the 40-hour Crisis Intervention Team or “CIT” training) to a subset of officers and field supervisors (preferably those who have indicated an interest in this area), with the goal of having CIT-trained personnel on duty and available to respond at all times. This training should focus heavily on communication and de-escalation strategies.
- Some agencies may choose to provide in-depth CIT training to all of their personnel.
- Crisis Intervention *Teams*, made up of police officers and mental health workers, can often be the most effective option. These teams are called to respond to incidents involving mental illness or similar issues, and thus the teams develop expertise, as well as familiarity with individuals who generate multiple calls for service over time. In some cases, Crisis Intervention Teams also work to solve underlying problems by helping persons with mental illness to obtain treatment.
- For all of their mental health training, agencies should coordinate with local mental health professionals on content and delivery.

>> *continued on page 60*

Seattle Police Department Data Demonstrate How Crisis Intervention Training Reduces Use of Force

The Seattle Police Department (SPD) is becoming a national leader in successfully using Crisis Intervention training and related strategies to respond safely and effectively, with very low rates of using force, to incidents involving persons with a mental illness, drug addiction, or other conditions that can cause them to behave erratically and threateningly, according to a report by the monitor charged with evaluating the department's compliance with a Justice Department consent decree.⁶⁷

"The Monitoring Team has been impressed with SPD's efforts to ... create a structure that supports an effective strategy to engage individuals in behavioral crisis," Monitor Merrick J. Bobb said in a February 16, 2016 status report to a federal judge. "The Department should be applauded for [its] efforts to ensure that specialized, highly trained officers respond to crisis intervention incidents."

The Seattle Police Department entered into a consent decree with the Justice Department in 2012 regarding its use-of-force policies and practices. The agreement included provisions to begin gathering information about how often Seattle police officers encounter persons in crisis, and how they handle those incidents.

In May 2015, Seattle officers began using a three-page form called the "Crisis Template" to capture data on every contact police make with someone in crisis. In the first three months, from June to August, there were 2,516 such contacts.

Subjects Were Disorderly, Belligerent, Had Knives and Other Weapons

Many of the incidents involved "significant challenges ... posed to officers," the Monitor's report noted. Of the 2,516 incidents:

- 823 involved persons who were "*disorderly disruptive*."
- 590 were "*belligerent uncooperative*."
- 611 of the persons made a *suicide threat* or attempt.
- 96 had a *knife*.
- 16 had a *gun*.
- And 109 had *other weapons*.

Police Used Force in 2 Percent of the Encounters

Despite those serious challenges, the Monitor found that officers used force in only 51 of those incidents—2 percent of the 2,516 incidents. Furthermore, of those 51 uses of force, 42 were classified as Type I, the lowest level, which includes "soft takedowns, open or empty-hand strikes or other disorientation techniques, and wrist lock with sufficient force to cause pain or complaint of pain." The other uses of force were Type II, which includes use of OC spray, a beanbag gun, or an Electronic Control Weapon.

None of the 51 uses of force in the 2,516 incidents were Type III, the highest level, which includes deadly force or any use of force that causes loss of consciousness or substantial bodily harm.

"These numbers suggest that the SPD is using significant and appropriate restraint in difficult situations, making decisions that preserve safety and reduce use of force," the Monitor's report to the court said.

The Monitor also noted that "to our knowledge, SPD is the only agency in the nation that is currently tracking this statistic [use of force in crisis intervention incidents] with any level of detail."

67. All data and quotations in this sidebar are from "Fifth Systemic Assessment: Crisis Intervention," Seattle Police Monitor. February 2016. <http://www.seattlemonitor.com/reports-resources/>

The Monitor's report also cited anecdotal reports, such as the following:

"Officers AA and BB were dispatched to the scene of an intoxicated individual in crisis, holding two large butcher knives in each hand. The officers withdrew from the entrance of the apartment, creating distance, and developed a rapport with the individual. The subject later complied with the officer's instructions and was taken into custody without further resistance."

High Levels of CIT Training Are Essential

The Monitor also credited the Seattle Police Department with "creat[ing] a full-fledged crisis intervention program that is successfully being woven into the SPD organization." Since 2014, all officers have received 8 hours of basic crisis intervention training, and as of December 31, 2015, 550 of the department's officers—40 percent of the entire force—have completed a 40-hour advanced crisis intervention training and 8 additional hours of advanced training.

As a result of this comprehensive training effort, officers with the highest level of training were able to respond to 71 percent of the 2,516 incidents studied—a statistic that understates the progress, the Monitor noted, because in some cases, incidents were determined to be critical incidents only *after* officers arrived, so the CIT officers had not been requested by dispatchers in those cases.

The Monitor concluded:

SPD has made great strides toward implementing a very successful CIT program.... It appears that reforms ... have had a significant impact on how the SPD engages with those in crisis. SPD officers and community members are increasingly giving the SPD positive marks for dealing with those in crisis and not escalating incidents into uses of force. ... The tremendous work of the Department in this area is to be commended.... [T]here has been a real, tangible, and objective change in the way Seattle police are interacting—compassionately and with an eye towards treatment—with those in crisis."

Seattle Chief of Police Kathleen O'Toole:

*Our Officers Use Crisis Intervention Skills
To Calm Down People in Mental Health Crisis*

Like most police agencies, the Seattle Police Department provides aid and service at a far greater frequency than engaging in enforcement. For instance, the SPD recognizes the need to harness community resources to address the complicated issue of behavioral crisis. The SPD partners officers with mental health professionals in the field and provides department-wide training on crisis intervention and tactical de-escalation.

Seattle police officers handled nearly 10,000 crisis interventions last year, and very few resulted in enforcement or use of force. Most were routed to community mental-health service providers, few subjects were arrested, none of the incidents required lethal force by police, and less than 2% of incidents involved de minimis or less-lethal force. The department has developed a streamlined referral system, allowing officers to easily divert those in crisis to important services provided by partner agencies.

I recall an incident just last month when police responded to a man with a knife at a laundromat. Officers recognized that the man was experiencing a mental health crisis, possibly exacerbated by the consumption of drugs. They talked to the man, calmed him down, and took him into custody, without jeopardizing their safety, his safety, or that of the public.

I'm proud the SPD has made great strides in this important area. We will continue to work with our community partners on innovative, multidisciplinary approaches to service the most vulnerable in our city.



Dash Cam Captures Seattle Officer Talking Calmly to Man with a Knife

Seattle Police have released a dash camera video of a May 2015 incident in which Officer Enoch Lee used crisis intervention strategies to prevent a potential suicide, while maintaining his own safety. Officer Lee found the man walking down the middle of a residential street in Seattle, holding a knife. Lee ordered the man to stop, but the man, who was emotionally distraught after an argument with his spouse, kept going. Relying on his crisis intervention and de-escalation training, Officer Lee convinced the man to drop the knife. Instead of being placed into custody, the man was taken to a hospital for a mental health evaluation.



While most of the encounter takes place out of the camera's view, Officer Lee can be heard on the audio saying, "I don't want to hurt you. I'm a negotiator. I'm trying to help you... That's why we're here. ...If you put the knife down and come over here and sit down, we can work something out. Could you please have a seat for me? ... You've been very respectful to me and I appreciate that, OK? I'll try to be respectful to you. I appreciate that you dropped the knife. That took a big man to do that, because I know you're upset."

The dash cam video is available online at <https://youtu.be/hxclYfbmaBQ>.

continued from page 57

TRAINING AND TACTICS

20 ***Tactical training and mental health training need to be interwoven to improve response to critical incidents.***

As noted above, strategies for dealing with people experiencing mental health crises should be woven into the tactical training that all officers receive, with a strong emphasis on communications, de-escalation techniques, maintaining cover and distance, and allowing for the time needed to resolve the incident safely for everyone. Officers who respond to scenes involving people experiencing mental health crises should be directed to call for assistance from specially trained officers and/or supervisors (e.g., CIT-trained) if possible. **Officers should be trained to work as a team, and not as individual actors, when responding to tense situations involving persons with mental illness.** Much like active-shooter situations, where working as a team is more effective than responding as individuals, mental health encounters are resolved more effectively when officers coordinate their communications, positioning, and tactics.

**National Alliance on Mental Illness
Program Manager Laura Usher:**

CIT Focuses on Communications, Not Tactics

Wexler: Laura, are CIT people trained in tactics?

Ms. Usher: There may be some misunderstanding about the verbal de-escalation skills taught in Crisis Intervention Team training. CIT teaches communications for officers who are interacting with people who are in mental health crisis, and those skills are transferable to all sorts of situations where people are escalated, where people are in distress.

CIT training doesn't focus on hands-on techniques, because officers already have thorough training in those options. However, the communications skills are taught through scenario-based role plays, so instructors have an opportunity to help officers integrate communication with their tactical skills. In fact, verbal de-escalation allows officers to bring many individuals into voluntary compliance without ever having to go hands-on.

In addition, a true CIT program empowers the appropriately-trained CIT specialist to be the leader on scene during a crisis, creating a clarity and order when multiple officers respond – all of which help maintain officer safety.

Wexler: As we read about these incidents that upset our communities, often it says that the involved officers were trained in CIT. And we ask, how can this be? The big insight from our last meeting was that there's a gap between CIT training and tactics. It's like you have two different philosophies coming to the scene.

And the reason we went to see the Emergency Service Unit in New York City is that they have it all—eight months of training, hostage negotiation, crisis intervention, communication, tactics for everything that could possibly happen. So what we are saying now about CIT is that it's necessary but not sufficient to deal with a lot of these situations. Communications are important, but so are tactics. You can't expect an officer to do just one part and not the other.

The other issue is that the NYPD's ESU can handle anything because it's a specialized unit, but we are talking about bringing this to patrol. One of our goals today is to figure out how do we get the principles of what ESU does and Police Scotland does to patrol? That's the challenge. How do we build teams to accomplish this?



TRAINING AND TACTICS

21 **Community-based outreach teams can be a valuable component to agencies' mental health response.**

Where resources exist, agencies should partner with their local mental health service community to assist with training, policy development, proactively working with people with mental illness, and responding to critical incidents. Mental health street outreach and crisis response teams can provide valuable support to the police response to these incidents and assist with de-escalation strategies directed at persons experiencing mental health crises.

Burlington, VT Police Chief Brandon del Pozo:

Outreach Teams Reduce the Burden on Patrol By Helping on Calls Involving Mental Illness

We have street outreach teams who work directly with our police officers. They have police radios; they are on our frequencies. So they hear the calls and they are authorized to respond in tandem with, or in advance of, uniformed officers.

So this way, there's two folks on the scene, the officer who can be there with force, if need be, and you also have these specially trained outreach personnel. They are civilians who know the people, especially those who generate repeated calls for service.

The job of the outreach personnel is to engage in dialogue, and sometimes they'll actually handle the calls before the officer even gets there, which is a real advantage. They'll get a call and say, "I know this guy; I know what he needs, and I can handle it." It's just really a very positive thing. There was a trust issue at first; sometimes officers don't want civilians with a police radio handling police calls for service. But once they realize this is great for de-escalation and excellent for relieving the radio run burden, they're all for it.



TRAINING AND TACTICS

22 Provide a prompt *supervisory response to critical incidents* to reduce the likelihood of unnecessary force.

Supervisors should immediately respond to any scene:

- Where a weapon (including firearm, edged weapon, rocks, or other improvised weapon) is reported,
- Where persons experiencing mental health crises are reported, or
- Where a dispatcher or other member of the department believes there is potential for significant use of force.

Some departments have trained their dispatchers to go on the radio and specifically ask the patrol supervisor if he or she is en route to specific high-risk calls, such as a person with mental illness threatening his family.

Once on the scene and if circumstances permit, supervisors should attempt to “huddle” with officers before responding to develop a plan of action that focuses on de-escalation where possible. In the case of persons with mental illness, supervisors who are not specially trained should consult and coordinate with officers on the scene who are specially trained.

San Diego Police Chief (Ret.) William Lansdowne:

*Getting a Sergeant to Critical Incidents Within 15 Minutes
Reduces the Chances That Deadly Force Will Be Used*

Here's the scenario that takes place on almost every single use of deadly force across the country. It takes about 15 minutes before the shots are fired. And the persons who are going to fire those shots are your patrol officers, not your specialized people, not your specially trained people.

It goes like this. The call comes in, and it takes about four minutes for the emergency operators to gather the information and put the call out on the radio. It takes about six or seven minutes in high-risk cases for the units to get on scene. The units on scene are usually going to be two patrol officers. By the time the shots are fired, it takes less than four minutes. So if you're going to come up with training and management and supervision strategies, then you've got to do those within that 15-minute time frame.

We need to start with the 9-1-1 operators, and the information they gather and the information they provide to the units responding to the call. And when I say units, I include the supervisors responding to the call. If you have a system set up within your organization that gets a supervisor to the scene early on, within the 15-minute window, your chance of having an officer-involved shooting—getting someone hurt, your officer or the person—is reduced by about 80% because they can manage the situation as a team.

The other thing we have learned is that as those officers get to the scene, if they're going to be successful in preventing an officer use of force, they've got to have not only the supervision but also options available to them, whether it's K9 units, less-lethal options like bean-bag guns, or a specialized unit that has a psychologist assigned to help manage the call. The goal should be to bring whatever resources are needed to slow the situation down and manage it. Supervisors are in the best position to make that happen.

**Baltimore Commissioner Kevin Davis:**

I Also Ask: "Which Supervisor Was on Scene?"

One of the first questions I ask is not only "Was there a supervisor on the scene?" but also, "Who was it?" Because the differences in the quality of supervisory response means so much. And I think it's very important to involve the sergeants and lieutenants in the scenario-based training on use of force.



TRAINING AND TACTICS

23

Training as teams can improve performance in the field.

Agencies should provide in-service training on critical decision-making, de-escalation, and use of force to teams of officers at the same time. When officers who work together on a daily basis train together, coordination and consistency in tactics increase, and the likelihood of undesirable outcomes during critical incidents decreases. Recognizing that this approach may increase costs and disrupt scheduling, agencies should consider alternative arrangements to traditional, day-long in-service training classes—for example, by bringing in a team of officers for a few hours of training several times a year. If training as teams is not feasible, agencies should at least ensure standardization in their policies and training so that all officers are receiving the same information.

Houston Executive Assistant Police Chief George Buenik:

*Just Like SWAT, Tactical, and Narcotics Officers,
Our Patrol Officers Should Train as Teams*

Everyone knows that SWAT trains as a team, and in Houston, each station has a Tactical Team that trains as a team, and our Narcotics Division obviously trains as a team. We're also looking at putting together teams of patrol officers—men and women who work the streets every day, who will be first responders to these situations with the people with knives.



TRAINING AND TACTICS

24

Scenario-based training should be prevalent, challenging, and realistic.

In both recruit and in-service programs, agencies should provide use-of-force training that utilizes realistic and challenging scenarios that officers are likely to encounter in the field. Scenarios should be based on real-life situations and utilize encounters that officers in the agency have recently faced. Scenarios should go beyond the traditional “shoot-don’t shoot” decision-making, and instead provide for a variety of possible outcomes, including some in which communication, de-escalation, and use of less-lethal options are most appropriate. Scenario-based training focused on decision-making should be integrated with officers’ regular requalification on their firearms and less-lethal equipment.

Dallas Deputy Police Chief Jeff Cotner:

*We Are Creating Less-Lethal Teams
Throughout Patrol To Handle These Situations*

We are looking to create less-lethal teams throughout the entire Patrol Division, 24/7/365. In a sense, they will be patrol “SWAT members” who are authorized to do less-lethal. We are developing a protocol right now in which we want to get the guns out of the hands of the patrol officers on scene, get the guns back in the holsters, and let these disciplined officers take over the problem. We’re in the process of procuring 40-mm launchers that will fire a sponge round at an individual; it’s a less-lethal option. We’re looking at buying over 100 of them.

Wexler: How is this going over with officers?

Chief Cotner: I think we all share this, that our training in the past has taught our officers to put the gun in their hand, versus looking to assess and see if there are other options.

We’ve begun to do this in our recertification training, which is 40 hours. We train on procedural justice, legitimacy, and we have a lot of what has been discussed here about emotional intelligence, de-escalation, CIT training, and then our reality-based training, and the last day we go to the pistol range. **But as Commissioner Ramsey suggested we should do, we’re not moving forward toward the targets, we’re going to be backing away from the targets. We’re trying to instill, at every appropriate opportunity, de-escalation, distance, and moving away from the target.**



Guiding Principles: Equipment

EQUIPMENT

25

Officers need *access to and training in less-lethal options.*

Patrol officers should be given access to, and regular training in, an appropriate range of less-lethal weapons and equipment to support their critical decision-making and de-escalation efforts. Personnel specially trained in mental health issues should be issued and trained in the full range of less-lethal options offered by the agency.

Miami Beach, FL Police Chief Daniel Oates:

A Police Shooting of a Bank Robber In My City Was Captured on Video

As a new chief, I've been dealing with one of these shootings.⁶⁸ It involved a career bank robber who had just spent 12 years in jail in Pennsylvania. He was returned to a halfway house in Miami, which is where his last bank robbery had been committed, and he was there only two days before he escaped and came to my town, where he tried unsuccessfully to rob a bank. Then he went into a barber shop, terrorized the people inside, fled into a back room, locked the door, grabbed a straight-edge razor, and came outside. There was 10 minutes of dialogue between him and the officers, that ends with him being shot.

I still have to render judgment, but a number of issues have come out of this incident that I can mention. I learned that most police agencies in South Florida do not have less-lethal long guns, which can be very effective in allowing officers to keep a distance from a person. We will be acquiring those weapons. I've also had a conversation with my K-9 folks—not that you would necessarily send a dog in on this person—but a dog can be a tremendous distraction.

I have some work to do to recover from this. We sent one of our people to the PERF meetings in Scotland. We're exploring and we're partnering with PERF on this.



EQUIPMENT

26 Agencies should consider new options for chemical spray.

Agencies should evaluate their current policies and practices on the use of chemical spray, and consider alternatives that address officers' concerns over cross-contamination and flammability. In the United Kingdom, some agencies are now using PAVA spray (pelargonic acid vanillylamide). Unlike traditional CS or OC sprays, PAVA has a concentrated stream that is more accurate, minimizes cross-contamination, and is not flammable (meaning it can be used in conjunction with an Electronic Control Weapon). While PAVA is not currently available in the United States, agencies should research and evaluate alternative products that provide some of the same features and benefits.

68. "Alleged bank robber shot and killed by Miami Beach police on Alton Road." Miami Herald, December 5, 2015. <http://www.miamiherald.com/news/local/community/miami-dade/miami-beach/article48175540.html>

Addressing Shortcomings with Chemical Sprays

PERF chiefs and others have noted that while most U.S. police officers carry chemical spray, they use that less-lethal option infrequently—certainly much less often than officers in other countries, such as the United Kingdom, which has had better experiences with sprays. Specifically, American officers have noted a number of issues with traditional OC and CS spray, including the following:

- Cross-contamination, especially of fellow officers on the scene
- Lack of accuracy, especially in windy or other challenging conditions
- Lack of range—the distance at which the spray is effective
- Flammability, precluding the use of spray in conjunction with Electronic Control Weapons.

Some manufacturers and suppliers of chemical sprays to U.S. police agencies are beginning to develop new products that address these concerns. In order to provide their officers with a wide range of effective, less-lethal options, agencies should research product options to identify the most effective chemical spray. The goal should be to provide and train officers with a less-lethal option that is effective and that the officers will feel confident in using.

EQUIPMENT

27

An ECW deployment that is not effective does not mean that officers should automatically move to their firearms.

Agencies should ensure that their policies, training, and procedures around the use of Electronic Control Weapons (ECWs) are consistent with the 53 guidelines released by PERF and the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS) in 2011.⁶⁹

Accounts of fatal police shootings often state that “the officer tried an ECW, it had no effect, and so the officer then used a firearm.” This is an inappropriate way to view force options. ECWs often do not work because the subject is wearing heavy clothing or for many other reasons. An ECW deployment that is not effective does not mean officers should automatically move to their firearms. Under the Critical Decision-Making Model, an ineffective ECW deployment should prompt officers to re-assess the situation and the current status of the threat, and to take appropriate, proportional actions. In some cases, that may mean tactically repositioning, getting together as a team, and assessing different options.

69. 2011 Electronic Control Weapon Guidelines. http://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf

EQUIPMENT

28

Personal protection shields enhance officer safety and may support de-escalation efforts during critical incidents, including situations involving persons with knives, baseball bats, or other improvised weapons that are not firearms.

Agencies should acquire personal protection shields for use by patrol officers and others in managing some critical incidents. Officers with access to personal protection shields should be adequately trained on how to use the shields both individually and as part of a team operation.



NYPD Deputy Inspector Matthew Galvin and NYPD Emergency Service Unit Lieutenant Sean Patterson demonstrate lightweight acrylic shields

Guiding Principles: Information Exchange

INFORMATION EXCHANGE

29

Well trained call-takers and dispatchers are essential to the police response to critical incidents.

A number of controversial uses of force by police have stemmed from failures of call-takers and dispatchers to obtain, or relay to responding officers, critically important information about the nature of the incident.

Agencies should ensure that call-takers and dispatchers receive thorough, hands-on training to support the police response to critical incidents that may involve the use of force. This training should include dealing with persons with mental illness (including communicating with family members and agency protocols), crisis communications, use-of-force policy, and de-escalation strategies. As part of their training, call-takers and dispatchers should take part in ride-alongs with patrol officers and specialized units, and they should actively participate in the agency's mental health training programs.

>> continued on page 71

Tamir Rice Case Illustrates Tragic Consequences Of Breakdown in Communications

On November 12, 2014, a caller to Cleveland's 9-1-1 center reported seeing a person outside Cudell Recreation Center pulling a pistol in and out of his pants and pointing it at people. The caller added that the weapon was "probably fake" and the person was "probably a juvenile." However, the call-taker failed to electronically relay those two pieces of information to the police dispatcher, who in turn advised the responding officers of the "man with a gun" report without the crucial qualifiers. Within seconds of arriving on the scene, Officer Timothy Loehmann shot and killed 12-year-old Tamir Rice, thinking he had a real gun. Instead, as the caller to 9-1-1 had suggested, Tamir was in possession of an airsoft pellet gun with its orange safety tip removed.

Thirteen months later, in announcing that Officer Loehmann and his training officer, Frank Garmback, would not be charged in connection with the Rice killing, Cuyahoga County Prosecutor Timothy McGinty said the police communications errors were "substantial, contributing factors" to the shooting. "Had the officers been aware of these qualifiers, the training officer who was driving might have approached the scene with less urgency," McGinty said. "Lives may not have been put at stake."⁷⁰

Denver Deputy Police Chief Matthew Murray:

*Call-Takers and Dispatchers Need CIT Training,
So Everyone Is Speaking the Same Language*

All of our call-takers especially, not just dispatchers, go through our 40-hour CIT training, and it's especially tailored to them. I think that's very beneficial because the call-takers and dispatchers are speaking the same language as the officers who have had CIT training.



70. "Errors by police radio worker 'significant' factor in fatal shooting of Tamir Rice, prosecutor says." Cleveland Plain Dealer, Dec. 28, 2015. http://www.cleveland.com/metro/index.ssf/2015/12/errors_by_police_radio_workers.html

The Importance of Supervisors and Emergency Dispatch Personnel

St. Paul, MN Police Chief Thomas Smith has been involved in PERF's work on use-of-force issues for some time. Here, he discusses what he views as two of the most important considerations in reducing situations where deadly force is used: supervisory response and information from emergency dispatch personnel.

By Thomas Smith, Chief of Police, St. Paul, MN

After attending the PERF meeting last May,⁷¹ I traveled back home to St. Paul and met with my staff on many of the topics regarding the use of force which were discussed. One of the biggest takeaways that we discussed upon my return, with all of my senior staff agreeing on this, was to begin immediately to focus on providing more training for our officers—on slowing things down, taking tactical cover, and understanding that “distance plus cover equals time and safety.” We formulated a training curriculum and trained our entire department on this.



When supervisors arrive promptly, officers' use of force plummets

Regarding Guiding Principle #22, on ensuring a prompt supervisory response to critical incidents, the most critical thing I learned at the conference was that the research demonstrates that when supervisors show up at a scene within 7-15 minutes of an incident, police officers' use of force plummets. Maybe that's because in departments like mine, where we have so many new young officers and supervisors, having that sergeant or even a senior officer at the scene early on makes a difference.

The bottom line is, we now have supervisors *required* to respond to crisis and mental health “suicide in process” types of calls. We had one the other day, and I was so impressed as I listened to the radio and heard the sergeant responding to the call with the officers. This, I truly believe, will make a difference for our department. I am also pleased with the training we give at roll calls on mental illness-related calls and the resources our officers have with local mental health professionals.

I have met with all of our supervisors during training to stress the importance of responding to these high-risk calls, because I saw that as a gap. We have supervisors getting caught up in their day-to-day activities, especially patrol bosses, but we need them out on the street when these calls come in. That means they have to listen to the radio. I know that sounds simple, but I will bet that the majority of departments—whether they are large, medium, or small departments—have supervisors who are busy with other details during their shifts, especially the day supervisors, and they're not listening to the radios as much as a midnight sergeant would. I think this is critical to our success.

Ensuring officers have information they need from dispatchers

In addition to getting supervisors on the scene, making sure the responding officers have the information they need from dispatchers is critically important. We've all seen deadly force encounters in situations where maybe we shouldn't have even been called, or the officers had a lack of information before they got there. So we are now working with our Ramsey County mental health professionals on this critical topic and also with our Ramsey County Emergency Dispatch Center which dispatches our officers. They have a response team that can respond to many of these calls without even an officer. If there's no harm to self and the person is not threatening to hurt some other family member, we probably wouldn't be called.

71. Re-Engineering Training on Police Use of Force, 2015. <http://www.policeforum.org/assets/reengineeringtraining1.pdf>

And where they are threatening harm, we now have a protocol in place for supervisors and a CIT (Crisis Intervention Team) officer to go with. And with our Communications Center, not only are they receiving training from mental health professionals, we're also providing CIT training for our dispatchers.

A 26-year veteran of the St. Paul Police Department, Thomas Smith was appointed as Chief of Police in 2010. He is a lifelong resident of St. Paul with strong beliefs in community policing principles and a history of working with the diverse communities of St. Paul. Chief Smith is a graduate of Metropolitan State University with a degree in Public Relations, and St. Thomas University with a master's degree in Education and Leadership. Chief Smith serves as a board member for the St. Paul Police Foundation. Chief Smith announced in November 2015 that he plans to retire in 2016 when a successor is selected.

continued from page 68

INFORMATION EXCHANGE

30 *Educate the families of persons with mental illness on communicating with call-takers.*

Agencies should work with their local mental health provider community and organizations such as the National Alliance on Mental Illness (NAMI) to create outreach and education programs for the families of persons with mental illness. Specifically, agencies should instruct family members on the types of information and details they should provide when calling 9-1-1 for an incident involving their loved ones. This type of outreach can minimize any stigma family members may feel and increase their confidence in the police response. It will also help ensure that call-takers, dispatchers, and responding officers have a more complete picture of any mental health issues associated with a call for service.

**National Alliance on Mental Illness
Program Manager Laura Usher:**

*The More that Everyone Gets Educated,
The More Safely These Situations Can Be Resolved*

When families are experiencing a mental health crisis, often times the last thing they want to do is call the police. They typically are terrified, and they're desperate. The individual is in crisis, and the family might be in crisis because they aren't able to deal with whatever behavior they're seeing with their loved one. So they call 9-1-1, but they might not say all the things that are going to be most helpful and most relevant for the dispatcher to pass along to the responding officer.

One of the things that some of our NAMI affiliate organizations do—and I would say NAMI Dallas in partnership with the Dallas Police Department is one of the best—is they'll have CIT officers meet with families and talk through crisis planning. Part of that is a 9-1-1 checklist. What do you say when you call 9-1-1? The description of the person, their illness, the medications they are on, do they have a weapon, what is their past history, what triggers them, what calms them down—all of this is really vital information that can help the officer deal with that crisis situation.



We Are Using the PERF 30 to Refine Our Policies and Training

Metropolitan Nashville Police Chief Steve Anderson examines how PERF's 30 Guiding Principles on police use of force fit with the policies, procedures, and training already in place at his department. His conclusion: Except for differences in language, the department was already following the spirit of the Guiding Principles. Chief Anderson explains why this approach is important to agency operations, officer safety, and community-police relationships in Nashville.

By Steve Anderson, Metropolitan Nashville Police Chief

Having attended the recent PERF Re-Engineering Use of Force conference and being briefed by our own Deputy Chief Brian Johnson after his participation in the PERF contingent traveling to Scotland for a firsthand view of their procedures, there were no surprises when the 30 Guiding Principles were published. When overlaid atop our own training, policies and procedures, except in nomenclature, our staff found few discernable differences. We started the process of putting a finer point on what we were doing, using the Principles as guidance. I suspect that in most agencies, at least in their written policies, the result would be the same.

Surprise, amusement, frustration and disappointment were among my reactions as various factions took exception, calling on law enforcement agencies to reject the Principles in that they exceed the “objectively reasonable” standard of *Graham v. Connor*. While I respect these organizations, and hold membership in both, it may be that a more thoughtful approach would bring us all closer together.

In rejecting the 30 Guiding Principles, *Graham v. Connor* is being described as forming a bright line of demarcation clearly defining lawful and unlawful uses of force. However, who among us knows



exactly where that line should be painted? *Graham* was published more than 25 years ago and, as in all Supreme Court opinions, is subject to broad interpretation by the courts of today. Reasonableness is always going to be in the eye of the beholder and will most certainly take into account the current political climate.

Even if we think we know where that bright line is, are we willing to send our officers up to that line, assuring them that all is well—just don't touch the line? We owe it to our officers to safeguard not only their physical safety, but also protect them from the mental and emotional anguish that will ensue in the aftermath of any significant use of force. The headlines, the internal investigations, and the inevitable civil rights lawsuit will impact their lives forever. A brief discussion with any officer who has had that cloud of interrogatories, depositions and pending court dates hanging over their head, seemingly forever, punctuated by the daily public scrutiny, will convince any law enforcement leader that uses of force that can safely be avoided should be avoided.

There also seems to be some angst concerning the Principles addressing proportionality and taking into account how the public will view the use of force. Certainly every law enforcement leader is now on notice as to how public opinion can affect the operation of, or even destroy, an agency. Hopefully, we have learned that from time to time we need to step out of the constant noise that surrounds us and listen to the collective heartbeat of the public. Every officer on the street must listen also. The instant communication and social media of today have virtually taken away any privacy individual officers may have enjoyed in times past. Today, it is not just the agency that is publicly vilified; individual officers are sought out and their lives invaded. What is reasonable under the law may not pass the reasonableness test of the public, and the public is quick to tell us.

We all have to come to some decision as to what policies, procedures, training, and practices will be embraced by our own departments. As decisions such as these are being made, it is sometimes helpful to imagine yourself sitting in the witness chair in federal court or behind a podium addressing public inquiry about use of force policies and practices. Would you be more comfortable quoting a policy that takes into account the 30 Guiding Principles, or attempting to explain the *Graham* test of objective reasonableness?

Finally, in the heart of the announcement seeking rejection of the 30 Guiding Principles, the following key statement is made: "Officers are not just taught how to shoot or how to restrain a violent suspect—they are trained to use their best judgement to resolve any given situation and to do so with the safety of the public, the officer, and the suspect as their foremost objectives." This appears to be somewhat of an acknowledgement that *Graham*, and the line it seeks to draw, should not be the controlling factor in resolving a situation. In fact, this statement is much more in line with the 30 Guiding Principles than with the hard and narrow focus that takes *Graham* to the limit.

I am reminded of the oft-repeated axiom originating from the title of a popular stage production created some 500 years ago. It all seems to be much ado about nothing. While all of the organizations of which I am a member may not appear to be on the same page, they are all in the same book, in the same chapter, closer to agreeing than is being acknowledged.

Chief Steve Anderson is a 41-year veteran of the Metropolitan Nashville Police Department (MNPD). He was appointed Chief of Police in 2010. Prior to that, he headed the Administrative Services Bureau, the Investigative Services Bureau, and, most recently, the Field Operations Bureau. Other career highlights include serving as the law instructor at the MNPD Training Academy and providing on-site legal advice to the SWAT Team and other department components during critical incidents and mass gatherings.

Chief Anderson holds a bachelor of science degree from Belmont University in Nashville and a doctor of jurisprudence degree from the Nashville School of Law. He is a member of the Nashville and Tennessee Bar Associations and is licensed to practice law in the local, state and federal courts. Prior to joining the Metropolitan Nashville Police Department, he served in the United States Air Force and was employed by the White County, Tennessee Sheriff's Office.

Police Agencies Are Adopting Elements of the “PERF 30” Guiding Principles

Some of the PERF 30 Guiding Principles have been implemented for years or even decades in police agencies across the United States. For example, Guiding Principle #8, calling for policies against shooting at moving vehicles, has been in effect in the New York City Police Department since 1972. More recently, a number of police agencies have adopted many other elements of the PERF 30. Following is a sampling of news stories over a recent 10-month period about these changes:

ArkansasOnline

Police shifting away from force, Little Rock data show

Arkansas Online, March 16, 2016

Little Rock police data show use-of-force incidents decreased a fourth straight year in 2015 as the department moved toward community-minded policies and training recommended by the federal government. Police Chief Kenton Buckner said the department has emphasized restraint and communication over physical force, in accordance with principles outlined by The President’s Task Force on 21st Century Policing. “We’re creating an environment and a culture that says we can be proactive, we can be assertive,” Buckner said. “But force is a last option if we’re put in a situation where we have an opportunity to de-escalate, to talk someone down or to use other methods to get them to comply with what we’re asking them to do.”

■ <http://www.arkansasonline.com/news/2016/mar/16/police-shifting-away-from-force-lr-data/?f=news-arkansas>



Lawmaker-approved plan to train Utah police on use-of-force

ABC News, March 15, 2016

A new program approved by Utah lawmakers creates a statewide center to train more police officers on how to defuse potentially deadly confrontations amid a national debate on police use of force. The training will include a 360-degree virtual-reality simulator to practice dealing with high-pressure situations and lessons from prosecutors who investigate officer-involved shootings.

■ <http://abcnews.go.com/Politics/wireStory/lawmaker-approved-plan-train-utah-police-force-37672955>



The Tamir Rice effect: Parma, Ohio police safely handle replica gun call in park

Cleveland.Com, Feb. 2016

Parma, OH police responded to a 9-1-1 call of two juveniles with guns at a park pavilion, in a situation

somewhat similar to the 2014 fatal shooting of 12-year-old Tamir Rice in Cleveland. The Parma incident ended differently, with officers taking the boys into custody without incident.

■ http://www.cleveland.com/metro/index.ssf/2016/02/the_tamir_rice_effect_parma_po.html#0



Words first: Massachusetts State Police recruits get training on calming tense situations

Telegram.com, February 23, 2016

When they graduate from the state police academy in April, 158 new Massachusetts troopers will be the first to have undergone a training program aimed at helping them defuse tense situations.

■ <http://www.telegram.com/article/20160222/NEWS/160229778>



San Francisco announces shift in police gun policy

SFGate, February 22, 2015

As San Francisco officials outlined a series of changes Monday designed to reduce police killings and rebuild community trust, they described a fundamental shift in tactics in which officers encountering knife-wielding suspects should focus on keeping their distance and de-escalating the situation. The package, announced by Police Chief Greg Suhr and Mayor Ed Lee at a City Hall news conference, includes more training and new weaponry as well as changes in philosophy.

■ <http://www.sfgate.com/bayarea/article/S-F-announces-shiftin-police-gun-policy-6847891.php>



Editorial: New use-of-force-policy a change in right direction

Albuquerque Journal, February 17, 2016

The Albuquerque Police Department is doing a much needed 180 in favor of de-escalation and minimum use of force as part of its efforts to comply with a court-ordered agreement with DOJ. New rules distributed in January call for officers to de-escalate situations by trying to

calm and give the suspect space instead of immediately turning to force. It says that except in active shooting situations, police should attempt to evaluate the suspect's mental health history, size and other factors, such as how many officers there are compared to suspects, when determining whether to use force. The new policy includes a statement that regardless of the legal standard for force, APD officers are expected to use the minimum amount needed to get the job done.

■ <http://www.abqjournal.com/725053/opinion/new-useofforcepolicy-a-change-in-right-direction.html>

The Salt Lake Tribune

Salt Lake City police chief shows City Council how he wants to de-escalate his way into fewer shooting deaths

The Salt Lake City Tribune, February 17, 2016

Communication and understanding a situation are key to de-escalation, [Salt Lake City Police Chief Mike Brown] said. That is why the department uses “scenario-based training.” Salt Lake City police soon will be using a new simulator that produces about 500 different scenarios. The council allocated funding for it last year. Slowing down potentially difficult encounters is important, Brown said. The chief added that if an officer has cover and can communicate, he can slow things down.

■ <http://www.sltrib.com/news/3545746-155/slc-police-chief-shows-city-council?fullpage=1>

The San Diego Union-Tribune

Teaching cops empathy to deter use of force

The San Diego Union-Tribune, February 12, 2016

A class being given to police officers in San Diego was lauded as an example of what departments need to do to better control the use of force. At the heart of the approach is emotional intelligence, basically, being self-aware and empathetic. The class, dubbed “Effective Interactions,” teaches new officers how to manage tense situations through communication.

■ <http://www.sandiegouniontribune.com/news/2016/feb/12/use-of-force-sdpc-training/>

NewsChannel 5 NETWORK

New style of police training aims to decrease violence in tense situations

News Channel 5, February 11, 2016

As officer-involved shootings have garnered scrutiny in the past few years, many police departments nationwide are re-thinking processes that have been in place for years. Many are paying close attention to the programs offered at the Washington State Criminal Justice Training Commission, and sending officers there to take a crash

course. During a mock scenario, police recruit Joel Garcia, trained in the “guardian” principle, approached a ‘suspect’ threatening suicide. Garcia reasoned with the man on an emotional level, by sharing a personal story about his cousin.

■ <http://www.newschannel5.com/news/national/new-style-of-police-training-aims-to-decrease-violence-in-tense-situations>

newstimes

Danbury, CT police officers train for crises

Newstimes, January 21, 2016

Just before midnight on July 5, a distraught Danbury man paced back and forth in his driveway, pointing a gun first at his head and then at police officers surrounding his home. He had told his mother earlier that he wanted the police to shoot him. An officer trained in crisis intervention was part of a team that talked to the 29-year-old for about an hour. The distressed man eventually put down the weapon, which turned out to be fake, and was arrested.

■ http://www.newstimes.com/news/article/Cops-and-crises-6762362.php?google_editors_picks=true

TUCSON NEWS NOW

Tucson Police Department Mental Health Team working to de-escalate dangerous situations

Tucson News Now, January 15, 2016

The Tucson Police Department's Mental Health Team is playing a large role in helping de-escalate dangerous situations involving mentally ill people. TPD officials said about a third of their calls involve someone who is mentally ill. “It’s low and slow. We’ll talk to the person as long as we need to. We try to ground them and orientate them,” Sgt. Jason Winsky said.

■ <http://www.tucsonnewsnow.com/story/30971466/tpd-mental-health-team-working-to-de-escalate-dangerous-situations>

WNYC

New York's Kindest

WNYC News, December 23, 2015

Citywide, the NYPD responds to so-called EDP [emotionally disturbed person] cases more than 300 times a day. They are both routine and unpredictable. In the worst cases, someone gets injured or dies. The training is meant to build empathy and compassion, and teach officers how to stay calm.

■ <http://www.wnyc.org/story/new-yorks-kindest/>



Camden Co. police train for dangerous encounters

ABC Action News, WPVI-TV, Philadelphia. December 18, 2015

Members of the Camden County Police Department are used to dealing with tense situations, and officers are now learning how to resolve encounters with suspects in a new way. The three-day training, which focuses on verbal de-escalation, self-defense and ethics, doesn't just stop after officers complete the course, but becomes part of everyday culture.

■ <http://6abc.com/1127128/>



Broadway & Mickel man with a knife incident

Camden County Police video. November 24, 2015

The Camden County, NJ Police Department has established an Ethical Protector culture wherein the sanctity of life is our highest priority. Once again, police officers put these principles into action. Responding officers were confronted and threatened by a man armed with a steak knife who had just threatened to kill a person. Officers safely de-escalated this situation. Everybody, including the armed and dangerous suspect, survived this potential deadly confrontation.

■ <https://www.youtube.com/watch?v=YtVUMT9P8iw>

The Boston Globe

Police restraint saves lives

Boston Globe, December 13, 2015

An ethos of de-escalation has been at the core of the Boston Police Department's training and tactics for the last five years. Complaints against officers for excessive force have dropped 62 percent during that period.

■ <http://www.bostonglobe.com/news/nation/2015/12/12/cullen/Fq3paOXrSqrYa1HD0k4VgK/story.html>

The Boston Globe

Man pointed knife at officers before capture, Boston police say

Boston Globe, December 8, 2015

Police were able to subdue a man with pepper spray at an East Boston apartment early Monday after he repeatedly menaced officers with a knife while demanding that officers shoot him, authorities said.

■ <https://www.bostonglobe.com/metro/2015/12/08/boston-police-capture-man-who-menaced-them-with-knife-and-demanded-that-police-shoot-him/dOdOYPtRH76bfNVdMVRaZM/story.html>



De-escalation of situations part of Worcester Police training as newer police tactics discussed nationwide

MassLive, November 27, 2015

As police officials from across the country examined police-involved shootings in the United States, they found training officers on de-escalation strategies and other tactics might help slow situations down. Many of these strategies, contained in a PERF report issued this year, have been implemented within the Worcester Police Department. "Are there situations where an officer can slow everything down?" said Deputy Chief Sean Fleming. "Instead of immediately arresting someone, can we look at slowing down the situation, calling for backup and talking to the person."

■ http://www.masslive.com/news/worcester/index.ssf/2015/11/de-escalation_of_situations_pa.html

The Dallas Morning News

Dallas police excessive-force complaints drop dramatically

The Dallas Morning News, November 17, 2015

Police Chief David Brown says a shift toward de-escalation is driving a sharp drop in excessive-force complaints against officers. Training instructors say they preach tactics that sometimes seem counter-intuitive to veteran officers: Slow down instead of rushing into a situation; don't approach a suspect immediately. Try to build a rapport; don't have multiple officers shout at once.

■ <http://www.dallasnews.com/news/crime/headlines/20151116-dallas-police-excessive-force-complaints-drop-dramatically.ece>

THE DENVER POST

Denver monitor praises policy for firing at cars, urges enforcement

The Denver Post, October 28, 2015

One key revision [to the Denver Police Department's policy] prohibits officers from shooting at a moving vehicle unless deadly force is being used against the officer. A moving vehicle alone is not considered a weapon.... The independent monitor's review looked at policies used by 43 agencies across the country and recommendations released by the Department of Justice. Of those departments, 47 percent included specific guidelines on officer decision-making during encounters with suspects in vehicles.

■ http://www.denverpost.com/news/ci_29032884/denver-monitor-praises-policy-firing-at-cars-urges

USA TODAY

In face of criticism, police officials preaching de-escalation tactics

USA Today, October 7, 2015

As readily as police departments once snapped up surplus military gear, which bolstered a combat-ready presence on the street, law enforcement agencies are now embracing a collective strategy of de-escalation.... The rush of new training is all geared to slow encounters between officers and the public they police, which in the past year has prompted spasms of civil unrest and contributed to an erosion of public trust in local law enforcement across the country.

■ <http://www.usatoday.com/story/news/nation/2015/10/07/police-encounters-violent-baltimore-ferguson/72636622/>

The New York Times

Bratton, Tracking Police Use of Force, Aims to Stay Step Ahead of Watchdogs

The New York Times, October 1, 2015

NYPD Commissioner William Bratton said that reconstructing the rules on use of force and promising a systematic review of each instance of officers' use of force will help restore trust in the police, particularly among minorities, who have historically borne the brunt of aggressive tactics. "It is a very, very significant change," Mr. Bratton said. "Where we are going is where American policing is going to be going, that's the reality."

■ http://www.nytimes.com/2015/10/02/nyregion/bratton-tracking-police-use-of-force-aims-to-stay-step-ahead-of-watchdogs.html?_r=0



Actors, mentally ill aid NYC police training meant to calm

Yahoo News, September 13, 2015

Earlier this summer the NYPD launched a four-day program that will be incorporated into standard training and issued a requirement that officers take annual refresher courses, officials said. The department already has a small, highly-trained unit of officers for mental health cases, but the training is meant to give more cops a better chance at deescalating crisis situations.

■ <http://news.yahoo.com/actors-mentally-ill-aid-nyc-police-training-meant-153830732.html>



Maryland police chief commends officers after takedown goes viral

WTOP, September 7, 2015

A Maryland police chief is praising his officers after their takedown of a man believed to be under the influence

of PCP was recorded and posted online. "I commend the officers for exercising extreme restraint," said David Morris, chief of the Riverdale Park Police Department.

■ <http://wtop.com/prince-georges-county/2015/09/md-police-chief-commends-officers-after-takedown-goes-viral/>

The Seattle Times

Report: Force rare as Seattle police deal with about 10,000 mentally ill people a year

The Seattle Times, September 6, 2015

Of 2,464 "crisis" reports between May 15 and Aug. 15, less than 2 percent resulted in any use of force by police, and none of the cases resulted in use of deadly force, according to Seattle police.

■ <http://www.seattletimes.com/seattle-news/crime/spd-report-minimal-force-used-in-contacts-with-mentally-ill/>

The Columbus Dispatch

Ohio's deadly force standard for police states 'life is of the highest value'

The Columbus Dispatch, August 29, 2015

Ohio's first statewide standard on police use of deadly force counsels officers to consider the high-stakes consequences of pulling the trigger. Stating "the preservation of human life is of the highest value in the state of Ohio," the standard says police officers must use deadly force only to protect themselves and others from serious injury or death. Most police agencies have standards that meet or exceed the state language, but the measure "will raise the bar" for some smaller agencies without deadly force policies, said Ohio Public Safety Director John Born.

■ <http://www.dispatch.com/content/stories/local/2015/08/28/police-advisory-panel.html>



Op-Ed by Las Vegas Sheriff Joseph Lombardo: Management of the use of force is a key concern for police

The Las Vegas Sun, August 9, 2015

We want officers to take control of chaotic events, to handle conflict and protect lives, but in the same breath, we want officers to look to de-escalate situations by making sound decisions and employing tactics that are not flawed. We know that not every potentially violent conflict can be de-escalated, but we also have an understanding that officers have the ability to steer a threatening encounter toward to a more peaceful resolution.

■ <http://lasvegassun.com/news/2015/aug/09/proper-management-use-force-key-concern-metro-poli/>



Daytona Beach, FL police chief works to reduce use of deadly force

WFTV9, August 6, 2015

Chief Mike Chitwood told Channel 9 on Thursday he's working to cut down on the number of times his officers have to resort to deadly force, and his officers are now receiving special training. "We don't want them to put themselves in a situation where they have to use deadly force," he said. "We're trying to preach to them to use time and distance to their advantage."

■ <http://www.wftv.com/news/local/daytona-beach-police-chief-works-reduce-use-deadly/32068152>



Eugene, OR Police Chief pursues policy changes for veterans in mental crises

KVAL-13, Eugene, OR, August 6, 2015

Chief Pete Kerns promised to examine department policies and procedures and to implement a program designed to try and prevent situations where officers use deadly force against veterans experiencing a mental health crisis. It's modeled after a program used in Boise, ID.

■ <http://kval.com/news/local/police-chief-pursues-policy-changes-for-veterans-in-mental-crisis>



Why shooting by Syracuse cops wouldn't be allowed in Cleveland

Syracuse.com, July 28, 2015

Cleveland promised the U.S. Department of Justice that police wouldn't shoot at moving vehicles if no other lethal danger existed. New Orleans made a similar promise.

■ http://www.syracuse.com/crime/index.ssf/2015/07/why_syracuse.html



LAPD Focuses on Use of Force in New Training Series

KNBC, Los Angeles, July 13, 2015

Officers from LAPD's Topanga Division were among the first of the city's estimated 10,000 officers who will be required to participate in the 5-hour course for what the department calls "Preservation of Life Training" within the next 30 days.

■ <http://www.nbcalosangeles.com/news/local/LAPD-Focuses-on-Use-of-Force-in-New-Training-Series-314801891.html>



New style of policing works to defuse mental health crises

The Buffalo News, June 7, 2015

For the last few years in Erie County, NY, only Cheektowaga fully embraced the Crisis Intervention Team—or CIT—model. But other departments took notice, and now Orchard Park, Evans, the Town of Tonawanda, the City of Tonawanda and the University at Buffalo Police have teams.

■ <http://www.buffalonews.com/city-region/new-style-of-policing-works-to-defuse-mental-health-crisis-20150607>



Kansas City Police Take New Approach Toward Suspects

KCUR, May 22, 2015

The Kansas City Police Department has quietly changed its training for responding to volatile situations, arming officers with something other than a gun: distance, discretion and diplomacy.

■ <http://kcur.org/post/kansas-city-police-take-new-approach-toward-suspects#stream/0>



Demilitarizing the cops: States retool police training

The Denver Post, May 22, 2015

Washington State's academy has boosted the training hours devoted to handling people with drug or mental problems, and Blue Courage principles have been incorporated into firearms and defensive tactics classes. Recruits can fail a training exercise if they use force when it may have been avoidable.

■ http://www.denverpost.com/ci_28169469/demilitarizing-cops-states-retool-police-training



Op-Ed by Police Chief Chris Magnus: Richmond, CA police get extensive training in appropriate use of force

Contra Costa Times, May 16, 2015

The Richmond Police Department trains its officers to appropriately assess risk, develop crisis resolution strategies reflecting best practices, and demonstrate flexibility responding to critical incidents (including the ability to tactically reposition or "throttle back" certain actions to avoid encounters such as "suicide by cop").

■ http://www.contracostatimes.com/opinion/ci_28119426/guest-commentary-richmond-police-get-extensive-training-appropriate

PERF's Critical Decision-Making Model

FOR DECADES, SPECIALIZED POLICE TACTICAL UNITS SUCH AS SWAT have employed critical thinking and decision-making processes to guide their unique, often dangerous work. Prior to taking action, these teams typically take the time to collect and analyze information, assess risks and threats, consider contingencies, and then act and review. Most experienced SWAT members would consider it reckless to approach an assignment without first taking these steps.

As PERF explored training and tactics on use of force, one question kept coming up: If this type of critical thinking process works for specialized tactical units, why can't it be used by patrol officers as well? If patrol officers had a structured, easy-to-use decision-making process to follow, and could combine that with tactical concepts such as distance, cover, and time, they could more effectively and safely resolve many types of critical incidents.

Other Decision-Making Models

For several years, police personnel in England, Scotland, Northern Ireland, and Wales have utilized the National Decision Model (NDM), a five-stage process that revolves around the police code of ethics. In the UK, police officers use the NDM when responding to unplanned incidents and also when planning operations that are known ahead of time, such as the handling of a major sporting event. The National Decision Model is employed by individual officers and teams, and it applies to both operational and non-operational situations. In fact, some of the early applications of the NDM were in support of police budgeting and administrative decisions.

During the PERF-led field visit to Scotland in November 2015, officials from 23 U.S. police agencies learned more about the NDM and observed training scenarios in which the NDM was used. Overall, the U.S. delegation was impressed with the NDM's depth and simplicity. To members of Police Scotland, the NDM has become second-nature. From recruits up to the Chief Constable, personnel understand the model and can readily explain its purpose and implementation in clear and straightforward terms. And police officers in

the UK use the NDM in hundreds of incidents every day—both serious and minor—to *support sound and accountable decision making*.

PERF researchers also examined other decision-making models. One of them is the OODA Loop (Observe, Orient, Decide, Act), which was developed in the 1950s by a U.S. Air Force Colonel named John Boyd. Like the NDM and other models, it is a recurring cycle that users work through as new information is observed and circumstances change. Although it was initially applied to decision-making in military combat operations, the OODA Loop over the years has been used in business, legal, and other professions. Some police agencies have applied the OODA Loop as well.

Why Adopt the Critical Decision-Making Model?

PERF's 30 Guiding Principles recommend that police agencies adopt a decision-making framework for use during critical incidents and other tactical situations, and then train officers in how to use that framework. This section of the report presents the Critical Decision-Making Model (CDM) as a preferred framework that agencies can adopt.

The CDM is based largely on the UK's National Decision Model and concepts from other models. Like the NDM, the CDM is a logical, straightforward, and ethically based thought process that is intended to help U.S. police officers manage a range of incidents effectively and safely. And while the CDM can be employed in a wide range of events, PERF believes it will be especially valuable in helping officers manage those critical incidents we are trying to impact the most—i.e., situations involving subjects who either are unarmed or have an edged weapon, rock, or similar weapon, as well as incidents involving persons who are experiencing a mental health crisis or who are behaving erratically because of a developmental disability, a mental condition such as autism, substance abuse, or other conditions.

Elements of the CDM

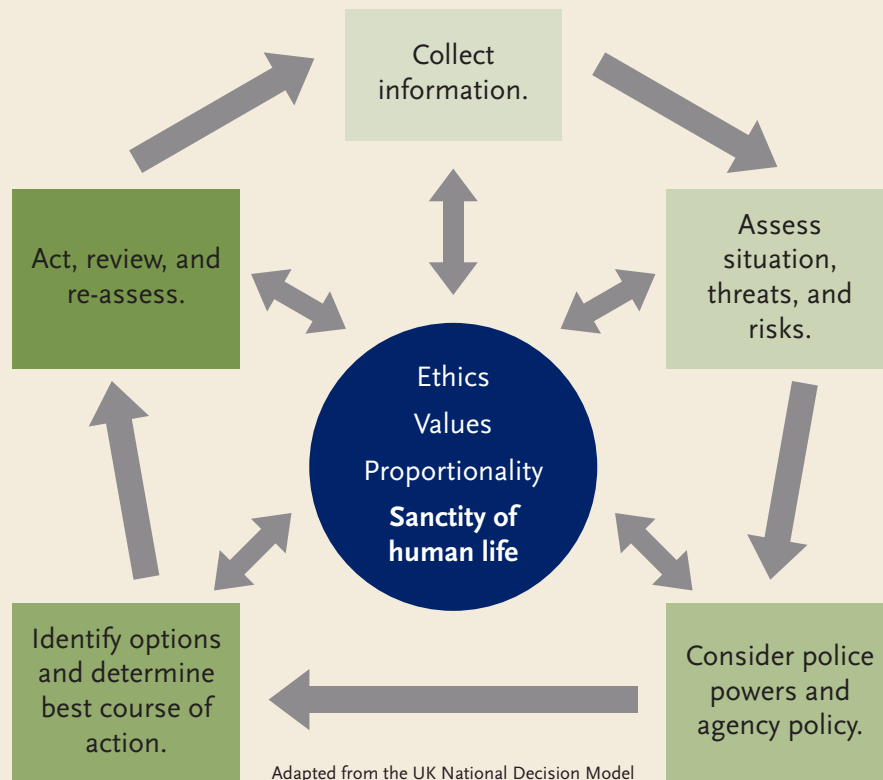
The Critical Decision-Making Model is a five-step critical thinking process. All five steps are built around the core values of the department and the policing profession.

CDM Core

At the center of the CDM is an ethical core that provides grounding and guidance for the entire process. The four elements of the CDM core are:

- Police ethics
- Agency values
- Concept of proportionality (Guiding Principle #3)
- Sanctity of all human life (Guiding Principle #1).

Critical Decision-Making Model



Every step of the process is connected to this core, and the core informs and guides officers throughout the five steps. Everything an officer does within the CDM must support the ideals in the center, and no action can go against those standards.

Step 1 Collect Information

The logical first step in the process is for officers to gather information and intelligence, a process that begins as officers are heading toward the incident. During this step, officers ask themselves and others, including Dispatch personnel, a series of key questions.

It is important to remember that while the collection of information represents the beginning of the process, it is not a one-time activity in the CDM. Information gathering is ongoing, and new information is collected continuously to help inform the other steps in the process.

Officers should ask themselves ...

- What do I know so far about this incident?
- What else do I need to know?
- What do my training and experience tell me about this type of incident?

Officers should query others (dispatchers, fellow officers, supervisors, computer networks) ...

- What more can you tell me about *this incident*? For example:
 - Circumstances that prompted the call
 - Individuals on the scene, the physical environment
 - Presence of weapons
 - Presence of bystanders, including children
 - Mental health/substance abuse issues
- What more can you tell me about *previous incidents* involving this location or the person or persons who are involved?

Step 2

Assess Situation, Threat and Risks

This step typically begins as officers are responding to the incident and are evaluating what they are being told by dispatchers or others. That is the time when officers begin considering “what if?” scenarios in their minds. The assessment step shifts into high gear as officers arrive on scene and can visually begin to gauge threats and risks. During this step:

Officers should ask themselves ...

- Do I need to take immediate action?
- What is the threat/risk, if any?
- What more information do I need?
- What could go wrong, and how serious would the harm be?
- Am I trained and equipped to handle this situation by myself?
- Does this situation require a supervisory response to provide additional planning and coordination?
- Do I need additional police resources (e.g., other less-lethal weaponry, specialized equipment, other units, officers specially trained in mental health issues)?
- Is this a situation for the police to handle alone, or should other agencies/resources be involved?

Officers should also request that others ...

- Provide additional information, as needed.
- Respond to the scene, as needed.
- Provide the additional equipment or resources needed.

The first question in this step is noteworthy: “Do I need to take immediate action?” The CDM does not prevent or restrict officers from taking immediate action if that is what the circumstances dictate. In these

>> continued on page 84

How Nassau County PD Is Using The Critical Decision-Making Model

By Inspector Ronald Walsh

All police officers think and react based on their training and experience. However, very few police academies train officers to “think” as a specific learning objective. Through the leadership of Commissioner Thomas Krumpster, that is exactly what the Nassau County Police Department (NCPD) has started doing.

The NCPD Police Academy has implemented a customized version of the Critical Decision-Making Model as part of our commitment to continual improvement. Our model is designed as a wheel. In the center are our department’s mission, vision, values and ethics—the foundational principles that all decisions are based on, especially those concerning the use of force. On the perimeter are the five categories or steps that each officer works through when making a decision.

We still teach a comprehensive curriculum in law and U.S. Supreme Court and other critical court decisions. But we have added the Decision Making Model as a way to systematize the pragmatic approach we already take to our training. The model is a framework for making decisions and for assessing and judging those decisions. Did an officer make the right choice, and could or should improvements be made?

While still new, the model is already proving beneficial. Recruits are displaying a better understanding of their training and are able to more fully articulate their thoughts and actions. They can identify where they need additional support, since they can now quickly determine on which step they “get stuck” on the wheel. One recruit, during role play, recently stated:

“I knew where I was stuck on the model, but I resisted changing my approach. I realized I should have moved on and de-escalated by letting my partner step in when what I was doing was just not working!”

Initially some officers and trainers were concerned that the model may “slow down the decision making process” and cause officers to think too much before acting, taking up valuable time in critical situations. In my mind, the best analogy to explain how the Model works is to compare its use to driving a car. The first time drivers get behind the wheel, they have absolutely no idea how to drive. They press too hard on the gas pedal, break unevenly, and the like. It takes time to get to the point where driving is automatic.

Now, try to remember your drive to work this morning. I bet you have no conscious memory of pulling from the curb or pressing the brake pedal to stop. And if you were having a conversation or listening to the radio, you probably made it to work having no idea, at least consciously, how you got there!



The difference between these two processes is simple. When you first learn to drive a car, everything requires a conscious effort, purposeful thinking, and energy. Now, when you drive a car, over 90 percent of the process has been taken over by your subconscious brain—it's automatic. Conscious thought takes energy and time; subconscious thinking is very quick. Your brain is constantly looking to automate as much as possible. Your brain remembers each experience, and if it's repeated often, your brain will begin to automate and move the task and its response to the subconscious.

By training officers to use the Decision Making Model, processes will become subconscious to the point that officers are able to gather intel, assess a threat, recognize policy and legal considerations, choose among a plethora of responses, and adjust their actions in the blink of an eye. Learning how to systematically think and then recall what actions we took and why, gives us the opportunity to improve our responses and to make better decisions.

A 24-year veteran of the Nassau County, NY Police Department, Ronald Walsh is the commanding officer of the Nassau County Police Academy.

continued from page 82

situations, officers would “spin” through the rest of the model in a matter of seconds, determine the best course of action, and then act immediately.

For example, in active shooter situations, many American police agencies have policies directing the first officers at the scene to respond as quickly as possible to stop the threat. Some departments have policies that allow a single officer to move to stop the threat without waiting for any additional officers to arrive. Other departments have policies requiring officers to wait until a minimum number of officers can form a “contact team” to stop the shooter. Other agencies call for the creation of a contact team, often made up of four officers, but also specify that fewer officers may respond immediately if it is apparent that a full contact team cannot be assembled quickly.⁷² These are the types of factors that officers would quickly consider under the CDM in responding to this type of emergency.

However, if the answer to this question is, “No, I do not need to take immediate action,” then officers can go through the CDM at a more deliberate pace. The CDM can be “spun” as quickly or as deliberately as circumstance dictate, and officers can always take immediate action if that is appropriate.

Step 3 Consider Police Powers and Agency Policy

This step represents an important self-check of officers’ authority to take action. In addition to considering their legal authority to act, officers must think about what their agencies’ policies say about the situation.

For example, a police agency’s policy may place restrictions, beyond what is allowed by law, on shooting at vehicles, engaging in vehicle or foot pursuits,

72. See *The Police Response to Active Shooter Incidents*. Police Executive Research Forum, 2014. Pages 8–15. http://www.policeforum.org/assets/docs/Critical_Issues_Series/the%20police%20response%20to%20active%20shooter%20incidents%202014.pdf

or using less-lethal options in certain situations. These internal policies must be considered at this stage, before specific options are identified and actions taken. During this step:

Officers should ask themselves ...

- What legal powers do I have to take action?
- What agency policies control my response?
- Are there other issues I should think about? (e.g., jurisdictional or mutual aid considerations—Am I authorized to take action *here*?)

Step 4

**Identify Options and
Determine the Best Course of Action**

Using the information and assessment from earlier steps, officers now begin to narrow their options and determine the best course of action. Again, part of this step is to determine if the officers have enough information and resources, and a compelling interest, to act right away. Or should they hold off, possibly to get even more information and resources? During this step:

Officers should ask themselves ...

- What am I trying to achieve?
- What options are open to me?
- What contingencies must I consider if I choose a particular option?
- How might the subject respond if I choose a particular option?
- Is there a compelling reason to act now, or can I wait?
- Do I have the information and resources I need to act now?

Then, officers should select the best course of action, keeping in mind ...

- The greatest likelihood of success and the least potential for harm.
- How proportional the response will be, given the risk/threats posed by the subject and the totality of the circumstances.
- The safety of the public, officer safety, and the sanctity of all life.

Step 5

Act, Review and Reassess

In this step, officers execute the plan, evaluate the impact, and determine what more, if anything, they need to do.

Officers should execute the plan, then ask themselves ...

- Did I achieve the desired outcome?
- Is there anything more I need to consider?
- What lessons did I learn?

If the incident is not resolved, then officers should begin the Critical Decision-Making Model again, starting with the collection of additional information and intelligence.

Benefits of the Critical Decision-Making Model

The thought processes embedded in the CDM are not very different from what many police officers already do on a daily basis. The CDM is certainly in line with how specialized tactical units are trained to approach their assignments. And it likely reflects the activities of many patrol officers, whether consciously or by instinct, when responding to calls for service or engaging in proactive policing.

What is new and different about the CDM is that it offers a *structure* for working through a series of steps that officers may already be following and questions they are probably asking already. This structure helps to ensure that each critical step is followed and that all key questions are asked along the way.

The Palm Beach County, FL Sheriff's Office has implemented a concept called the "Tactical Pause," which incorporates some of the elements of the CDM, such as slowing down the police response in certain types of incidents and taking time to carefully evaluate possible actions (see page 55).

Useful in Everyday Situations and Complex, High-Risk Incidents

By practicing the CDM in everyday situations, officers become more fluent in asking questions and formulating effective plans for their responses to a variety of situations. These skills are critically important when the officers are called on to respond to especially difficult, complex, or high-risk incidents. Officers who have used decision models speak of developing "muscle memory" in making critical decisions through everyday practice.

The CDM provides operational support for many of the key concepts articulated in PERF's 30 Guiding Principles—for example, using distance and cover to create time, applying de-escalation strategies, considering the proportionality of police actions, and handling individuals experiencing mental health crises. The CDM will help police officers put these concepts into action by providing them with a logical thought process for managing challenging situations.

The CDM offers an alternative to officers who in the past have been trained to immediately "move in and take control," even when those responses are not appropriate or safe given the circumstances.

A Framework for Explaining Actions After the Fact

In addition, the CDM gives officers a framework for *explaining* the thought process behind their actions *after the fact*, such as when they testify in court or provide statements to investigators. The experience in the UK has demonstrated that the NDM can be quite valuable in helping officers describe and

explain their actions, which lends credibility to their testimony. Officials report that officers routinely use the NDM as the outline for articulating their actions and decisions (“I first collected information by asking the following questions. Then I assessed the threat and risk by asking these questions....”).

The CDM should have similar benefits in the United States by providing officers with a detailed and logical mechanism for explaining their actions and decisions beyond the boilerplate language that is often found in police reports today.

For the CDM to be effective and beneficial, agencies must commit to thoroughly training their personnel on it. Scenario-based exercises should be coupled with the CDM. Officers who complete a particular scenario should then be asked to explain their actions in the context of the five-step CDM process.

Lessons Learned From Police Scotland

PERF HAS ENJOYED A STRONG RELATIONSHIP WITH POLICE OFFICIALS in the United Kingdom for many years. PERF has led delegations to a number of UK police agencies, and the leaders of those agencies have come to the United States to participate in PERF conferences. These exchanges have promoted the sharing of ideas and best practices among police agencies in our respective countries.

In recent years, PERF has developed a particularly close bond with Police Scotland. Police Scotland is a unique agency. It was established in April 2013 by consolidating eight regional police forces and some specialized services into a single national police agency. Sir Stephen House, former Chief Constable of the Strathclyde Police, became the first Chief Constable of Police Scotland, a position he held for more than three years. The formation of Police Scotland provided an opportunity for other police executives to witness a police force being built from the ground up, including the implications for organization and administration, policy, training, and operations.

In 2014, as PERF began focusing on police use-of-force issues in the United States, Police Scotland provided an important international perspective. That year, members of the PERF Board of Directors and PERF Executive Director Chuck Wexler visited Scotland as part of an executive development program to strengthen the leadership qualities of senior government officials.

“How do you deal with people with knives when you don’t have a gun?”

During that visit, the PERF delegation had the opportunity to attend the Oath of Office ceremony for new members of Police Scotland. After the ceremony, as Wexler was talking with the new constables and their trainers, he noticed that none of the officers was carrying a firearm. In fact, only about 2 percent of the approximately 17,200 members of Police Scotland carry firearms, and those officers are part of specially designated units that respond only to the most critical incidents with the most significant threats.

Knowing that Scotland does not have a gun violence problem like the

Police Scotland Assistant Chief Constable Bernard Higgins:

*Tactical Relocation Is Not Walking Away;
It's Creating a Safe Zone*

When we talk about tactical relocation, that's not walking away. That's creating a "safe zone" for us to deal with something.

So the notion that we wouldn't deal with someone with a knife because we have unarmed officers is not the case. We use good decision-making skills, communications, creating a safe zone. And depending on the situation, the behavioral indicators the person is displaying will dictate what the officer does next. Specialist officers may come in later.

But for the general patrol officers, there is an absolute expectation that they will be able to make that assessment and deal with that threat of a knife.



About Police Scotland

Police Scotland was formally established in April 2013 through the consolidation of eight regional police agencies and some specialized services. As the country's national police force, Police Scotland has approximately 17,200 sworn officers serving a population of just under 5.5 million people spanning approximately 30,200 square miles. Police Scotland is the second largest force in the United Kingdom after the Metropolitan Police Service of London. The agency responds to approximately 4.2 million emergency and non-emergency calls for service each year. The agency's annual operating budget is approximately 1.1 billion English pounds (about \$1.6 billion).

Police Scotland is led by a Chief Constable who is supported by a command team of Deputy Chief Constables, Assistant Chief Constables, and Directors, who manage the agency's sworn police officers, as well as 5,600 police staff (civilian employees), and close to 1,000 special constables (part-time volunteers). Sir Stephen House, formerly Chief Constable of the Strathclyde Police (one of the legacy agencies that was consolidated into Police Scotland), was sworn in as the first Chief Constable of Police Scotland in October 2012. He oversaw the original consolidation, and served as Chief Constable for more than three years. In January 2016, Phil Gormley, a 30-year veteran of policing in the UK, became the second Chief Constable of Police Scotland.

Although a national police force, Police Scotland is organized around and committed to the principles of community-based policing. There are 14 local policing divisions, each led by a Local Police Commander who is responsible for ensuring that policing meets the needs of the public in that particular geographic area. Each local division includes response officers, community officers, crime investigators, and road policing, among other functions. Supporting these local policing divisions are a number of national specialized divisions, including major and organized crime, counter-terrorism, intelligence, and air, marine, and mounted support.

Police Scotland prides itself on being a values-driven organization. Its purpose is to "improve the safety and well-being of people, places and communities in Scotland." The agency's focus is expressed in the simple statement, "Keeping people safe." Its core values are integrity, fairness, respect, and human rights. Police Scotland leaders emphasize that the organization's values are communicated and reinforced from the time individuals pick up an application until the day they leave the force. Members need to exude the personality traits and values of the organization from the very beginning, and Police Scotland invests time and effort in recruiting people who have those traits and reflect the values.

United States does, but that knives are prevalent in urban areas such as Glasgow and Edinburgh, Wexler asked one of the young constables, “How do you deal with people with knives when you don’t have a gun?” The officer replied that he was trained to use the tools that all constables are provided with: communications skills, tactical defense skills, a baton, chemical spray, and handcuffs. In addition, Wexler learned that police in Scotland and throughout the United Kingdom are trained in a National Decision Model that helps officers assess risks and threats, and manage a wide range of incidents—including edged weapon incidents—in a structured and safe manner.

As PERF began to research in depth the police response to persons who are unarmed or who are armed with a weapon other than a firearm, the examination included a closer look at the training, tactics, and equipment that members of Police Scotland use in these same types of situations. This section of the report describes that process in detail.

Police Scotland at PERF’s Re-Engineering Meeting

On May 7, 2015, PERF convened a meeting in Washington, D.C., of approximately 300 police chiefs and other law enforcement executives, federal government officials, academic experts, and others to share their views on new approaches to police use-of-force training. Because police in the UK have achieved great success in reducing the use of deadly force, especially in situations involving persons with mental illness wielding a knife or other non-firearm weapon, PERF invited two UK police officials—Chief Inspector Robert Pell of the Greater Manchester Police and Assistant Chief Constable Bernard Higgins of Police Scotland—to participate in the conference.

Both officials described the training, tactics, and less-lethal equipment that members of their agencies use when handling critical incidents that involve combative individuals armed with knives, baseball bats, or other non-firearm weapons. As in Police Scotland, only about 3 percent of officers in the Greater Manchester Police have firearms, and about 6 percent have Electronic Control Weapons. Chief Inspector Pell and Assistant Chief Constable Higgins also described the National Decision Model and how their officers use the model every day in a wide range of incidents to assess threats and risks, consider options, and develop action plans.

To the surprise of some of their U.S. counterparts, both men made it clear that in their agencies, general patrol officers—typically equipped only with a baton, chemical spray, and handcuffs—would be expected to deal with the threat of a knife-wielding subject, primarily through de-escalation and tactical approaches, and without calling in specially trained Public Order officers or Firearms officers unless the threat escalated.

While many of the officials who participated in PERF’s Re-Engineering Training conference expressed interest in how police in the UK handle edged weapon incidents, some were skeptical about how the UK experience might apply to police in the United States. They said that because police in England and Scotland do not face the same threat of offenders with firearms that U.S. police officers do, what American police could learn from the UK would be limited.

UK officials acknowledged that they do not face the same threats from

Sir Stephen House, Former Chief Constable, Police Scotland:

*We Rarely Have Police Shootings in Scotland,
But We Have Many Encounters with Persons with Knives*

On March 12, 2016, Police Scotland officers shot and injured a man who had barricaded himself in a building and fired a crossbow at officers. According to the BBC, “It was thought to be the first time officers have used their guns in a real-life situation since the formation of Police Scotland on 1st April 2013.”⁷³

Before Police Scotland was formed through the merger of eight regional police forces, Scottish police agencies reportedly had two officer-involved shootings over the course of the prior decade.

Sir Stephen House, who served as Chief Constable of Police Scotland until December 2015, addressed a group of American police officials convened by PERF in Washington, D.C. on January 12, 2016:

The first thing I think about when I speak to a group is, “What’s the audience thinking?” And I guess what you may be thinking is, “Why are these Scottish guys here? Scotland is very different from the United States.” And that is of course correct. Scotland is a small country, the population is only five and a half million. And Scotland does not have the gun culture that is found in the United States. So this might make you say, “Well, it’s interesting to listen to these guys, but they have nothing to tell us.” With respect to everybody here in the room, we disagree with that.

Upfront, we are not talking about “cop with gun and suspect with gun.” That is not an area that we are very familiar with, because of our lack of gun culture. We are here to talk about subjects who may have knives or other weapons, but not firearms.

You’ve all seen the video clips of these incidents. These are one-on-one situations. You have a person who is emotionally or mentally disturbed or alcohol or drug-impaired, who has an edged weapon. **What’s the difference between that man in Denver or Washington, D.C. and that person on the streets of Glasgow, the streets of Edinburgh, the streets of London? We are talking about primarily unarmed cops in the UK, and they’re dealing with the same situations that you do on a one-on-one basis. And where we come from, often the outcome is very different.**

At the start of a shift, our officers will get the same messages yours do, which is that it’s important that we all go home at the end of the shift. But perhaps the difference is that it’s not just a legal issue for us. We have to answer a lot of questions: Was the use of force proportionate? Was it necessary? Can I account for it? And most importantly, was my use of force in that incident ethical? This is ingrained in our training.

Sir Stephen House’s policing career in the United Kingdom spans 35 years. He started in the Sussex Police in 1981. For the next 17 years, he served in uniform operational posts in that force and also on transfer in Northamptonshire Police and West Yorkshire Police. In 1998, he joined Staffordshire Police as an Assistant Chief Constable, where he oversaw territorial policing and later, crime and operations. In 2001, he joined the Metropolitan Police Service of London as a Deputy Assistant Commissioner. Four years later, he was promoted to Assistant Commissioner in charge of central operations and then specialist crime. In 2007, he took up post as Chief Constable of the Strathclyde Police. Five year later, in October 2012, he was appointed the first Chief Constable of Police Scotland, overseeing the creation, administration, and operations of the UK’s second largest police force. He held that position until December 2015.

Sir Stephen was educated at Aberdeen University. In 2005, he was awarded the Queen’s Police Medal, and in June 2013, he was knighted in the Queen’s Birthday Honours in recognition for his services to law and order.



73. “Police shooting of man to be investigated by the PIRC.” BBC News, March 13, 2016.
<http://www.bbc.com/news/uk-scotland-glasgow-west-35797281>

criminals with firearms as do officers in the United States. But they also pointed out that a person with a knife in Glasgow or Manchester is just as dangerous as a person with a knife in an American city.

In fact, Glasgow for years was known as the “knife capital of Europe” and had one of the highest murder rates, with most of those crimes committed with edged weapons. Significantly, the murder rate in Glasgow has been reduced by more than 50 percent over the past decade, thanks to innovative enforcement and prevention programs,⁷⁴ but the “knife culture” remains strong there and in other parts of Scotland.

U.S. Police Officials Observe Training in Police Scotland

In November 2015, PERF organized a field visit to Scotland for American police executives representing 23 local and federal law enforcement agencies. This four-day program at Police Scotland’s College at Tulliallan Castle provided U.S. officials with demonstrations of the specific training and tactics that Police Scotland uses for a range of critical incidents, with a special focus on offenders with edged weapons, baseball bats, and similar threats.

The U.S. delegation had the opportunity to interact with members at all ranks of Police Scotland and the College—from Chief Constable Stephen House and some of his top executives, to College managers, instructors, and



Agencies That Were Part of U.S. Delegation to Police Scotland

- Anne Arundel County, MD Police Department
- Baltimore Police Department
- Baltimore County, MD Police Department
- Boston Police Department
- Brookline, MA Police Department
- U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Chicago Police Department
- Daytona Beach, FL Police Department
- Denver Police Department
- Fairfax County, VA Police Department
- Federal Law Enforcement Training Centers
- Houston Police Department
- Los Angeles Police Department
- Miami Beach, FL Police Department
- Metropolitan Nashville Police Department
- Metropolitan Police Department of Washington, DC
- Montgomery County, MD Police Department
- New York City Police Department
- Phoenix Police Department
- Prince George’s County, MD Police Department
- Prince William County, VA Police Department
- Richmond, CA Police Department
- United States Border Patrol

74. “Glasgow smiles: how the city halved its murders by ‘caring people into change,’” The Guardian, April 6, 2015: <http://www.theguardian.com/uk-news/2015/apr/06/glasgow-murder-rate-knife-gang-crime-police>.

trainees themselves. The U.S. police officials were able to see and understand what Police Scotland does with respect to use of force, and to discuss and debate its applicability to policing in the United States.

As Assistant Chief Constable Bernard Higgins noted during his welcome to the U.S. delegation, “Policing doesn’t know borders, and Police Scotland is not *the* model. But there are commonalities that we can learn from one another, because we share the same goals: to protect and serve, to keep people safe, and to go after those who intend to do the most harm.”

Following is a summary of the sessions at this training conference:

Day 1: Welcome and Orientation

The first day included an orientation to Police Scotland, the College, and the next three days of the training program. Sir Stephen House, the Chief Constable, welcomed the delegates, emphasizing that the purpose of the program was not for Police Scotland to “teach” the U.S. officials how to do their jobs. He noted that when it comes to preventing and investigating violent crime, especially gun crime, U.S. law enforcement agencies are among the most experienced and knowledgeable in the world.

He said the program was designed to be a collaborative learning and professional development experience for everyone. He hoped that members of the U.S. delegation would leave with new ideas on how to deal with edged-weapon offenders and other challenges.

Day 2: The National Decision Model, Use of Force, and Tactical Communications

The second day focused on tactics and communications for handling subjects who are unarmed or have weapons such as a knife or baseball bat. The sessions included classroom discussions and observation of scenario-based training exercises.

Minimum force to achieve a lawful purpose

Police Scotland officials emphasized that any use of force in Scotland is governed by the following standard:

“Police officers have a duty to use the minimum amount of force to achieve a lawful purpose.”

Officials noted that today’s standard is, in many ways, an updated version of the principle that British statesman Sir Robert Peel expressed back in 1829:

“Police use physical force to the extent necessary to secure observance of the law and to restore order only when the exercise of persuasion, advice and warning is found to be insufficient.”

>> continued on page 95

For Insight into Today's Use-of-Force Issues, Look Back Two Centuries to Sir Robert Peel

In reflecting on the issues surrounding today's debate on police use of force, Robert Olson, a past president of PERF with four decades of policing experience in the United States and Ireland, suggests that law enforcement leaders look to the past for some guidance—specifically to Sir Robert Peel's principles of policing.

By Robert K. Olson

Early in the 19th Century, Sir Robert Peel was credited with outlining nine basic principles of policing that guided the newly created Metropolitan Police Service of London. Nearly two centuries later, Peel's principles would become the foundation for the development of modern-day community-oriented policing in the United States and around the world.

Two of Peel's principles are particularly relevant to the current issues being raised in the United States around police use of force:

Principle #4: To recognize always that the extent to which the co-operation of the public can be secured diminishes proportionately the necessity of the use of physical force and compulsion for achieving police objectives.

Principle #6: To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public co-operation to an extent necessary to secure observance of law or to restore order, and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.



When Things Go Wrong, Officers Unfairly Get Blamed

These principles are simply stated, but complex in how they are institutionalized in modern American police culture and its thousands of large and small policing organizations that serve increasingly diverse populations. Within those state, county and local departments, come many examples—both good and poor—of leadership, governance, intrusive supervision, operational policies, training, and public oversight.

As a result, when things go wrong, it is often the individual police officer, who had nothing to do with the development of the policies, training, and management oversight, who is pilloried for unfortunate incidents that serve to reinforce negative stereotypes of the policing profession.

No honest police officer starts the day with the intention to physically harm another human being. Officers know that the profession they have chosen is a dangerous one, and they must be made aware of and accept the risks involved. Police leaders have an obligation to provide their officers with the tools, skills, and support they need to be prepared for and deal with that danger, while at the same time protecting themselves, the citizens they serve, and even the suspected offenders they arrest from physical harm.

But recent history and heightened national media attention have demonstrated that it doesn't always happen that way. American policing is facing serious challenges on the often tragic outcomes of its use-of-force policies, training, and tactics. This is undermining the public's support of the police and its perception of procedural justice and police legitimacy.

A Safer Policing Environment for Residents and Officers

PERF's 30 Guiding Principles on police use of force closely reflect Sir Robert Peel's thinking on this topic. If accepted and implemented, the PERF 30 will raise the standard for use of force by the police from being just "objectively reasonable" to a more holistic, comprehensive approach that recognizes the sanctity of life for victims and perpetrators, who, in America, are innocent until proven guilty. Nationwide implementation will

result in a safer policing environment for residents and officers alike, and will ultimately lead to a higher level of community confidence in their police services.

Recent incidents in Ferguson, Cleveland, Chicago, North Charleston, San Francisco, and other communities should serve as wake-up calls for America's police leaders to take a fresh look at Sir Robert Peel's principles. Maybe then American policing can fully realize what is perhaps his most foundational principle of all:

Principle #7: To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police, the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.

Robert K. Olson started his career with the Omaha, Nebraska Police Department, rising to the rank of Deputy Chief of Police. He went on to serve as chief executive of three police agencies: Corpus Christi, Texas; Yonkers, New York; and Minneapolis, where he served as Chief of Police for nine years before retiring in 2004. A past president of PERF and long-time member of the Major Cities Chiefs Association, Olson is currently the chief inspector of the Garda Siochana Inspectorate in Dublin, Ireland.

continued from page 93

Police Scotland uses the acronym “PLANE” as a test of whether an officer's use of force is reasonable and meets the standard of what is expected. PLANE stands for:

- **Proportionate.** The action must be proportionate given all of the circumstances; the action is not proportionate if a less injurious alternative existed to meet the same lawful objective.
- **Lawful.** There must be a legal basis for taking action.
- **Accountable.** Officers must be able to explain why they chose a particular option (justification), as well as what other options were available and why those were not chosen (preclusion).
- **Necessary.** The action must be required to carry out an officer's lawful duty, absent another tactical option.
- **Ethical.** The action must reflect the values of Police Scotland: fairness, integrity, respect, and human rights.

Like the National Decision Model, the PLANE acronym is not simply a slogan in Police Scotland. Rather, PLANE is a reasonableness test that officers are trained in and use on a regular basis. It is second-nature to members of Police Scotland, and something that officers know they will be expected to explain and account for.

Officer safety training

Sergeant James Young, a 20-year police veteran, is the National Lead Coordinator for Officer Safety Training for Police Scotland. He described in detail for the U.S. delegation how Police Scotland delivers officer safety training. He emphasized that all operational skills training is provided within the framework of the National Decision Model; training on the NDM and on officer safety are integrated.

All new officers in the Police Scotland College receive 40 hours of officer safety training. Then, once a year, all officers must complete eight hours of retraining on officer safety. Unless an officer completes the required annual recertification, he or she cannot return to duty.

Because only a small percentage of officers carry firearms, the officer safety training focuses on areas such as tactical communications, tactical positioning, teamwork, and de-escalation. Sergeant Young said that in the past, Police Scotland focused much of its officer safety training on techniques, as opposed to tactics. More recently, the agency has shifted its training focus to tactics and decision making, as described below:

Tactical communications

Sergeant Young described how communication is always considered to be the first option to achieve control of a situation and is used throughout any encounter. He said communication is important not only to de-escalate already tense encounters, but also to prevent situations from escalating in the first place.

In Police Scotland, officers are taught a five-step Positive Style of Tactical Communications. Sergeant Young explained the model in the context of a person with a knife scenario.

1. Ethical appeal

Ask—most people will respond to a direct request from an officer.

In a person with a knife scenario, to make their position clear, officers would ask the subject to drop the weapon. This would be done using a low clear tone and “please” and “thank you.” Officers are taught to repeat this request no more than three times.

2. Reasonable appeal and explanation

Explain the reason for the request, what law has been broken, and what conduct caused the request.

Alongside open-ended questions and basic negotiation skills, officers would explain the reason for the request to drop the weapon. Officers would try to explain that possession of a knife and the subject’s behavior is a criminal offense and that persons have been concerned enough to contact the police.

3. Personal appeal and explanation

Explain to the subject what they can expect to gain or lose, for example in terms of time, money, reputation, or family. Options can also be created for them.

Again, alongside basic negotiation skills (which may have to incorporate reacting to the subject), officers would bring in what the subject has to lose. This could include phrases such as, “What will your family think?” and “If you go to jail for longer, you won’t see your family or friends.” Here officers make requests and conversation personal to the subject. Care is taken not to mention certain issues that the subject may have already mentioned that may cause anger (e.g., loss of a family member).

4. Practical appeal and explanation

Inform the subject what is required of them. Officers would not use the term “comply” but rather “cooperate,” as this serves to demonstrate working together toward a resolution.

This is a last resort and should only be used when persuasion and negotiations have failed. Here officers are confirming that the subject will not drop the knife. The phrase, “Is there anything I can reasonably do or say to make you cooperate with me?” is very useful, especially if said loudly enough for the public to hear. This phrase can send the signal that this may be the last line of dialogue before taking physical action.

5. Action

A physical force option. This is a necessity because of the subject’s continued or escalating resistance. Officers should choose a force option based on their perception of the resistance offered and other impact factors.

Officers would only use a physical force option if the subject’s behavior escalated or there was an immediate threat to life or safety. That force option would have to meet the PLANE test of reasonableness, meaning the actions would have to be proportionate, lawful, accountable, necessary, and ethical. Otherwise, officers would continue to engage in tactical communications with the subject.

De-escalation: In conjunction with their tactical communications training, Police Scotland officers are trained in other de-escalation tactics. These include identifying danger signs early on (presence of weapons, signs of mental instability, etc.), approaching the subject calmly, and not mirroring the subject’s aggression with aggression of their own.

De-escalation also involves keeping a low voice and an even tone whenever possible, asking open-ended questions, and *listening carefully to the answers*. By asking questions and paying attention to the answers, officers may obtain key information about the subject and the situation that provides a way to resolve the incident. For example, an officer may be able to ascertain whether a person experiencing a mental health crisis has stopped taking medication. Engaging in a conversation with the subject also can give officers opportunities to make a personal connection with the subject, which can build trust and further support de-escalation. Finally, officers are trained to avoid making threats or sounding defensive or sarcastic.

Tactical positioning: How and where officers position themselves is a major element of officer safety training. Police Scotland officials are trained in the concept of a “reaction gap,” or maintaining a minimum space of 4-6 feet from the subject, more if the circumstances dictate (such as the presence of weapon).

Tactical positioning emphasizes maintaining one “contact officer,” who focuses on communications and negotiations, and one “cover officer,” who focuses on containment and safety.

For offenders with edged weapons specifically, Police Scotland officers are trained to follow the CUTT approach:

- Create distance
- Use cover
- Transmit information to the control center (Dispatch)
- Tactically reposition as needed

Seeing the training in action

Following the classroom discussion, the U.S. delegation witnessed how the National Decision Model and the concepts of tactical communications, de-escalation, and tactical positioning, as well as batons, chemical spray, and personal protection shields, are applied in real-life settings.

Police Scotland trainers presented three scenarios, all based on actual incidents that the agency had recently handled.



Video available at
<https://www.youtube.com/watch?v=hSRMMeHg52A>

Scenario 1 – Traffic stop: Following a traffic stop, the driver exited the vehicle and started to walk away, dropping a bag of drugs on the ground. Officers formed a “tactical L” position, established a reaction gap and contact-and-cover assignments, communicated with the combative subject, and eventually used a hands-on maneuver to gain control.



Video available at
<https://www.youtube.com/watch?v=GBnqjYO27XQ>

Scenario 2 – Man with mental illness wielding a baseball bat: Officers responded to a man with obvious mental illness wandering the street with a baseball bat. As the subject advanced toward their police car, the officers backed the vehicle up to maintain a safe distance. Once they exited the vehicle, officers established tactical positioning and communications, maintaining a larger reaction gap and a slightly higher profile with their baton and chemical spray because of the possible threat posed by the baseball bat. Officers used communication techniques appropriate for an individual experiencing a mental health crisis (for example, the officers removed their hats to enhance eye contact), and eventually convinced the subject to drop the bat and surrender.



Video available at
https://www.youtube.com/watch?v=W1Oc0mNh_L8

Scenario 3 – Domestic incident, man with a knife: Officers responded to a domestic dispute on the street and separated the man and woman. As they began engaging the man, he pulled a knife, at which point the officers tactically repositioned and used their vehicle as cover. One officer drew his baton, the other his chemical spray. The contact officer maintained communication with the subject, and the officers repositioned as the subject moved. Backup officers arrived and deployed personal protection shields. When the subject moved aggressively toward one of the officers, the officer deployed his chemical spray, and the subject was apprehended.

Each of the demonstrations lasted several minutes, as the officers began and maintained communications with the subject, used cover and distance, and tactically repositioned themselves as circumstances dictated. The actual incidents upon which the scenarios are based took much longer to resolve.

Police Scotland officials emphasized that their approach is not to rush or confront a subject (unless the subject poses an imminent threat to someone else), but to slow these types of situations down and de-escalate as much as possible. The more time officers have, the more opportunities they create to gather information, consider possible solutions, develop plans, summon additional resources, and hopefully convince the subject to comply.

Takeaways from the scenario-based training

In follow-up discussions with Police Scotland members, the U.S. police officials offered a number of observations regarding communications, tactics, and equipment use.

COMMUNICATIONS

- **Call the subject by his name:** In all three scenarios, officers worked quickly to get the name of the subject; then, throughout their communications, they addressed him by his name.
- **Ask open-ended questions:** As opposed to simply barking orders (*e.g.*, “Put down the baseball bat!”), officers asked open-ended questions and listened to the answers. For example, when the person with mental illness said he wanted to go somewhere, the officers asked, “Where?” When he said, “To the hospital,” they replied, “Which hospital?” Asking open-ended questions not

only maintained the dialogue, but also provided the officers with valuable information about the subject and what may have triggered his behavior.

- **Take steps to put the person at ease:** In some instances, the officers took their police hats off and put them on the ground. Officers have been trained that some subjects, especially those with a mental illness, react more positively to verbal communications when they can see the other person's eyes.
- **Try different approaches to making a connection:** Officers maintained communication throughout each encounter, even as the threat level increased (such as when the subject pulled a knife in Scenario 3). At the same time, if one communications approach did not work with a subject, then the officers pivoted and tried a different approach.
- **Explain what you're doing:** For the most part, officers explained the actions they were about to take, such as when they were handcuffing the subject. And for the subject with mental health issues, the officers offered reassurance, compassion, and help.

TACTICS

- **“Contact” and “cover” roles:** Officers demonstrated teamwork by establishing “contact” and “cover” roles in all scenarios and sound positioning (through a “tactical L”). (Because Scotland has a legal provision requiring that all police actions be corroborated by a second officer, Police Scotland must staff two-officer cars at all times, which enhances both teamwork and officer safety.) The contact officer was the primary communicator with the subject, with the cover officer focused on safety and containment. If the subject tried to communicate with the cover officer, he or she deflected the subject back to the contact officer.
- **Create and maintain a “safe zone” as conditions change:** Officers used distance and cover throughout the scenarios. When the subject with the baseball bat in Scenario 2 approached the police car, the officers backed up to create distance. And as the threat changed (for example, the subject in Scenario 3 displayed a knife), the officers widened their reaction gap, used their vehicle as cover, and adopted a higher profile with their less-lethal weapons (baton and chemical spray).
- **Hand positioning:** Police Scotland officers are trained in how to position their hands when engaging a subject. Specifically, officers are taught to keep one hand, open palm, in front of them—both as a signal of calm and reassurance to the subject and to enable the officer to quickly engage physically if necessary. The other hand is used to ready their baton or chemical spray. Officers were disciplined throughout the scenarios in maintaining their hand positioning.
- **Consider the nature of a threat, not just the weapon itself:** Police Scotland officers are trained to look not solely at the weapon a subject may possess, but also at the threat it poses. Is the knife being swung about, and if so, is it being done offensively or defensively? (A person with a mental illness may see others as aggressors, and so he might swing his knife in a defensive manner to keep people away.) The threat posed by the weapon, and not just the

presence of the weapon itself, helps determine the specific tactics that are employed.

EQUIPMENT

- **Protective shields:** In Scenario 3 (as well as other scenarios the next day), officers made use of personal protection shields—3-foot clear acrylic devices that are kept in most patrol vehicles. Police Scotland officials explained that the personal protection shields would not be used to proactively confront a subject with a knife. (The shields offer limited knife protection and have no ballistic capability.) *Rather, the shields are considered as an extra measure of protection for surrounding and containing a subject who is unarmed.*
- **PAVA spray provides a more concentrated, controllable stream than traditional CS spray:** In Scenario 3, officers neutralized the aggressive subject who had a knife using chemical spray. Police Scotland recently moved away from traditional CS spray and adopted an alternative called PAVA (pelar-gonic acid vanillylamide). Unlike CS and OC sprays, PAVA has a more concentrated stream that is more accurate, minimizes cross-contamination with other officers, and is not flammable, meaning it can be used in conjunction with an Electronic Control Weapon. In Police Scotland, the PAVA canister is tethered to the officer's uniform using Kevlar cords, which reduces the likelihood of it being dropped or taken away.

Day 3: Use of Force Guidance, Public Order And Firearms Situations

On the third day, the delegation traveled to the Police Scotland College facility in Jackton, and focused on the use of the National Decision Model, de-escalation techniques, and specialized equipment in more challenging and dynamic situations. As with the previous day, this session included both classroom discussions and scenario-based training. The Jackton facility includes realistic indoor and outdoor structures, including a mock city block, for conducting scenario-based training.



Video available at
https://www.youtube.com/watch?v=30fd9H34x_w

Handling Violent Deranged Persons

Police Scotland has specially trained teams of Public Order officers who respond to particularly violent or deranged persons (who often are armed with edged weapons), as well as public protest activity. Somewhat similar in organization and mission to specialized tactical units in the United States, the Public Order teams receive extensive initial and ongoing training, and they carry more specialized equipment, including larger (5-foot) acrylic shields. However, Public Order officers do not carry firearms; only specially trained Firearms officers are armed with side arms.

A mainstay of Public Order work is methods of entry for barricaded persons and securing violent deranged persons (VDPs). Police Scotland handles about 100 VDP cases a year. In about 10 percent of those cases, Public Order and Firearms officers deploy jointly. The primary approach in VDP cases is to contain and negotiate, and the Public Order officers rely on the National Decision Model throughout the process.



A sample of edged weapons confiscated by Police Scotland officers

Using teamwork, communications, and shields

Police Scotland trainers conducted a series of scenarios involving a drunken tenant in an apartment building, inside a room and armed with a baseball bat. Multiple teams of Public Order officers using interlocking protective shields secured both the door and windows to the room. As they did in nearly all critical incidents, officers immediately initiated communication with the subject in a calm, even tone.

In the first scenario, the officers used their communications skills to convince the VDP to drop his bat, show the officers that he didn't have other weapons, and come to the door to be handcuffed.

In the second scenario, the VDP became more combative, repeatedly slamming the wooden bat against the shields of the officers positioned at the door, eventually breaking the bat. Even throughout this chaotic, up-close encounter, officers maintained their position behind the shields and continued to communicate. After the bat broke, a team of three officers behind their shields entered the room, pinned the subject in a corner and secured him.

In the third scenario in the series, the VDP became even more combative, yet officers continued to use their tactical communications. This time, when the Public Order officers made their entry, the VDP aggressively fought back. The officers repositioned to the door, reassessed the threat, and made subsequent entries when appropriate. As one entry team grew tired, they were replaced by another team of three officers. The multiple cycles of entry, reposition, and re-entry eventually wore the subject down and he was secured. Police Scotland trainers noted that in a real-world setting, this type of operation could go on for hours. They acknowledged that it is extremely resource-intensive, with multiple teams of Public Order officers required.

In the fourth scenario of the day, a man on the street being questioned by two regular patrol officers displayed a knife and barricaded himself in a nearby building. The patrol officers requested Public Order officers who responded

to the scene, secured the building, and immediately initiated and maintained communication. Once the VDP dropped his knife, teams of Public Order officers made entry, again behind their shields, and secured the individual.

Similarities with the NYPD ESU

Interestingly, when PERF visited the New York City Police Department Emergency Service Unit (ESU) in December 2015, one scenario the ESU demonstrated was almost identical to the Public Order scenarios in Scotland: a person with mental illness holed up in a room brandishing a weapon other than a firearm (in this case, a pickaxe and a baseball bat).

PERF staff members were also struck by how similar the ESU's tactical response was to what they saw with the Public Order officers in Scotland:

- Initiating and maintaining *communication* throughout;
- Using *shields* as personal protection;
- Relying on *teamwork and tactical positioning*; and
- Taking as much *time* as needed to safely resolve the situation.



NYPD Emergency Service Unit officers demonstrate a response to a mentally ill man barricaded in a room with a pickaxe. Video available at <https://www.youtube.com/watch?v=ullwySDTI84>

Public Riot and Firearms Scenarios

Later in the day, Police Scotland demonstrated how its Public Order officers respond to public disturbance or riot situations, including some involving “petrol bombs.” Teamwork, communications among officers, use of shields, and tactical positioning and re-positioning were critically important.

Finally, Police Scotland discussed and demonstrated how their Firearms officers respond to the rare occasions where police encounter a subject armed with a firearm, or other extremely dangerous circumstances where the deployment of Firearms officers is needed. Officials acknowledged that U.S. police forces have far more experience in confronting armed offenders than does Police Scotland, but felt it would be useful for the U.S. delegation to see how their Firearms officers operate through a series of scenarios. Police Scotland officials emphasized that even in firearms situations, officers use the National Decision Model (albeit more rapidly than in other circumstances), consider their code of ethics, and weigh the proportionality of their actions.

After viewing four different scenarios involving Firearms officers in Scotland, the U.S. officials made several observations:

Shoot and re-assess: Police Scotland Firearms officers are trained to shoot, re-assess the threat, and shoot again only if needed to further mitigate the threat. This is similar to the “two-shot” concept that some U.S. police agencies have utilized.

Tethered weapons: Officers’ firearms are tethered to their uniforms with Kevlar cords that cannot be cut or snapped. This helps prevent officers from losing control of their weapons during physical encounters.

Render first aid: Police Scotland officers are trained and expected to immediately render first aid to any subject they shoot or otherwise injure. First-aid kits are maintained in police vehicles. In the scenarios that resulted in a shooting, one officer maintained control of the offender, while the other officer retrieved the first-aid kit.

Day 4: Observations and Analysis

The fourth day of the program consisted largely of an open discussion among the U.S. and Police Scotland officials, reviewing the information and scenarios from the previous three days and discussing key takeaways that could be applied in U.S. police agencies.

Each of the U.S. police executives had an opportunity to share his or her thoughts and impressions (see pp. 106–113). Some of the broad themes mentioned by several of the U.S. participants included the following:

- **Values:** Police Scotland is a values-driven organization, and those values are reinforced throughout training and operations. The code of ethics and respect for human rights lie at the center of the National Decision Model.
- **Communications skills:** Police Scotland officers are recruited for their communications skills, and *those skills are taught, reinforced, and used throughout their careers*. Almost every encounter an officer has starts with calm and even communications with the subject, and officers maintain communications throughout.

Several American police executives noted that in the United States, as officers have been issued a wider variety of sophisticated equipment and technology, there has been a tendency to de-emphasize the importance of communications skills.

- **Training academy culture:** The culture of Police Scotland College reflects the mission, values, and priorities of the agency as a whole. Several U.S. police executives noted that this is not always the case in U.S. police agencies, in part because of the fragmentation of policing among 18,000 different agencies. Many times, police chiefs aren’t fully aware of what is being taught in their academies, and they are surprised when they learn that outmoded concepts that conflict with the department’s vision are still being presented in their academies. This problem can be especially challenging for agencies that rely on state or regional academies to train their recruit officers.

Creating and sustaining the appropriate culture in all training—recruit, field training, and in-service—is essential to moving organizations forward, the U.S. officials agreed.

- **SWAT-like tactics in Patrol:** Many of the tactics employed by specialized tactical teams in the United States—using distance and cover, taking the time to develop and execute a plan, teamwork, and negotiations, to name a few—are used by Police Scotland’s regular patrol officers in everyday encounters and critical incidents, including in situations with offenders armed with knives and other non-firearm weapons. Many U.S. police executives noted that bringing these same tactics and discipline to U.S. patrol officers would enhance the safety of both the officers and the public.
- **Decision-making model:** Police Scotland has managed to instill the National Decision Model in everything that its sworn employees do. Officers understand and can articulate the model, and it appears to be beneficial in helping officers not only respond to incidents more carefully, consistently, and effectively, but also to explain their actions after the fact. U.S. officials felt that with the right model and effective training, this concept could work for American police agencies as well.
- **Proportionality of responses:** Rather than focusing solely on the “could” (“Am I legally empowered to take this action?”), Police Scotland officers also must consider the “should” (“Is this an appropriate, proportional response to the threat I am facing?”).
- **Equipment:** Many of the U.S. officials were very interested in how Police Scotland uses personal protection shields, not only in barricade situations and other highly critical incidents, but also in many everyday encounters with combative individuals. Also of interest was the PAVA spray alternative to traditional OC and CS sprays. In addition, American police officials were interested in how chemical spray canisters and firearms are tethered to officers’ uniforms using Kevlar cords, which reduces the risk of the weapons being lost or taken.

Conclusion

For the U.S. police executives who participated, the Police Scotland field visit added to their understanding of the issues surrounding police use of force, and pointed toward some concrete steps that police agencies in the United States could consider and adopt.

The delegation recognized that not everything in Scotland is applicable to U.S. policing. The United States and Scotland have different cultures and police face different threats, including the serious threat of gun violence in the United States that is not found in Scotland. But with respect to persons with mental illness or those who are unarmed, or are armed with knives or other weapons but not a firearm, the challenges are similar, as Chief Constable Sir Stephen House said, and the approaches used by Police Scotland are instructive. Police Scotland’s demonstrations of their training and tactics showed how new concepts can be put into operation.

PERF is grateful to the leadership and staff of Police Scotland for their generosity and their commitment to advancing the policing profession on both sides of the Atlantic Ocean.

Following are a number of quotations from police officials who participated in the sessions at Police Scotland's College at Tulliallan Castle, at the final wrap-up meeting:

Montgomery County, MD Police Chief Tom Manger:

*We Need to Get Away from Thinking
Patrol Officers Must Resolve Incidents Quickly*

I thought this whole week about what if I had the typical use-of-force instructor sitting next to me, and how they could just summarily dismiss so many of the things that we've seen here. But I think the fear of the worst situation has guided all of our philosophies toward use of force.

We have to get out of the mindset that our patrol officers just have to get the job done quickly. We've got to take more time.

We all know that hiring the right people in the first place is the long-term strategy to changing an organization. Chief Inspector Higgins talked about spending an entire day doing competency interviews to look for things like communication, teamwork, respect for diversity, problem solving, personal awareness, job knowledge, partnership work, service delivery, and leadership. Spending a whole day looking for people with those qualities is a great way to make sure you're hiring the right people.

I'm not big on slogans, but while talking about use of force, someone said, "Communication is our first option." I love that.



Richmond, CA Police Chief Allwyn Brown:

It's Important to Value Human Dignity

One thing that resonated with me was the genuine value placed on human dignity. I'm not saying that we don't have that, but sometimes it gets lost in a rapidly evolving critical incident or in our busier districts. And being here was validation because we have re-engineered our approach in Richmond. We don't really use the buzzword "community policing," because we think it's a philosophy that needs to permeate through the entire organization.



Washington, DC Assistant Police Chief Kim Missouri:

*We Are Trying to Determine Why
Some Officers Use Force More Often than Their Peers*

Police officers have a desire to preserve human life, but we're also taught to do what is necessary to stop the threat and to go home safely. Unfortunately, that sometimes includes the use of justified, deadly force. But as we saw in the scenarios, sometimes there can be other options.

Chief Lanier wants to start looking at officers who frequently use force and figure out why they are using force more often than their peers. We want to see what kind of tools and training we can provide those individuals to help them approach certain situations to reduce the likelihood of having to resort to force.



Daytona Beach, FL Police Chief Mike Chitwood:

*Scotland Has an Interesting Approach
To Recruiting the Right Officers*

I think somewhere along the way we in American policing have lost the ability to realize why we took this job. It was to protect the sanctity of human life.

I was impressed by how Police Scotland looks at the entire picture of the recruit candidate. It's not the fastest runner or the best test-taker. It's looking for a certain type of individual who we believe is going to fit into our organization.



Los Angeles Assistant Police Chief Michel Moore:

We Constantly Reinforce Our Values

We are a value-based organization. We constantly reinforce that. That's something that all of us in American law enforcement need to reinforce with our people.



Anne Arundel County, MD Deputy Police Chief Pam Davis:

Your Officers Convey Respect to Your Citizens

I really feel your department has legitimacy with your citizens. In the scenarios we saw, your officers explained everything they were going to do. First they made contact with the person and asked their name. They made them feel like they respected them. I think we've all probably heard complaints where the citizen said, "All I wanted was for the officer to tell me why he stopped me."



Denver Deputy Police Chief Matt Murray:

*Police Scotland Focuses on Proportionality,
Not Just Legality*

My chief, R.C. White, always says that policing has changed, but the police have not. And so his focus is on culture.

We repeatedly heard three things here about use of force: proportionate, lawful, and necessary. We focus a lot on lawful. I don't know that I've heard those three words used together before when talking about use of force.



Baltimore Police Major Sheree Briscoe:

*Police Scotland Has Women
In Leadership Positions*

I'm impressed with the diversity and inclusiveness of your agency, especially that 29% of your force is female, and women are in specialized positions and oversee specialized positions. Additionally, members appear to feel no matter what their specialty, gender, or any other qualifiers, they are welcome at the table and have something to contribute.



Metropolitan Nashville Deputy Police Chief Brian Johnson:

*Police Scotland, Like Nashville Police,
Are Using an Assessment Process in Hiring*

For any of these things to work, you have to have the right people. For me it was validating to hear that Police Scotland uses an assessment process in hiring, because we just started doing the same thing in Nashville six to nine months ago. We haven't been doing it long enough to see if it will significantly change the number or type of people we attract, but we have to understand that we need people with the ability to communicate.

We've seen here in Scotland that communication actually provides legitimacy. When you're talking to the person you're about to place in custody and telling them each and every thing you're doing, along with why you're doing it, you can gain compliance that you normally may not get.



Prince George's County, MD Police Chief of Staff Samir Patel:

*Communication Skills Are Essential
And Can Reduce the Need for Force*

Our recruits brace the wall—it's very militaristic. They're not allowed to talk to other people. Your officers say hello to everyone in the hallway for months at the academy, and I'm sure that skill-set goes with them out into the community.

We are in a rush to handle calls for service so we can go back in service. But it's a cycle for us, because we go to the same addresses over and over and over. If we took the time the first time, maybe we wouldn't have to go there the 3rd, 4th, 5th, and 6th time.

I noticed through your whole process you're telling your suspect what you're going to be doing and what the next step is. We don't, at least not in my agency. And if you communicate, you may be able to resolve the situation without force.



New York City Police Assistant Chief Theresa Shortell:

*You Forget to Negotiate If You're Worried
About Rushing to the Next Call*

We forgot to negotiate in New York because we were too worried about our response time—how long you were at that job, if you can get to the next job, how many jobs you did on a shift. We need to slow it down.



Houston Executive Assistant Police Chief George Buenik:

*You Can Achieve Positive Results
Without Using Deadly Force*

In America, when we get to a scene and someone has a bat, the first thing we're doing is pulling a gun. If we're confronted by someone with a large rock or brick, we're going to pull a gun out. Same thing with a knife. What we saw in your scenarios is that you can achieve positive results without using deadly force and, in most circumstances, without even pulling your weapon out at all.



Brookline, MA Police Chief Dan O'Leary:

*Simply Explaining What You Are Doing
Can Reduce Complaints*

The conversations that you have with everybody from the ordinary citizens to the people you're about to put in handcuffs really resonate. That's how to get people who might not like what you're doing to at least understand it, so they don't feel like they were treated badly. It reduces complaints and reduces the number of people who dislike you.



Miami Beach, FL Deputy Police Chief Laurretta Hill:

I Appreciate Seeing Your Training Scenarios

It was great to see the practical application of your approach in the scenarios. There are some things, including training and equipment, that I can take right back to our special response teams and mobile field force teams.



Houston Police Chief Charles McClelland:

*De-escalation and Officer Safety
Have To Be Woven Together*

You have a set of core values that permeates throughout all of your members. It's very obvious and very genuine.

De-escalation and officer safety have to be woven together in our agencies. Doing things differently increases officers' safety and improves police-community relations. To do things differently, we have to show officers why it's in their interest to change.

We're trying to accomplish that mechanically by putting body cameras on every police officer in America. You have been able to get your officers to behave differently without putting a camera on every officer.



**Federal Law Enforcement Training Centers
Assistant Director Dominick Braccio:**

*We Need to Expand Critical Thinking Skills and De-Escalation,
And Not Just Train for Worst-Case Scenarios*

When we teach use of force, we teach officers to be able to articulate if what they've done was legally permissible and reasonable. While we emphasize the legally permissible part, we must also focus on the reasonableness.

I think we would benefit by expanding critical thinking in our training. When you look at the cycle you go through as part of the NDM model, I think that becomes part of the cognitive conditioning of your officers. Since we cannot train for every eventuality, we need to look at how we can better integrate that into our training.

When we conduct scenario-based training, we should allow for more scenarios where we can de-escalate situations. Once we identify the scenario is not a firearm situation and perhaps may involve a mental health issue, we need to have options to de-escalate the situation with less force, while still keeping the officer safe. Then we are giving the officer options and we're not just preparing or training worst-case scenarios.



Prince William County, VA Police Chief Steve Hudson:

*It Will Be Challenging to Teach Our Officers
That It's OK to Slow a Situation Down*

Clearly, time and distance are so key. We've been preaching that in the U.S. for years, but we don't have the level of patience that you have instilled in your officers. We have to be less quick to make that force decision. To teach our people that they may need to back up, and maybe repeatedly, is going to be a process that may take some time.

We are so disparate and diverse in the U.S., with 18,000 agencies, and the level of quality and professionalism can vary so wildly. So I think all of us really have to take the mantle in terms of trying to improve the consistency of high levels of professionalism, high levels of character, and high levels of policy and use-of-force deployment, because we're all perceived by the worst examples that come to light. They're so rare, but they drive the public perception, so that level of consistency has to improve.



Chicago Police Chief of Crime Control Strategies Robert Tracy:

*This Is About Not Getting into Situations
Where You Have to Use Deadly Force*

It's about slowing things down, backing up, and not getting into those situations where you have to use deadly force. We're getting better, but we're not where we need to be.



Phoenix Executive Assistant Police Chief Dave Harvey:

*We Need to Show Compassion
For Emotionally Disturbed Persons*

I think in the United States we deal with mental health cases or emotionally disturbed people as criminals. We have programs throughout the United States to train officers for these incidents, but I think that's going to be something that we have to do for all our officers so that we handle those emotionally disturbed people with compassion.

Our law talks about the reasonableness of an officer and the imminent threat of serious physical injury or death, so when we encounter suspects and we are in fear for our life, we use force and sometimes those people are unarmed. So I think we have to reevaluate that decision-making model to better determine what we think and feel, versus what we know.



U.S. Border Patrol Deputy Chief Ron Vitiello:

*We Are Well on Our Way to Reforms
On De-Escalation and Communications*

We were late to the party on de-escalation. Our training was on proficiency and not on things like communication and de-escalation. We're now well on our way in our reforms.

I was very impressed during the demonstration when your officer articulated why he did what he did as they were "spinning the model" during the situation. I think that NDM model has applicability for all of us in this room. And I think it could help us collaborate with each other, because if we all have a common model we can better communicate between agencies.



ATF Assistant Director Michael Gleysteen:

*Most People We Deal with Have Firearms,
But We Too Can Look at De-Escalation*

In so many of our operations, ATF agents encounter individuals who are in possession of, or in close proximity to, firearms. For this reason, ATF training places a high emphasis on firearms skills and marksmanship. This is important for the safety of our agents and the public they protect.

But equally important is a critical need for a training component that teaches tactical pause and de-escalation techniques, both of which need to be commonplace through scenario-based training. ATF agents are required to qualify quarterly with a multitude of duty firearms, and train several times each year with less-lethal devices. We need to devote equal time for de-escalation training.



Baltimore County, MD Police Chief Jim Johnson:

Lightweight Shields Can Be a Very Effective Tool

I'm particularly interested in using the lightweight shield. We saw that that can be even more forceful than using a Taser, so it's a powerful tool that can be quite appropriate and effective.

You are to be applauded for the mental health and substance abuse treatment that you can receive free here, which is critically important. And as a public safety entity and a society, you are to be commended for holding the line on guns. There are 12,000 Americans killed each and every year by handgun violence, and obviously you found a way to maintain recreational use of firearms but still restrict their use for unlawful purposes.



Boston Police Commissioner William Evans:

Police Should Not Look Like a Military Force

Over the last few years, whether it was responding to demonstrations by Occupy or Black Lives Matter, or some of the major events about sports victories, we went out with a very soft approach. And we've seen how successful that is. It's translated into how we deal with people in everyday situations.

When your officers are training here, they don't look like a military force. They look like they're training to go out and talk to people. I don't think we do that. We train "us against the bad guys." That's something that I'm trying to change.



Fairfax County, VA Police Chief Ed Roessler:

These Police Scotland Scenarios

Are Exactly What We Are Training to in Fairfax

As a new chief in the summer of 2013, I contracted with PERF to conduct a thorough use-of-force review of my agency that included analysis of our hiring practices, recruit and in-service training, policies, procedures, and a review our officer-involved shootings from the last decade. The final report concluded with 71 recommendations, which included implementation of the National Decision Model. Since then I've had the opportunity to meet with our Police Scotland colleagues both in the United States and in Scotland to learn more about the model and their training.

In the spring of 2015, prior to the conclusion of the PERF use-of-force review, we began a strategic change process to our hostage/barricade policy and practices. Through policy change and sustained annual training we emphasize slowing situations down, containing and isolating the event, using cover and concealment, evacuating those in harm's way, having dispatchers start negotiations immediately while officers respond to the location, and mandating supervisor and commander responses to the scene to take command.

Additionally, through policy and training we attempt to (when possible) hold the scene for the arrival of specialized personnel resources to respond and assume command and control of the event. This includes call-outs of personnel such as Crisis Intervention Team-trained officers, civilian mobile crisis staff, trained negotiators, and SWAT personnel.

The scenarios we observed in Scotland are exactly what we're training on an annual basis in my department, to sustain a philosophy of the preservation of the sanctity of human life for all involved (officers and community members). Since June of 2015, we are implementing change as related to the 71 PERF recommendations on use of force.

Learning from Police Scotland has afforded a unique opportunity for us to re-engineer all our lines of business as related to use of force. We have relied heavily on many officer-led workgroups to create positive change in our policies and training. Through involving officers of all ranks, we are ensuring that they are safe in all they do and that they embrace the changes they helped create. We are thankful for the continued support of Police Scotland and PERF as we continue to re-engineer our profession in Fairfax County.



Recruiting and Diversity in Police Scotland

Both American and Scottish police officials agreed that recruiting and retaining the right people are key considerations in addressing the use-of-force issue, advancing community policing, and building trust between residents and police. In the United States, there is a growing emphasis on officers' roles as "Guardians" of the community, not simply "Warriors" waging a fight against crime. Finding people who can excel in both roles is viewed by many chiefs as key to long-term success.

As part of the field work at Police Scotland, the U.S. police executives had the opportunity to learn about the officer recruitment and selection process used by Police Scotland. Because it is a values-driven organization, Police Scotland invests heavily in recruiting, screening, and selecting personnel who reflect their core values. Officials emphasized that hiring personnel who possess the ethical foundation needed for the profession helps to minimize problems with performance, misconduct, or excessive force.

On the morning of Day 2, Chief Inspector Allison Higgins led a discussion of Police Scotland's recruiting program. With 21 years of policing experience, she serves as Deputy Recruiting Manager with responsibility for the recruitment and selection of police officers, civilian staff, and volunteer special constables.

Competency-Based Interview and Assessment Center for Recruits

Chief Inspector Higgins noted that before the creation of Police Scotland, recruiting and selection across the eight legacy police forces had been done in different ways, with little consistency in methodology or standards. The formation of a single agency provided the opportunity to create a national recruiting model that is designed to be open, transparent, and fair. To achieve those goals, Police Scotland moved away from traditional approaches that rely on written and physical tests, and adopted an assessment center approach, similar to what many U.S. police agencies use to evaluate and promote their first-line supervisors and middle managers.

The core of the process is a competency-based interview and assessment center that each candidate completes—an entire day of interviews with multiple people, plus exercises. One of the exercises involves putting a group of candidates in a room and asking them to discuss a particular topic of recent interest. The ensuing discussion among the candidates allows assessors to evaluate communication, teamwork, and leadership characteristics, and also to spot any red flags (inappropriate language, sexism, racism, etc.) that may be disqualifiers.

Another exercise could involve having the candidate watch a video, take notes, and then make a presentation. As Chief Inspector Higgins described it, the process is not operationally based, but rather behavior based, and the use of multiple interviewers and assessors reduces the chance of bias.

Competencies assessed during recruit selection

- Communication
- Personal effectiveness
- Teamwork
- Respect for diversity
- Problem solving
- Personal awareness
- Job knowledge
- Partnership working
- Service delivery
- Leadership

Lower Attrition Rates Reduce Long-Term Costs

While the up-front costs of this approach are somewhat higher than with more traditional methods, the attrition rate of recruits during training is very low—less than 4 percent. Over time, this reduces the costs associated with getting people into the recruitment pipeline and spending on training for recruits who don't finish the academy. In addition, Police Scotland asserts that the process is fairer, and provides a more comprehensive, rounded, and accurate picture of the people entering the force.

Interestingly, the **Metropolitan Nashville Police Department** recently adopted an assessment center process for its recruit hiring. Thus far, the agency has hired only one partial and one full class of recruits

under this process, so findings are still incomplete. MNPD officials report that while the new process has not impacted its attrition rate thus far, the agency appears to be attracting candidates with higher levels of education, more relevant experience, and more of the skill sets the department is seeking.

Recruiting and Retaining Women

Police Scotland has also prioritized the hiring of women, and has dramatically increased the number of female officers on the force in recent years. In 2003, women accounted for about 18 percent of the police officers and fewer than 8 percent of the promoted posts throughout Scotland. Today in Police Scotland, women make up close to 30 percent of all officers and 20 percent of promoted posts. A recent recruit class was 38 percent women, the highest in history.

To discuss how Police Scotland has successfully diversified in terms of gender, a panel of female officials held a roundtable discussion on Day 4 of the PERF field visit. The panel included Deputy Chief Constable Rose Fitzpatrick (the highest ranking woman in Police Scotland), Superintendent Suzie Mertes (who chairs the Scottish Women's Development Forum), and Sergeant Claire Fletcher.

Deputy Chief Constable Fitzpatrick noted that research shows that decision making within a group improves when there are a number of viewpoints represented and that women bring special skills, talents, and perspectives to any organization. She also pointed out that police agencies enhance their legitimacy in the community when they are more reflective of the people being served.

Superintendent Mertes outlined a number of steps Police Scotland has taken to achieve its goals of recruiting, retaining, and promoting women. These included opening up all assignments within Police Scotland to women, providing different sizes of equipment to officers based on their physical size, and making fitness tests specific to assignments (the panelists pointed out that these latter changes have also benefitted men who are smaller in stature). Police Scotland has also allowed for some job-sharing and schedule adjustments. In addition, women can continue training while on maternity leave.

Oath of Office Ceremony

At the end of Day 2, the U.S. delegation had the opportunity to attend the Oath of Office ceremony for 83 new members of Police Scotland. Unlike most U.S. agencies, which swear in new officers at the end of their recruit training, Police Scotland administers the oath on the third day that recruits are in the College.

In addition to the traditional aspects of the ceremony, Superintendent Alan Gibson, the Head of Training Delivery at the College, asked some of the new officers to discuss their backgrounds, their interest in policing, and their aspirations for the future. The U.S. police executives were impressed with both the thoughtfulness of the answers and how they were delivered.

In fact, throughout the week, whether in more formal settings or hallway conversations, the U.S. officials noted the communication and conversational skills of the recruit officers. Several people pointed out that in most U.S. police training academies, recruits who encounter a higher-ranking officer are expected to back up against the wall, look straight ahead, and bark out a terse, "Good morning, sir" or "Good afternoon, ma'am." In Police Scotland College, recruits are expected to make eye contact and respectfully engage in conversation with higher-ranking officials and visitors, when appropriate.



Conclusion:

The Policing Profession Is Moving Forward

PROGRESS IN POLICING HAS ALMOST ALWAYS COME ABOUT WHEN police leaders recognize the need to “confront the brutal facts,” in the words of *Good to Great* author Jim Collins.⁷⁵

Following are several examples of how the policing profession has advanced when it identified areas for improvement and made important changes.

Sexual assaults: Confronted by serious concerns from victim service providers and others, police leaders recognized weaknesses in sexual assault investigations, efforts to prevent sexual assaults, and treatment of victims. The policing profession dramatically changed policies, protocols, training, and victim services. The FBI expanded the very definition of rape (which had not been changed since the 1920s and which failed to include many types of sexual assaults), because solving a problem begins with knowing the size and nature of it. Much work remains to be done, but the police response to sexual crimes, and services for victims, are far better today than they were a decade ago.⁷⁶

Domestic Violence: Until the late 1980s, many police departments often responded to domestic violence incidents by separating the parties and giving perpetrators warnings, rather than making arrests. Research in 1987–88 found that arresting perpetrators (rather than issuing warnings) deterred further violence, and the policing profession, recognizing that its response had been grossly inadequate, responded with mandatory arrest policies and many

75. Collins is a business consultant and writer who convened a research team to identify the qualities of companies that have achieved greatness, defined in terms of exceptional stock market performance. One of the qualities was a willingness to “confront the brutal facts of their current reality.” In other words, Collins said, “When you start with an honest and diligent effort to determine the truth of your situation, the right decisions often become self-evident.” The best companies have mechanisms for calling attention to information that cannot be ignored, Collins found. See the 2007 PERF report, *Good to Great Policing: Application of Business Management Principles in the Public Sector*, pp. 31–35. <http://www.policeforum.org/free-online-documents>

76. See *Improving the Police Response to Sexual Assault*, PERF, 2012. http://www.policeforum.org/assets/docs/Critical_Issues_Series/improving%20the%20police%20response%20to%20sexual%20assault%202012.pdf

other initiatives to serve and protect victims. While recent research has called into question some of the earlier findings, the policing profession continues to search for the most effective ways of preventing abuse, protecting victims, and working with social service providers to give victims greater options.⁷⁷

Racial issues: The issue of race in policing has implications for community-police trust and ultimately for public safety. For years, some in the policing profession questioned how serious a problem race was, and whether racial profiling even existed. Over time, police leaders came to recognize the existence of racially biased policing and the serious threat it poses to building strong relationships between police and the communities they serve. Police agencies have responded with a variety of strategies, including collecting and analyzing data on vehicle and pedestrian stops, targeted recruiting programs to increase diversity in recruit classes, accountability measures, training officers on implicit bias, mentoring programs, and community outreach units that focus on building relationships with every community in their jurisdictions.⁷⁸ Recognition of the existence of the problem was the first step in moving forward.

Active shooters: In 1999, two students at Columbine High School in Colorado shot and killed 12 students and one teacher, injured 24 more, and then killed themselves. Police from multiple agencies responded but did not enter the school for more than 30 minutes, because their training was based on the concept of containing the situation and waiting for specialized tactical units to arrive. The policing profession confronted the brutal reality that those policies were inadequate, and developed new policies and protocols that call for the first officers on the scene to quickly organize themselves and move in to stop the threat. Today, officers respond effectively to active shooter incidents, saving lives.⁷⁹

Managing major demonstrations: In 1999, more than 40,000 protesters participated in demonstrations in Seattle regarding a World Trade Organization conference. The event is remembered for the violence of the protests and an uncoordinated police response. In response, the policing profession developed new policies and protocols for handling large-scale demonstrations, including: working with demonstration leaders in advance to set up communications, build trust, and coordinate the response; working with neighboring police agencies to establish clear mutual aid agreements; using a “soft” approach whenever possible, keeping officers with riot gear and equipment out of sight

77. See, for example, “PERF Town Hall Meeting Addresses Surprising New Domestic Violence Research.” Subject to Debate, September/October 2014. http://www.policeforum.org/assets/docs/Subject_to_Debate/Debate2014/debate_2014_sepoct.pdf

78. See, for example, the PERF reports, *Advice from Police Chiefs and Community Leaders on Building Trust* (2015), *Constitutional Policing as a Cornerstone of Community Policing*, (2015), *Legitimacy and Procedural Justice: A New Element of Police Leadership* (2014), *Understanding Race Data from Vehicle Stops: A Stakeholder’s Guide* (2005), and *Racially Biased Policing: A Principled Response* (2001). <http://www.policeforum.org/free-online-documents>

79. See the PERF report, *The Police Response to Active Shooter Incidents* (2014) for details about all aspects of these changes. <http://www.policeforum.org/free-online-documents>

but nearby in case they are needed; and other strategies. Today, very large demonstrations often are managed peacefully with few or no arrests by police.⁸⁰

Heroin addiction: Recently, many U.S. cities and towns have seen an epidemic of heroin addiction, which often begins when people take opioid pain medication such as Oxycodone following an injury or surgery. Some users become addicted to the pain killer, and later begin taking heroin because it is cheaper and more easily available than prescription medications, and it has the same effect on the body. Police agencies have responded by shifting from an enforcement-based approach to new ways of helping addicted persons get into treatment programs. Because police officers are often the first to arrive at the scene of a heroin overdose, many departments now train their officers to administer the lifesaving drug Naloxone, which can save the lives of addicts who would otherwise die before the officers' eyes.⁸¹

New York City prohibited shooting at vehicles: In August 1972, a New York City police officer shot and killed an 11-year-old African-American boy while he was fleeing in a stolen car in Staten Island. That incident prompted the NYPD to adopt a new policy prohibiting the use of deadly force at a moving vehicle unless the occupants were using deadly force by means other than the vehicle itself. As highlighted earlier in this report, that policy change produced an immediate and dramatic reduction in officer-involved shootings with no negative impact on officer safety. Over time, this policy has become a best practice in policing and has been adopted by many more agencies.

Memphis revolutionized training for mental health crises: In 1988, Memphis Police officers shot and killed a man with serious mental illness who charged at them with a knife. In response to that incident, the Memphis Police Department formed a partnership with the Memphis Chapter of what is today the National Alliance on Mental Illness (NAMI), as well as mental health providers and two local universities, the University of Memphis and the University of Tennessee. Together, they organized, trained, and implemented a specialized unit within the Memphis Police Department for the express purpose of developing a more effective and safe approach to events involving mental health crises. This was the beginning of the police department's Crisis Intervention Team, or CIT. Today, the "Memphis Model" of CIT has been adopted in hundreds of communities across the country.

Scotland police refocused on officer safety: In June 1994, an officer with the Strathclyde Police Service in Scotland was viciously stabbed to death after responding to a disturbance call in Glasgow's Gorbals district. It was the first such fatal incident in Strathclyde in more than a decade. In response to the tragedy, police services throughout Scotland quickly implemented a number of officer safety initiatives, including improved equipment and more extensive

80. See the PERF report, *Managing Major Events: Best Practices from the Field* (2011). <http://www.policeforum.org/free-online-documents>

81. See the PERF report, *New Challenges for Police: A Heroin Epidemic and Changing Attitudes Toward Marijuana* (2014). <http://www.policeforum.org/free-online-documents>

training. Today, as noted earlier in this report, officers in Police Scotland receive 40 hours of officer safety training in the academy, and they must requalify every year with an additional eight hours of officer safety training.

Confronting today's brutal facts

Today, the policing profession is confronting some “brutal facts” regarding police use of force and its impact on community-police relationships, public safety, and officer safety:

- We know that on a daily basis, officers perform their jobs with distinction and provide great service. They risk their lives, and this does not always receive the attention it deserves. The good and hard work of police officers in America is being overshadowed by the occurrence of what have been referred to as “lawful but awful” incidents.
- We know that police officers are under the microscope of public scrutiny, and many are feeling misunderstood and undervalued for the service they provide and the sacrifices they make for the community.
- We know that violent crime in some U.S. cities has increased sharply over the last year. Some trace this to a reluctance by officers to police proactively, out of fear that enforcement actions will be captured on video and misinterpreted. And some believe that crime is increasing because community members’ trust in the police has been damaged, so the level of joint efforts between communities and the police has declined.
- We know that attacks on police officers, including ambushes of officers solely because they are police officers, have increased, with horrific incidents in New York City; Prince George’s County, MD; Harford County, MD; Prince William County, VA; Euless, TX; and other locations.

Together, these conditions have produced a combustible mixture that threatens to undermine police effectiveness, the trust between police and community, and ultimately, the safety of residents and police officers alike.

The PERF 30 and the Critical Decision-Making Model: A framework for fundamental change

Leading police officials see the current environment as a new “defining moment” in which the policing profession is being challenged to step up and embrace change.

This report, reflecting the work of hundreds of police chiefs and other law enforcement officers from all ranks, provides a framework for confronting the challenges we face and for moving the profession forward in a safer direction. Our 30 Guiding Principles on police use of force represent the best of new thinking on use of force, as well as strategies that have proven successful for many years in individual agencies. The Critical Decision-Making Model (CDM) offers a training and operational tool to help agencies implement the

Guiding Principles. Together, these two elements provide a new way for police agencies to improve effectiveness and safety in non-firearms situations.

Next steps

PERF is accelerating its efforts to operationalize the PERF 30 and Critical Decision-Making Model. PERF is currently developing a curriculum anchored by the CDM and incorporating the policies, training, tactics, and equipment described in the Guiding Principles.

In the meantime, we are encouraged by the numerous recent examples of police agencies taking steps to implement many of the PERF 30 Guiding Principles (see pages 74–78 for additional examples):

- In Fairfax County, Virginia, the police department has adopted the Critical Decision-Making Model and embedded the CDM in its training on managing critical incidents. In the spirit of openness and transparency, the department invited the news media to observe its re-engineered use-of-force training, including scenarios and interactive virtual training.⁸²
- In San Francisco, the police department has announced new policies and training with an emphasis on de-escalation and using distance and cover to create time.
- In Utah, Massachusetts, and other states, new efforts are under way to train officers in de-escalation and defusing tense situations, especially those involving persons experiencing mental health crises.
- Numerous agencies have adopted or reinforced policies directing officers to render first aid to subjects they injure. News accounts of officer-involved shootings now frequently state that officers promptly provided first aid as emergency medical personnel were responding.

PERF encourages all agencies to review the Guiding Principles, the CDM, and the commentaries and background information in this report, and to incorporate some or all of these concepts in their operations. In doing so, agencies will be part of a national effort to take policing to a higher standard when it comes to police use of force and the safety of officers and the public.

82. Media Advisory: Fairfax County Police Department Use-of-Force Critical Decision-Making Training; Media Day, March 27, 2016. <https://fcpdnews.wordpress.com/2016/03/27/media-advisory-fairfax-county-police-department-use-of-force-critical-decision-making-training-media-day/>

About the Police Executive Research Forum

THE POLICE EXECUTIVE RESEARCH FORUM (PERF) IS AN INDEPENDENT research organization that focuses on critical issues in policing. Since its founding in 1976, PERF has identified best practices on fundamental issues such as reducing police use of force; developing community policing and problem-oriented policing; using technologies to deliver police services to the community; and developing and assessing crime reduction strategies.

PERF strives to advance professionalism in policing and to improve the delivery of police services through the exercise of strong national leadership; public debate of police and criminal justice issues; and research and policy development.

The nature of PERF's work can be seen in the titles of a sample of PERF's reports over the last decade. Most PERF reports are available without charge online at <http://www.policeforum.org/free-online-documents>.

- *Advice from Police Chiefs and Community Leaders on Building Trust: "Ask for Help, Work Together, and Show Respect" (2016)*
- *Re-Engineering Training on Police Use of Force (2015)*
- *Gun Violence: Regional Problems, Partnerships, and Solutions (2015)*
- *Constitutional Policing as a Cornerstone of Community Policing (2015)*
- *Defining Moments for Police Chiefs (2015)*
- *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned (2014)*
- *Local Police Perspectives on State Immigration Policies (2014)*
- *New Challenges for Police: A Heroin Epidemic and Changing Attitudes Toward Marijuana (2014)*
- *The Role of Local Law Enforcement Agencies in Preventing and Investigating Cybercrime (2014)*
- *The Police Response to Active Shooter Incidents (2014)*
- *Future Trends in Policing (2014)*
- *Legitimacy and Procedural Justice: A New Element of Police Leadership (2014)*
- *Social Media and Tactical Considerations for Law Enforcement (2013)*

To learn more about PERF, visit www.policeforum.org.

- *Compstat: Its Origins, Evolution, and Future in Law Enforcement Agencies* (2013)
- *Civil Rights Investigations of Local Police: Lessons Learned* (2013)
- *A National Survey of Eyewitness Identification Procedures in Law Enforcement Agencies* (2013)
- *An Integrated Approach to De-Escalation and Minimizing Use of Force* (2012)
- *Improving the Police Response to Sexual Assault* (2012)
- *How Are Innovations in Technology Transforming Policing?* (2012)
- *Voices from Across the Country: Local Law Enforcement Officials Discuss the Challenges of Immigration Enforcement* (2012)
- *2011 Electronic Control Weapon Guidelines* (2011)
- *Managing Major Events: Best Practices from the Field* (2011)
- *It's More Complex than You Think: A Chief's Guide to DNA* (2010)
- *Guns and Crime: Breaking New Ground By Focusing on the Local Impact* (2010)
- *Gang Violence: The Police Role in Developing Community-Wide Solutions* (2010)
- *The Stop Snitching Phenomenon: Breaking the Code of Silence* (2009)
- *Violent Crime in America: What We Know About Hot Spots Enforcement* (2008)
- *Promoting Effective Homicide Investigations* (2007)
- "Good to Great" Policing: Application of Business Management Principles in the Public Sector (2007)
- *Police Management of Mass Demonstrations: Identifying Issues and Successful Approaches* (2006)
- *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-Line Supervisors* (2006)
- *Managing a Multi-Jurisdiction Case: Identifying Lessons Learned from the Sniper Investigation* (2004)
- *Community Policing: The Past, Present and Future* (2004)
- *Racially Biased Policing: A Principled Response* (2001)

In addition to conducting research and publishing reports on our findings, PERF conducts management studies of individual law enforcement agencies; educates hundreds of police officials each year in the Senior Management Institute for Police, a three-week executive development program; and provides executive search services to governments that wish to conduct national searches for their next police chief.

All of PERF's work benefits from PERF's status as a membership organization of police officials, who share information and open their agencies to research and study. PERF members also include academics, federal government leaders, and others with an interest in policing and criminal justice.

All PERF members must have a four-year college degree and must subscribe to a set of founding principles, emphasizing the importance of research and public debate in policing, adherence to the Constitution and the highest standards of ethics and integrity, and accountability to the communities that police agencies serve.

PERF is governed by a member-elected President and Board of Directors and a Board-appointed Executive Director.

About Motorola Solutions and the Motorola Solutions Foundation



MOTOROLA SOLUTIONS IS A LEADING PROVIDER OF MISSION-CRITICAL communication products and services for enterprise and government customers. Through leading-edge innovation and communications technology, it is a global leader that enables its customers to be their best in the moments that matter.

Motorola Solutions serves both enterprise and government customers with core markets in public safety government agencies and commercial enterprises. Our leadership in these areas includes public safety communications from infrastructure to applications and devices such as radios as well as task specific mobile computing devices for enterprises. We produce advanced data capture devices such as barcode scanners and RFID (radio-frequency identification) products for business. We make professional and commercial two-way radios for a variety of markets, and we also bring unlicensed wireless broadband capabilities and wireless local area networks—or WLAN—to retail enterprises.

The Motorola Solutions Foundation is the charitable and philanthropic arm of Motorola Solutions. With employees located around the globe, Motorola Solutions seeks to benefit the communities where it operates. We achieve this by making strategic grants, forging strong community partnerships, and fostering innovation. The Motorola Solutions Foundation focuses its funding on public safety, disaster relief, employee programs and education, especially science, technology, engineering and math programming.

Motorola Solutions is a company of engineers and scientists, with employees who are eager to encourage the next generation of inventors. Hundreds of employees volunteer as robotics club mentors, science fair judges and math tutors. Our “Innovators” employee volunteer program pairs a Motorola Solutions employee with each of the nonprofits receiving Innovation Generation grants, providing ongoing support for grantees beyond simply funding their projects.

For more information on Motorola Solutions Corporate and Foundation giving, visit www.motorolasolutions.com/giving.

For more information on Motorola Solutions, visit www.motorolasolutions.com.

APPENDIX

Participants at the PERF Summit “Guiding Principles on Use of Force”

January 29, 2016, Washington, D.C.

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**SUBJECT: USE OF FORCE – INVOLVING THE DISCHARGE OF FIREARMS
(PLEAC – 1.3.2, 1.3.3, 1.3.5, 1.3.6, 1.3.7)**

INDEX

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE NUMBER</u>
1	Policy	1
2	Definitions	2
3	Use of Force	3
	Use of Force Decision Chart	4
4	Specific Prohibitions	6
5	Reporting Discharges of Firearms	7
6	Investigation of Police Discharges	13
7	Custody and Disposition of Firearms Discharged by Police Personnel	15
8	Discharge Involving Animals	17
9	Release of Information Regarding Officer Involved Shootings (OIS)	19
10	Annual Review	21
	Supervisors Firearms Discharge Checklist	22
	Officer Involved Shooting (OIS) Safeguard Protocol Memorandum (Example)	23



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(PLEAC – 1.3.2, 1.3.3, 1.3.5, 1.3.6, 1.3.7)**

1. POLICY

- A. It is the policy of the Philadelphia Police Department, that officers hold the highest regard for the sanctity of human life, dignity, and liberty of all persons. The application of deadly force is a measure to be employed only in the most **extreme circumstances** and all lesser means of force have failed or could not be reasonably employed.
- B. The most serious act in which a police officer can engage during the course of their official duties is the use of deadly force. The authority to carry and use firearms in the course of public service is an immense power, which comes with great responsibility.
- C. Police Officers shall not use deadly force against another person, unless they have an objectively reasonable belief that they must protect themselves or another person from death or serious bodily injury. Further, an officer is not justified in using deadly force at any point in time when there is no longer an objectively reasonable belief that the suspect is dangerous, even if deadly force would have been justified at an earlier point in time. (PLEAC 1.3.2)
- D. When feasible under the circumstances, police officers will give the suspect a verbal warning before using deadly force.
- E. Police officers using their professional judgment should not discharge their weapon when doing so might unnecessarily endanger innocent people.
- F. Subjects may be physically or mentally incapable of responding to police commands due to a variety of circumstances including but not limited to alcohol or drugs, mental impairment, medical conditions, or language and cultural barriers. Officers should be mindful of this when making use of force decisions.
- G. After using deadly force, officers shall immediately render the appropriate medical aid and request further medical assistance for the suspect and any other injured individuals when necessary and safe to do so and will not be delayed to await the arrival of medical assistance. (PLEAC 1.3.5)

- H. Officers who witness inappropriate or excessive force have a duty to report such violations to a supervisor and Internal Affairs.
-

2. DEFINITIONS

- A. **Objectively Reasonable:** Is a Fourth Amendment standard whereby an officer's belief that they must protect themselves or others from death or serious bodily injury is compared and weighed against what a reasonable or rational officer would have believed under similar circumstances. This determination is made by reviewing all relevant facts and circumstances of each particular case, including, but not limited to, (1) the severity of the crime at issue, (2) whether the suspects poses an immediate threat to the safety of the officers or others, (3) whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

NOTE: Resisting arrest or flight alone would not justify the use of deadly force. While the US Supreme Court identified three (3) factors that should be evaluated in determining whether an officer's use of force was objectively reasonable, this list was not intended to be all inclusive. The **TOTALITY OF THE CIRCUMSTANCES** that led an officer to believe force was needed is critical. Other factors such as, whether an individual is violent, the possibility that the individual is armed, and the number of persons with whom an officer must contend with at the time are all relevant factors to consider. **INDIVIDUAL FACTORS** alone would not give a reasonable officer the belief that deadly force is necessary.

- B. **Resistance:** Is an act by an individual that opposes an officer's lawful commands. There are two types of resistance.
1. **Active Resistance:** Is defined as the use of physical force to defy an officer's lawful arrest or attempt to gain control of a situation that requires police action.

2. **Passive Resistance:** Is defying an officer's lawful order without the use of physical force. Behaviors may include not moving, going limp, locking of arms or tightening of the body.

- C. **Serious Bodily Injury:** is defined as bodily injury which creates a substantial risk of death, causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
-

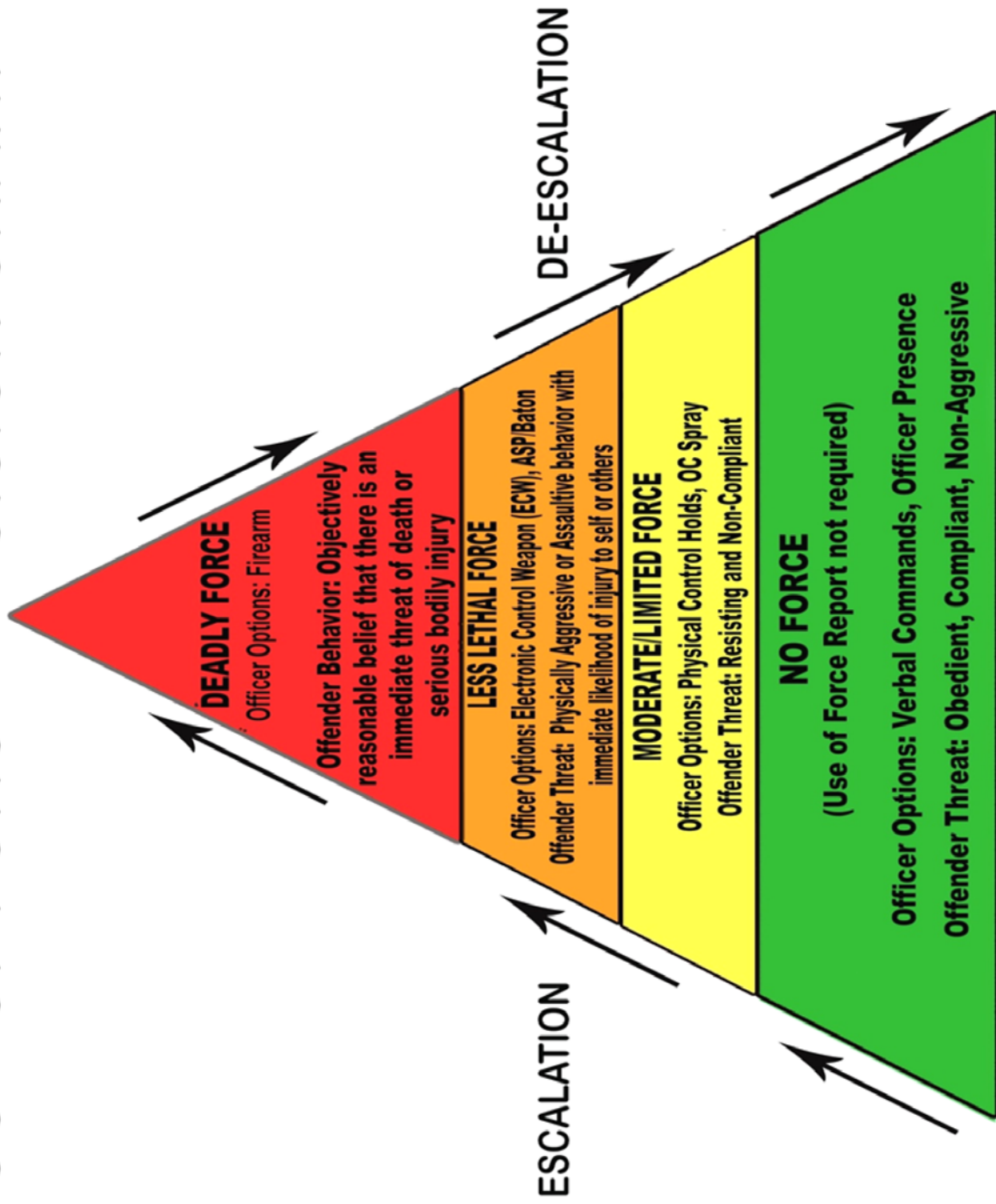
3. **USE OF FORCE**

- A. **GOAL:** To always attempt to de-escalate any situation where force may become necessary. In the event force becomes unavoidable, **to use only the minimal amount of force necessary to overcome an immediate threat or to effectuate an arrest.**

The amount of force, the continued use of any force, and the type of police equipment utilized, all depends upon the situation being faced by the officer. However, once the threat has been overcome, or a subject is secured in custody; it is an officer's responsibility to de-escalate and immediately address any injuries the suspect may have sustained.

- B. **USE OF FORCE** The following diagram illustrates the amount of force an officer should use based on the suspect's behavior and threat.
DECISION CHART: It is the suspect's behavior that places the officer and/or others in danger. The suspect's threat is the primary factor in choosing a force option. However, the officer should also consider the totality of the circumstances to include, but not limited to, a suspect's altered state due to alcohol or drugs, mental impairment, medical conditions, or the proximity of weapons.

USE OF FORCE DECISION CHART



Use the option that represents the minimal amount of force necessary to reduce the immediate threat.

C. The following are examples of how to interpret the Use of Force Decision Chart. These examples are for illustrative purposes and not intended as an exhaustive list.

1. No force is required or authorized when the offender is compliant non-aggressive and responds to verbal commands. Officers may need to handcuff such offenders but this is not considered use of force. No use of force report is required under these circumstances.
2. Moderate/limited use of force may be required when the offender is non-compliant and is resisting the officer's commands. Such behaviors may include pushing or pulling away, locking arms, or tightening of the body. Force including control holds, and OC Spray is authorized under these circumstances. Verbal aggression by itself does not warrant the use of force.

EXCEPTION: Protestors/Demonstrators that are exercising their Constitutional Rights of Free Speech or Assembly and are non-compliant and passively resisting officer's commands, OC Spray **SHALL NOT BE USED** to overcome the resistance. Rather, officers will disengage and contact a supervisor. If necessary, additional officers will be used to overcome the resistance.

3. The use of the Electronic Control Weapon (ECW) and/or ASP/Baton is authorized when the offender is physically aggressive or assaultive and there is a immediate likelihood that they may injure themselves or others. Such behaviors may include punching, kicking, grabbing, or approaching with a clenched fist.

EXCEPTION: Protestors/Demonstrators that are exercising their Constitutional Rights of Free Speech or Assembly and are non-compliant and passively resisting officer's commands, ECW **SHALL NOT BE USED** to overcome the resistance. Rather, officers will disengage and contact a supervisor. If necessary, additional officers will be used to overcome the resistance.

4. Deadly force is authorized when the officer has objectively reasonable belief that they must protect themselves or another person from the immediate threat of death or serious bodily injury.
5. An officer may address an offender's immediate threat with any option to the level of threat or lower. For example, an officer may use their ASP/Baton, OC Spray, or ECW on an offender displaying assaultive behavior with a likelihood of injury to themselves or others. They cannot use an ECW on an offender who is only non-compliant.

NOTE: The mere handcuffing of a compliant individual is not considered force.

4. SPECIFIC PROHIBITIONS

- A. Police officers shall not draw their firearms unless they reasonably believe an immediate threat for serious bodily injury or death to themselves or another person exists.
- B. Police officers shall not discharge their firearms in defense of property.
- C. Police officers shall not use a firearm as a club.
- D. Police officers shall not fire warning shots under any circumstances. (PLEAC 1.3.3)
- E. Police officers shall ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions. It is often a tactically superior police procedure to withdraw, take cover or reposition, rather than the immediate use of force.
- F. Police officers shall not discharge their firearms to subdue a fleeing individual who presents no immediate threat of death or serious physical injury to themselves or another person.
- G. Police officers shall not discharge their firearms **FROM** a moving vehicle unless the officers are being fired upon. Shooting accurately from a moving vehicle is extremely difficult and therefore, unlikely to successfully stop a threat of another person.
- H. Police officers shall not discharge their firearms **AT** a vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle (e.g., officers or civilians are being fired upon by the occupants of the vehicle).
 - 1. A moving vehicle alone shall not presumptively constitute a threat that justifies an officer's use of deadly force.
 - 2. Officers shall not move into or remain in the path of a moving vehicle. Moving into or remaining in the path of a moving vehicle, whether deliberate or inadvertent, **SHALL NOT** be justification for discharging a firearm at the vehicle or any of its occupants. An officer in the path of an approaching vehicle shall attempt to move to a position of safety rather than discharging a firearm at the vehicle or any of the occupants of the vehicle.

NOTE: An officer should never place themselves or another person in jeopardy in an attempt to stop a vehicle.

3. The prohibitions regarding the discharge of a firearm at or from a moving vehicle exist for the following reasons:
 - a. To avoid unnecessarily endangering innocent persons, both when inside the vehicle and in the vicinity.
 - b. Bullets fired at a moving vehicle are extremely unlikely to disable or stop the vehicle.
 - c. Disabling the driver of a moving vehicle creates unpredictable circumstances that may cause the vehicle to crash and injure other officers or innocent bystanders.
 - d. Moving to cover in order to gain and maintain a superior tactical advantage maximizes officer and public safety while minimizing the need for deadly or potentially deadly force.

NOTE: Barring exigent circumstances, (e.g., the driver is unconscious and the motor is still running), an officer shall never reach into an occupied vehicle in an attempt to shut off the engine or to recover evidence, since this has been known to result in serious injury to officers.

- I. Police officers with revolvers shall not under any circumstances cock a firearm. Firearms must be fired double-action at all times.
-

5. REPORTING DISCHARGES OF FIREARMS

- A. The discharge of any firearm, whether accidental or intentional, by sworn personnel on duty or off duty (except test or target fire at a bona fide pistol range or lawfully hunting game) will be reported as follows:
 1. The officer who fired the weapon will:
 - a. Immediately notify Police Radio of the occurrence and provide pertinent information regarding the need for supervisory personnel and emergency equipment if required.
 - b. Inform the first Supervisor on the scene of the location(s) of the crime scene(s) and the general circumstances relative to the preservation and collection of physical evidence. State whether they were wearing a body-worn camera (BWC) and if so, was it activated during the incident.

2. Each officer at the scene of a discharge of a firearm by any police officer will:
 - a. Notify Police Radio of the discharge, unless the officer knows Police Radio has already received such a notification.
 - b. Inform the first Supervisor on the scene of the circumstances of the discharge and provide all relevant information concerning the incident.
 - c. Ensure the provisions of Directive 4.1, "Responsibilities at Crime Scenes" are followed.
 - d. Report to the first supervisor on the scene, whether they had a BWC and if it was on during the incident.
3. Police Radio will:
 - a. Ensure that a district Supervisor is dispatched to the scene.
 - b. Immediately make the following notifications:
 - 1) Officer Involved Shooting Investigation Unit (OISI)
 - 2) Internal Affairs
 - 3) Detective Division of Occurrence
 - 4) District of Occurrence
 - 5) District or Unit to which officer is assigned
 - 6) Command Inspection Bureau (CIB), if applicable
 - 7) Crime Scene Unit (CSU)
 - 8) RTCC to identify all City owned or privately owned cameras
 - 9) Police Advisory Commission (PAC) Executive Director
 - c. Notify the Commanding Officer, Employee Assistance Program (EAP) of the police discharge. The Commanding Officer, EAP, will have police radio notify the on-call peer counselor and they will contact police radio for details of the shooting.
4. First Supervisor on the scene will be responsible for the following:
 - a. Ensure that Police Radio has been notified of the incident.
 - b. Ensure that the provisions of Directive 4.1, "Responsibilities at Crime Scenes" are carried out and protect and secure the crime scene.
 - c. Determine which officer(s) discharged their weapon(s) by examining the magazine/cylinder of the weapon of each officer present during the discharge.

*2

d. Ensure any officer having left the scene prior to the Supervisor's arrival will be recalled in order to have their weapon inspected.

e. Determine if any officer at the scene had a BWC and whether it was on during the incident.

1) Collect all BWCs with video of the incident.

2) Ensure the videos are captured and stored as evidence.

3) The involved officer may review only their BWC video prior to making any official statements to Internal Affairs or OISI Unit.

*2

f. Prepare the Supervisor's Firearm Discharge Checklist (75-654) and remain at the scene with the involved officer/s until the arrival of the OISI Unit and IAD personnel. The involved officer/s will conduct a walk-through of the scene with the following personnel:

1) OISI Supervisor and Investigator

2) IAD Personnel

3) CSU Personnel

4) First Supervisor

5) FOP Representative/Attorney

NOTE: No other personnel will be present for the walk-thru unless authorized by the OISI Unit Supervisor. If multiple officers discharge a firearm, a walk-through will be conducted with each officer individually.

g. The supervisor will take possession of the evidence bag containing the officers weapon and transport the weapon to the OISI Unit.

*2

1) Glock (semi-automatic) weapon inspection:

Instruct the officer(s) to remove the magazine for inspection and note the number of rounds. If the weapon has been fired, record the number of remaining rounds and take possession of the magazine. Supervisors, who are not Glock-trained, are prohibited from physically handling the weapon (excluding the magazine) during the inspection.

2) Revolver inspection:

Pay special attention to the cylinder position before ordering the officer to open their weapon's cylinder. Note the condition of each round in all chambers and what chamber was located under the firing pin when the cylinder was opened. If the weapon has been fired, take note of the number of spent cartridges and take possession of all six rounds of ammunition, live or spent.

3) Patrol Shotgun inspection:

In a situation where a police officer has discharged a patrol shotgun, a patrol supervisor will remove the remaining rounds from the magazine, open the action to make the weapon safe and make a note of the remaining rounds. Supervisors, who are not Patrol Shotgun/Patrol Rifle trained, are prohibited from physically handling the weapon (excluding the magazine) during the inspection.

4) Patrol Rifle inspection:

In a situation where a police officer has discharged a patrol rifle, a patrol supervisor will remove the magazine, make the weapon safe, remove the remaining rounds from the magazine and make a note of the remaining rounds. Supervisors, who are not Patrol Shotgun/Patrol Rifle trained, are prohibited from physically handling the weapon (excluding the magazine) during the inspection.

NOTE: In the event the responding patrol supervisor is not trained to handle the patrol shotgun/rifle, a trained supervisor from an adjoining district or a SWAT supervisor will be requested to respond to the location.

- h. Ensure information concerning the location(s) of the crime scene(s) and the general circumstances relative to the preservation and collection of physical evidence is provided by the involved officer(s) and disseminated to the assigned investigator by remaining at the scene until the arrival of OISI Unit personnel. The first supervisor on the scene will use the Supervisors Firearm Discharge Checklist (a copy is attached at the end of this directive) to determine required information.

NOTE: The Supervisors Firearms Discharge Checklist card will be carried by all patrol supervisors.

*2

- i. Will escort the involved officer, if not incapacitated, directly to the OISI Unit. When reasonable, discharging officers should be transported separately. If additional vehicles are needed; additional supervisors will be summoned to provide transportation.

NOTE: The first Supervisor on the scene (Corporal, Sergeant, or Lieutenant) will not delegate the responsibility of transporting officers to any other supervisor regardless of the district/unit assignment of the officer(s) involved. However, command-level personnel (Captain or above) may assign a subordinate Supervisor to transport involved officers in the event a commander is the first superior officer on the scene.

- j. Will brief the PAC Executive Director or designee on all the known facts of the discharge.
- k. Ensure they follow the replacement weapon protocol in Section 5-B.

NOTE: The responding PAC observer **WILL NOT** be given access to the crime scene.

5. The Operations Room Supervisor (ORS) of the district of occurrence will:

- a. Make notification via a computer terminal to Internal Affairs by accessing the Use of Force Notification Screen on the PPD Intranet homepage.
(PLEAC 1.3.6)

B. Replacement weapon protocol for Officer Involved Shootings (OIS).

1. This protocol will only be used when an officer discharges at a person, whether or not the person is struck, or in cases where the suspect may have handled the weapon (i.e., in a struggle for the weapon) resulting in touch DNA evidence.
2. The first supervisor on the scene will ensure Police Radio notifies the SWAT Unit assigned to the ROC Division where the discharge occurred. SWAT personnel will immediately respond to the location of occurrence to issue a replacement weapon, a paper evidence bag and protective gloves.
3. The officer who fired the weapon will remove the magazine, un-chamber the round and make the weapon safe by locking the slide to the rear. If the weapon is a revolver, the weapon will be unloaded and made safe. The firearm will be placed in the paper evidence bag, sealed, and the label will be filled out completely and turned over to the supervisor.

*2

- a. To preserve the integrity of DNA evidence, latex or non-latex, gloves will be worn when securing, rendering safe and packaging the weapon in the paper evidence bag.
4. The first supervisor on the scene will ensure that the paper evidence bag, with the label filled out completely and accurately, is delivered to the OISI Unit.

NOTE: All officers and supervisors should carry personal protection equipment (PPE) (i.e., latex or vinyl gloves) which are available at the Police Warehouse located at 660 East Erie Avenue.

5. SWAT Units assigned to each ROC Division will carry replacement weapons (8-10 firearms) comprised of 9MM, 40, 45, and 38 calibers. The weapons will be carried on all tours and accounted for daily.
6. In the event that SWAT is unavailable (i.e., training, barricade) the ORS at SWAT Headquarters will retrieve a replacement weapon from the vault and have it immediately delivered to the location of occurrence along with a paper evidence bag and protective gloves.
 - a. Personnel assigned to the SWAT Operations Room will ensure they monitor “J” Band on all tours.

C. Reporting Discharges of Firearms OUTSIDE Jurisdiction

1. The officer who fired the weapon will:
 - a. Call the local Emergency 9-1-1 to notify the jurisdiction of occurrence.
 - b. Comply with the directions given by the local investigating law enforcement officials.
 - c. Call the Philadelphia Police Radio Room at (215) XXX-XXXX so the proper notifications can be made.
2. Police Radio will:
 - a. Notify Command Inspection Bureau (CIB) or district/unit Commanding Officer depending on the time of occurrence.
 - b. Notify Internal Affairs and provide pertinent information regarding the discharge.

3. Internal Affairs will:

- a. Be immediately notified of any incident involving the discharge of a firearm by police. The Internal Affairs Shooting Team, will be notified of any incident involving the discharge of a firearm by Philadelphia Police personnel. In addition, the Shooting Team will be notified whenever a city issued or privately owned weapon of a Philadelphia Police Officer is discharged, intentionally or accidentally, by someone other than the respective officer.
- b. Notify the local investigative agency, speak to the assigned investigator, and request if Internal Affairs can respond to the scene or meet with the investigator.
- c. Respond to any discharge within reasonable driving distance (2-3 hours).
- d. If permissible, obtain any documents and/or interviews pertaining to the discharge.

D. Research and Analysis Unit will:

1. Report all crime through the online Pennsylvania Uniform Crime Reporting System as specified by the Federal Bureau of Investigation (FBI).

6. INVESTIGATION OF POLICE DISCHARGES

*2

A. The OISI Unit will:

1. Investigate all cases involving the discharge of firearms by law enforcement personnel occurring within the confines of Philadelphia.
2. In OIS incidents resulting in a fatality, ensure that all pertinent death notifications have been made.
3. Ensure that any video that captured the incident is obtained, stored and processed as evidence.
4. Be responsible for the preparation of the Investigation Report (75-49) which will be forwarded to Internal Affairs within seven (7) calendar days. (PLEAC 1.3.6)

B. Crime Scene Unit personnel will:

1. Process the scene after conferring with the assigned investigator.

C. The Discharging Officer's Commanding Officer will:

- *2
1. Ensure the Commanding Officer, OISI Unit is notified.
 2. Contact the Police Department's Employee Assistance Program (EAP), within five (5) business days, in order to arrange confidential counseling whenever an officer has discharged their firearm, except at an animal.
- NOTE:** Commanding Officers may use their discretion regarding required EAP counseling when the discharge is at an animal.
3. Be responsible for having the officer retrained at the Firearms Training Unit (FTU) before returning to duty (Exception: discharges at deer.)
 4. Whether or not the discharge results in death or injury to any person, the officer shall be temporarily assigned to non-street duties. (PLEAC 1.3.7)

*2

EXCEPTION: Officers who discharge at deer will be returned to duty immediately after arrival of OISI Unit personnel. OISI Unit personnel will not respond to the scene when SWAT has killed a deer or other wild animal, except canines.

5. An officer will return to active street duty as soon as possible after the officer has attended their scheduled visit with Employee Assistance Program (EAP), completed their required training at the FTU and based on the recommendation of Internal Affairs.

NOTE: Officers must be approved for return to active street duty by either the Police Commissioner or the First Deputy Commissioner.

D. Commanding Officer, Employee Assistance Program (EAP) will:

- *2
1. Have the assigned peer counselor respond to the OISI Unit to meet the discharging officer for an initial assessment. During the initial assessment, the peer counselor will explain the emotions that the officer might be experiencing and explain the procedures that will occur following their discharge (i.e. reporting to the FTU and EAP.).
- NOTE:** EAP peer counselors will only respond to police discharges where the suspect was fatally wounded or injured as a result of the discharge. The exception is when there is a request from the investigating shooting team, the officer's Commanding Officer, CIB or the Commanding Officer, EAP.
2. Have the peer counselor conduct a confidential follow-up assessment and provide referral information to the officer. The officer will be encouraged to contact Penn Behavioral Health (PBH).

- *2 3. Have the peer counselor, upon the completion of the session with EAP or the Penn Behavioral Health provided counselor; fax a memorandum to the Commanding Officer, OISI Unit stating the officer has attended their appointment with EAP. All other information is prohibited from being released. All EAP sessions are **STRICTLY CONFIDENTIAL** and information pertaining to the session cannot be released without the officer's permission.

NOTE: EAP is a support service and is not involved in the investigation of the police shooting.

E. Internal Affairs will:

- *2 1. Ensure a member of the IAD Shooting Team interviews the officer(s) that discharged their weapon, separately, within seventy-two hours of the incident.
- *2 2. Prepare a memorandum to the Police Commissioner detailing the results of the Internal Affairs investigation. (PLEAC 1.3.6)

*2 **NOTE:** Upon completion of the memorandum, the Chief Inspector, Office of Professional Responsibility, will forward a complete report to the Deputy Commissioner, Office of Professional Responsibility, who will forward it to the Police Commissioner.

3. Notify the Commanding Officer of the discharging officer's status.

7. CUSTODY AND DISPOSITION OF ALL FIREARMS DISCHARGED BY POLICE PERSONNEL

- *2 A. The OISI Unit will prepare a Property Receipt (75-3) containing the following information: the firearm's make, model, caliber, and serial number. A second 75-3 will be prepared for the fired cartridge(s) and unfired ammunition. The OISI Unit case number will be indicated on both Property Receipts.

- B. In discharges of firearms not resulting in injury and in any discharge (accidental or intentional) resulting in the shooting of an animal, the discharged firearm (including patrol shotguns and/or patrol rifles) will be given to the transporting supervisor in accordance with the following guidelines:

NOTE: When transporting a patrol shotgun and/or patrol rifle, prior to leaving the scene, the transporting supervisor will secure the patrol shotgun and/or patrol rifle in the vehicle lock box after making the weapon safe.

- *2
1. When the firearm will be returned, the assigned OISI Unit personnel will designate, in the description section of the Property Receipt containing the firearm information, "**FIREARM IS TO BE TEST FIRED AND RETURNED.**" The assigned OISI Unit personnel's signature and date will follow. The OISI Unit will retain the white (control) copy of the Property Receipt for their records.
 2. The transporting supervisor will transport the firearm, fired cartridge(s), and unfired ammunition and both Property Receipts directly to the Firearms Identification Unit (FIU).
 - a. When the Firearms Identification Unit (FIU), 843 North 8th Street, Room 022 is open, FIU will test fire and make every effort to expedite the examination and return the weapon to the involved officer. The test shots and firearm related materials (bullets, specimens, and/or fired cartridge cases) will be retained at FIU.

NOTE: Evidence Intake Unit is open 24 hours a day, weekends, and holidays.

 - b. When FIU is closed, the Evidence Receiving Clerk - Laboratory Division will aid the officer in securing their firearm in the mobile firearm's storage box. A replacement firearm of the same caliber will immediately be issued to that officer. Subsequently, the FIU will contact the officer for return of their original firearm.
 - c. The firearm will be unloaded and made safe, but not cleaned prior to examination.
 - d. Upon completion of the FIU examination, a copy of the findings will be forwarded to the OISI Unit.
- *2
- C. In all deliberate shootings (not involving animals) where an injury or death occurs and all accidental discharges of firearms resulting in injury or death, OISI Unit will:
- *2
1. Determine if the firearm can be returned to the officer.
 2. If the firearm is to be returned to the officer, follow the procedure in Section 7-B-1 and 2 in this directive, except the actual transportation of the weapon to FIU will be done by the OISI Unit.
- *2
3. If the firearm is not to be returned, the assigned OISI Unit personnel will designate in the description section of the Property Receipt containing the firearm information one of the following:
 - a. FIREARM IS TO BE TEST FIRED AND RETAINED—ISSUE A REPLACEMENT WEAPON.

b. FIREARM IS TO BE TEST FIRED AND RETAINED—DO NOT ISSUE REPLACEMENT WEAPON.

*2 4. The assigned OISI Unit investigator's signature and date will follow. The OISI Unit will retain the white (control) copy of any Property Receipt.

*2 5. The assigned OISI Unit personnel will transport the firearm, fired cartridge(s), and unfired ammunition, and both Property Receipts directly to the Firearms Identification Unit (FIU).

a. When the Firearms Identification Unit (FIU) is open, the FIU clerk will take possession of the weapon and other material.

*2 b. When FIU is closed, the Evidence Receiving Clerk, Laboratory Division, will aid the OISI Unit personnel in properly securing the weapon and related material in the mobile firearm's storage box.

*2 c. If a replacement firearm is to be issued, the involved officer, upon leaving the OISI Unit, will proceed to FIU or Evidence Receiving Clerk-Laboratory Division.

*2 6. FIU will test fire the firearm in question, forward a copy of the findings to the OISI Unit and the pertinent Detective Division.

D. City or Privately Owned Firearms

1. Internal Affairs will determine the disposition of the City-owned firearm and notify FIU to transport the discharged firearm to the Firearms Training Unit. All other evidence, including fired cartridge(s) and unfired ammunition will be stored at FIU until released by Internal Affairs.

2. During the second week of January, a status review of City-owned firearms being retained under the above conditions will be conducted by the Commanding Officer, Firearms Training Unit. Internal Affairs will determine which weapons may be returned to inventory. The Commanding Officer, Firearms Training Unit will submit a final report to the Deputy Commissioner, Organizational Services, by February 28th of each year, detailing the status of all firearms being retained.

8. DISCHARGES INVOLVING ANIMALS

A. Destroying Injured Deer

1. Firearms should not be used to destroy injured deer when they are not presenting an immediate threat to the officer or another person. Attempt to contact the Pennsylvania Game Commission at (610) XXX-XXXX or (610) XXX-XXXX.

2. If the above agency is unavailable, and the severities of the injuries are such that the animal should be destroyed for humane reasons, officers will first request the assistance of the SWAT Unit, who will be responsible for its destruction.

3. SWAT personnel will:

a. Upon destroying an animal, be responsible for completing the preformatted memorandum and a 75-48.

*2 b. The memorandum and 75-48 will be submitted to the OISI Unit and Internal Affairs within 24 hours of the incident.

c. If the SWAT Unit is unavailable, the officer may destroy the deer, but only in the presence and on the orders of a Supervisor.

NOTE: Usually one shot between the eyes or behind the ear of the animal should be sufficient to complete the task. However, in the event it becomes necessary for police personnel to destroy any animal suspected of being rabid by use of a firearm, it is preferred that the animal be shot in the body rather than the head. The head needs to be examined by the Philadelphia Department of Public Health.

*2 4. Police Radio will notify the OISI Unit and the Internal Affairs Shooting Team. The discharging officer and the on-scene Supervisor will remain on the scene until their arrival. (Exception: When SWAT personnel have performed the task.)

5. Consideration should be given before discharging a weapon to destroy any animal (i.e., the close proximity of people and buildings, the type of back stop or ground).

6. The Streets Department will be notified, via Police Radio, to remove the carcass of deer or other animals found or destroyed by police personnel. Suspected rabid animals that are shot by police will be transported by Animal Care and Control Team (ACCT). Dogs that are shot by police will be transported by ACCT or to ACCT by police personnel. They will not be transferred to any veterinary hospital or private veterinarian even if, the animal is still alive.

B. Discharges Involving Other Animals

1. Police officers shall not discharge their firearms at a dog or other animal except to protect themselves or another person from physical injury and there is no other reasonable means to eliminate the threat, or when acting consistently with existing Department guidelines authorizing the humane destruction of deer.

- a. When on location with an injured animal which is not presenting an immediate threat to the officer or another person, every attempt should be made to confine or contain the animal and notify Police Radio to have them contact the Animal Care and Control Team (ACCT).
2. In all cases where a dog is shot and injured by the police, the animal will be transported directly to ACCT for examination by a veterinarian.

NOTE: Police personnel will not transport an injured dog shot by police to a veterinary hospital unless exigent circumstances exist and upon approval of a supervisor (ex. ACCT or SPCA is unavailable).

9. RELEASE OF INFORMATION REGARDING OFFICER INVOLVED SHOOTINGS (OIS)

- 1*
- A. A press conference will be held by the Police Commissioner or designee within 72 hours of an officer involved shooting in which an individual was killed or wounded. An official press statement will be released by the Police Commissioner or designee within 72 hours of an incident when an on duty accidental discharge occurs or when an individual was shot at but not struck as a result of a weapons discharge by a member of the Department. The information will include the officer's name, years of service, assignment and duty status.

*1

NOTE: The office of Public Affairs will issue a press release when a domestic animal is killed by an officer. In animal shootings the name of the officer will not be released.

1. The officer(s) will be placed on Administrative Duty Status pending the outcome of the investigation.
2. The release will contain a preliminary summary stating the circumstances of the incident known at the time and based on the facts collected and confirmed by the investigators. The release will provide a brief synopsis of the incident, condition (injuries) of the individual, charges (if applicable), and the proceeding steps of the investigation. Names of the individual suspect or the officer will be released unless there are public safety concerns.
3. A preliminary summary based on the facts collected and confirmed by the investigators will be placed on the Philadelphia Police Department's website in the OIS (Officer Involved Shooting) section of the site.
4. The summary on the Department's website may be updated based on the Department's further investigation of the incident.

B. The First Deputy will ensure the following steps are followed:

- *2 1. Ensure the OISI Unit provides the involved officer with a Safeguard Protocol memorandum when the officer makes their official statement.
- *2 2. Ensure that the OISI Unit notifies the Deputy Commissioner, Patrol Operations, Criminal Intelligence, Police Radio and Public Affairs when the Safeguard Protocol is activated.

C. The Commanding Officer, Criminal Intelligence in conjunction with DVIC Social Media Investigative Support Team (SMIST), will perform a threat assessment on the OIS within seventy two (72) hours prior to disclosure of the officer's identity and prepare a report.

- 1. The results of the threat assessment report will be forwarded to the First Deputy Commissioner Field Operations or his designee, who will review the threat assessment report with the involved officer and their Commanding Officer.
- 2. Field Operations will offer to provide a security detail at the officer's residence, longer if needed, following the release of information in reference to the Officer Involved Shooting. If the officer(s) lives outside the city, patrol will work with the affected jurisdiction to provide coverage or provide the coverage necessary if the outside jurisdiction is unable to do so. The final decision to implement a security detail will be left to the officer's discretion.
 - a. If the involved officer resides within the boundaries of Philadelphia, the detail will be assigned to the district where the officer resides.
 - b. If the involved officer resides outside the boundaries of Philadelphia, the detail will be assigned to the officers district/unit of assignment if the outside jurisdiction is unable to provide coverage.
 - c. If any conflict arises as a result of detail assignments, the First Deputy will have the final decision on how to provide the manpower for the security detail.
- 3. Police Radio will enter the officer's home address into CAD and give Priority 1 status to calls for help coming from that location.
- 4. If the officer lives outside the boundaries of Philadelphia, Field Operations will make a request to the appropriate jurisdiction to enter the officer's home address into their CAD and respond accordingly to calls for help coming from that location.

- D. Commanding Officer, Criminal Intelligence in conjunction with the DVIC Social Media Investigative Support Team (SMIST) will contact the involved member and discuss ways they can review their social media footprint to minimize the amount of personal information posted on-line and discuss the steps they can take, if needed, to protect themselves against identity theft.
- E. A copy of the Officer Involved Shooting (OIS) Safeguard Protocol memorandum is attached at the end of this directive.

10. ANNUAL REVIEW

- *2 A. Research and Planning in conjunction with Internal Affairs, the OISI Unit and the Training and Education Services Bureau shall review this directive annually and recommend any updates and changes through the appropriate chain of command to the Police Commissioner.

RELATED PROCEDURES:	Directive 3.14,	Hospital Cases
	Directive 3.20,	Animal Control
	Directive 4.1,	Responsibilities at Crime Scenes
	Directive 4.10,	Foot Pursuits
	Directive 4.16,	Media Relations and the Release of Information to the Public
	Directive 6.15	Employee Assistance Program (EAP)
	Directive 10.2,	Use of Force/Less Lethal Force
	Directive 10.3,	Use of the Electronic Control Weapon (ECW)
	Directive 10.4,	Use of Force Review Board (UFRB)
	Directive 10.6,	Firearms Policy: On or Off Duty
	Directive 10.7,	Critical Response/Critical Incident Negotiations
	Directive 10.9,	Severely Mentally Disabled Persons
	Directive 10.10,	Off Duty Police Actions
	Directive 12.14,	Injuries on Duty and Other Service Connected Disabilities

BY COMMAND OF THE POLICE COMMISSIONER

PLEAC – Conforms to the standards according to the Pennsylvania Law Enforcement Accreditation Commission

<u>FOOTNOTE</u>	<u>GENERAL #</u>	<u>DATE SENT</u>	<u>REMARKS</u>
*1	6201	07-12-16	Addition/Change
*2	8427	01-30-17	Addition/Changes

SUPERVISOR'S FIREARM DISCHARGE CHECKLIST

1. Did you discharge your firearm?
 - a) If so, in what direction?
 - b) Approximately, where were you located when you fired?
 - c) How many shots do you think you fired?
 - d) Approximately, where was the suspect at when you fired?
2. Is anyone injured?
 - a) If so, where are they located?
3. Are there any outstanding suspects?
 - a) If so, what is their description?
 - b) What direction and mode of travel?
 - c) How long have they been gone?
 - d) What crime(s) have they committed?
 - e) What type of weapon do they have?
4. Is it possible the suspect fired rounds at you?
 - a) If so, what direction were the rounds fired from?
 - b) How many shots do you think the suspect fired?
 - c) Approximately, where was the suspect located when they fired?
5. Do you know if any other officer(s) discharged their firearms?
 - a) If so, who are they?
 - b) Approximately, where was the officer(s) located when they fired?
6. Are there any weapons or evidence that needs to be secured/protected?
 - a) If so, where are they located?
7. Are you aware of any witnesses?
 - a) If so, where are they located?
8. Were you wearing a body-worn camera?
 - a) If so, was the camera on during the incident?

MEMORANDUM

POLICE
CITY OF PHILADELPHIA
DATE:

TO :

FROM : Police Commissioner

SUBJECT: OFFICER INVOLVED SHOOTING (OIS) SAFEGUARD PROTOCOL

1. A member of the Internal Affairs Shooting Team will review the information contained within this memorandum with the Officer(s) involved in the shooting. This will ensure the Officer(s) understand that a press conference and/or official press release will be released by the Police Commissioner or his designee within 72 hours of an officer involved shooting. The information will include the officer's name, years of service, assignment and duty status.
2. The Commanding Officer, Criminal Intelligence in conjunction with DVIC Social Media Investigative Support Team (SMIST), will perform a threat assessment on the OIS within seventy two (72) hours prior to disclosure of the Officer's identity and prepare a report.
3. The results of the threat assessment report will be forwarded to the First Deputy Commissioner Field Operations or his designee, who will review the threat assessment report with the involved Officer and their Commanding Officer.
4. A security detail will be provided at the Officer's residence following the release of information in reference to the Officer Involved Shooting according to Directive 10.1 "Use of Force- Involving the Discharge of Firearms". The final decision to implement a security detail will be left to the involved Officer's discretion.
5. Police Radio will enter the Officer's home address into CAD and will give Priority One (1) status to any call for help coming from that location.
6. If the Officer lives outside the boundaries of Philadelphia, Field Operations will make a request to the appropriate jurisdiction to enter the Officer's home address into their CAD and respond accordingly to calls for help coming from that location.
7. Criminal Intelligence in conjunction with DVIC Social Media Investigative Support Team (SMIST), will discuss ways that the involved Officer(s) and their family members can review their social media footprint to minimize the amount of personal information posted on-line. In addition, Criminal Intelligence in conjunction with DVIC SMIST, will educate the involved Officer(s) on the necessary steps they can take to protect themselves against identity theft if needed.

Police Commissioner
Philadelphia Police Department

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3 LIMIT USE OF FORCE



THE PROJECT

POLICY DATABASE

PLANNING TEAM

POLICE USE OF FORCE PROJECT

How police use of force policies can help to end police violence.



POLICE USE OF FORCE POLICIES CURRENTLY LACK BASIC PROTECTIONS AGAINST POLICE VIOLENCE

These policies often fail to include common-sense limits on police use of force, including:

1. **Failing to require officers to de-escalate situations**, where possible, by communicating with subjects, maintaining distance, and otherwise eliminating the need to use force
2. **Allowing officers to choke or strangle civilians**, in many cases where less lethal force could be used instead, resulting in the unnecessary death or serious injury of civilians
3. **Failing to require officers to intervene and stop excessive force** used by other officers and report these incidents immediately to a supervisor
4. **Failing to ban officers from shooting at moving vehicles**, which is [regarded](#) as a particularly dangerous and ineffective tactic
5. **Failing to develop a Force Continuum** that limits the types of force and/or weapons that can be used to respond to specific types of resistance
6. **Failing to require officers to exhaust all other reasonable means** before resorting to deadly force
7. **Failing to require officers to give a verbal warning**, when possible, before shooting at a civilian
8. **Failing to require officers to report each time they use force or threaten to use force** against civilians

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REVIEW

We reviewed the rules governing police use of force in America's largest city police departments to determine whether they include meaningful protections against police violence.



We reviewed the use of force policies of **America's 100 largest city police departments** to determine whether they include meaningful protections against police violence. *Click the boxes below to view details for each policy.*

DOWNLOAD REPORT

READ THE FULL STUDY

NEW

Yes since 6/2020

Yes

No

Under Review

Highlighted cities have adopted more restrictive policies since June 2020.

Use of Force Policy	Requires De-Escalation	Has Use of Force Continuum	Bans Chokeholds and Strangleholds	Requires Warning Before Shooting	Restricts Shooting at Moving Vehicles	Requires Exhaust All Other Means Before Shooting	Duty to Intervene	Requires Comprehensive Reporting
Albuquerque								
Anaheim								
Anchorage								
useofforceproject.org/#project								

Anchorage			
Arlington		NEW	NEW
Atlanta	NEW		NEW
Aurora		NEW	NEW
Austin			
Bakersfield		NEW	
Baltimore			
Baton Rouge			
Birmingham		NEW	NEW
Boston	NEW	NEW	NEW

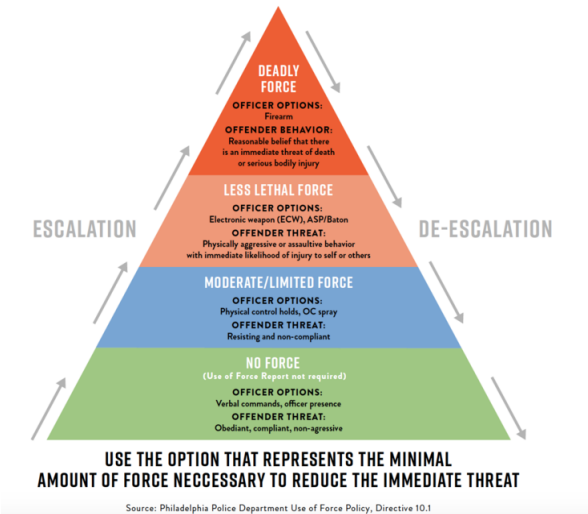
56 of the 100 police departments require officers to de-escalate situations, when possible, before using force. Prior to June 2020, 49 departments had this policy in place.

**NEW ORLEANS POLICE USE OF FORCE POLICY
REQUIRES OFFICERS TO TRY TO DE-ESCALATE
SITUATIONS BEFORE RESORTING TO FORCE**

300.1 USE OF FORCE PRINCIPLES
(a) Officers shall use advisements, warnings, and verbal persuasion, when possible, before resorting to force.
(b) Force shall be de-escalated immediately as resistance decreases.
(c) When feasible based on the circumstances, officers will use disengagement; area containment; surveillance; waiting out a subject; summoning reinforcements; and/or calling in specialized units, in order to reduce the need for force and increase officer and civilian safety.
(d) Officers shall allow individuals time to submit to arrest before force is used wherever possible

Source: New Orleans Police Department Use of Force Policy, Section 300.1

83 of the 100 police departments have a Force Continuum or Matrix included in their use of force policy, defining the types of force/weapons that can be used to respond to specific types of resistance. Prior to June 2020, 83 departments had this policy in place.



71 of the 100 police departments explicitly prohibit chokeholds and

**MIAMI POLICE USE OF FORCE POLICY
PROHIBITS OFFICERS FROM USING
CHOKEHOLDS AND STRANGLEHOLDS**

strangleholds (including carotid restraints) or limit these tactics to situations where deadly force is authorized. Prior to June 2020, 28 departments had this policy in place.

21.4.1.20

Police Officers are prohibited from utilizing the Lateral Vascular Neck Restraint (LVNR), choke hold, neck hold, and/or any other restraint that restricts free movement of the neck or head.

Source: Miami Police Department Use of Force Policy, Section 21.4.1.20

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81 of the 100 police departments

require officer to give a verbal warning, when possible, before using deadly force. Prior to June 2020, 70 departments had this policy in place.

DC POLICE USE OF FORCE POLICY REQUIRES OFFICERS TO **ISSUE A WARNING**, WHEN POSSIBLE, BEFORE USING DEADLY FORCE

IV.C.

When feasible, members shall identify themselves as a police officer and **issue a warning** before discharging a firearm.

Source: DC Metropolitan Police Department Use of Force Policy, Section IV.C.

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25 of the 100 police departments

prohibit officers from shooting at people in moving vehicles unless the person poses a deadly threat by means other than the vehicle (for example, shooting at people from the vehicle). Prior to June 2020, 20 departments had this policy in place.

NEW ORLEANS POLICE USE OF FORCE POLICY **RESTRICTS OFFICERS FROM SHOOTING AT OR FROM MOVING VEHICLES**

300.5.1 SHOOTING AT OR FROM MOVING VEHICLES

Officers shall not discharge a firearm from a moving vehicle or at a moving vehicle unless the occupants of the vehicle are using deadly force, other than the vehicle itself, against the officer or another person, and such action is necessary for self-defense or to protect the other person; shall not intentionally place themselves in the path of, or reach inside, a moving vehicle; and, where possible, shall attempt to move out of the path of a moving vehicle before discharging their weapon. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

Source: New Orleans Police Department Use of Force Policy, Section IV.C

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49 of the 100 police departments

require officers to exhaust all other reasonable alternatives before resorting to using deadly force. Prior to June 2020, 43 departments had this policy in place.

NEWARK POLICE USE OF FORCE POLICY REQUIRES OFFICERS **EXHAUST ALL OTHER MEANS BEFORE USING DEADLY FORCE**

II.

Police officers shall use firearms with a high degree of restraint. Officers' use of firearms, therefore, shall never be considered routine and is permissible only in defense of life or to prevent serious bodily injury to the officer or others - and then only after all alternative means have been exhausted.

Source: Newark Police Department Use of Force Policy, Section II

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72 of the 100 police departments

require officers to intervene to stop another officer from using excessive force. Prior to June 2020, 51 departments had this policy in place.

NEW ORLEANS POLICE USE OF FORCE POLICY
REQUIRES OFFICERS *TO INTERVENE AND STOP*
ANOTHER OFFICER USING EXCESSIVE FORCE

300.3 DUTY TO INTERCEDE AND REPORT

Any officer present and observing another officer using force that is clearly beyond what is objectively reasonable under the circumstances shall, when in a position to do so, *intercede to prevent the use of unreasonable force.* Any officer who observes another employee use any use of force incident shall promptly report these observations to a supervisor, and officers observing a level 2, 3 or 4 use of force shall write a Force Statement before the end of the shift, which shall be included in the Use of Force Report.

Source: New Orleans Police Department Use of Force Policy, Section 300.3

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39 of the 100 police departments

require officers to report all uses of force including threatening another civilian with a firearm. Prior to June 2020, 30 departments had this policy in place.

WICHITA POLICE USE OF FORCE POLICY
REQUIRES OFFICERS *TO REPORT WHEN THEY*
THREATEN CIVILIANS WITH A WEAPON

4.1.28.B.B

Members will fill out a Response to Resistance Form and the Electronic Use of Force/Restraint Evaluation Form whenever the following situations occur:

1. *Displaying a police weapon as a means to gain compliance.* This would include aerosol weapon, baton, Taser, handgun, shotgun, or rifle. Each member who engages in the activity will fill out the form;

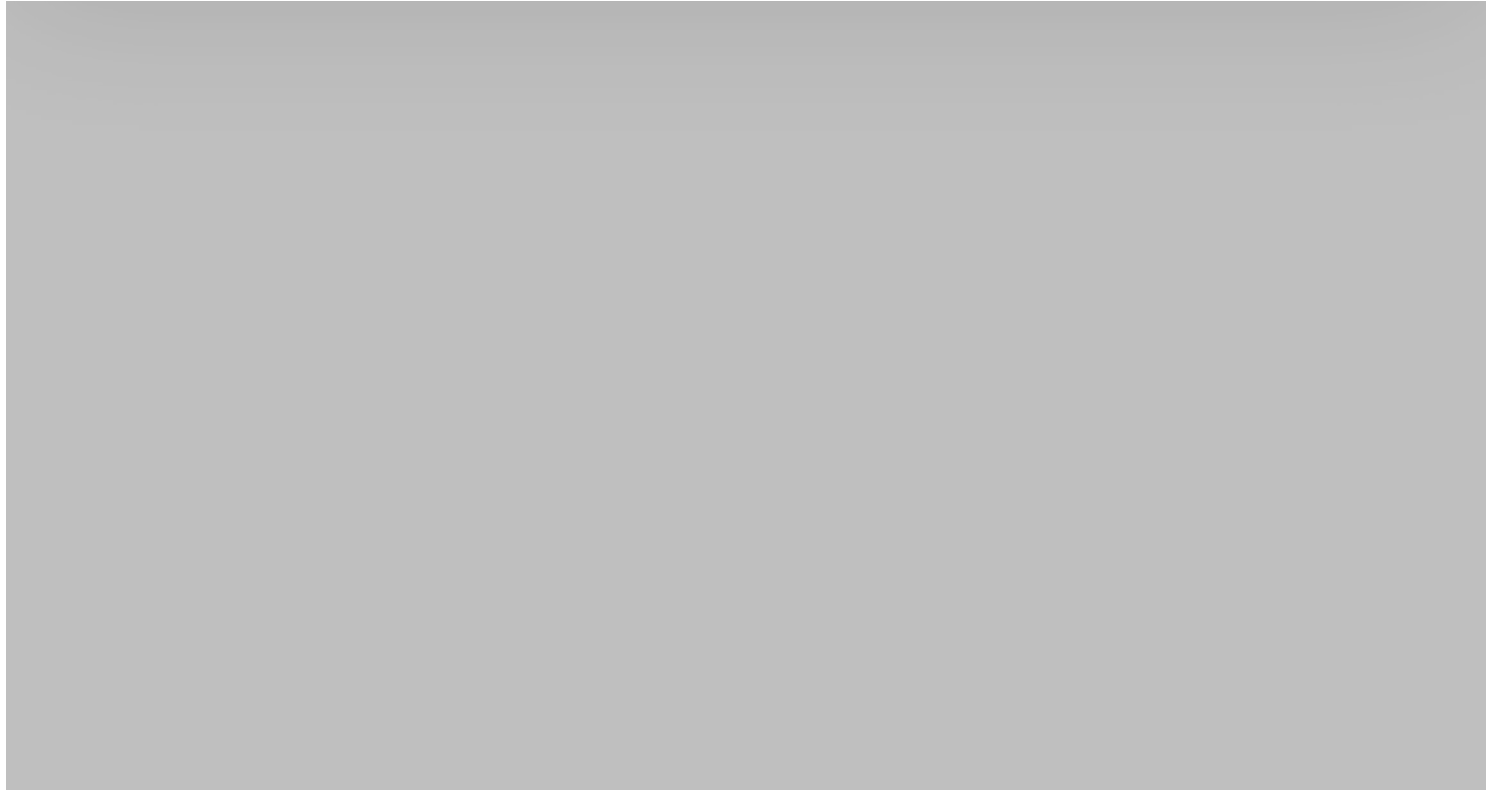
2. Discharging a police weapon to accomplish a police objective. This would include using an aerosol weapon on an individual, striking a person with a baton, tasing a suspect, or shooting a duty handgun, shotgun, or rifle. Each member who engages in the activity will fill out the form;

3. A member uses physical force. Each member who engages in the activity will fill out the form;

Source: Wichita Police Department Use of Force Policy, Section 4.1.28.B.B

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VIEW POLICY DATABASE





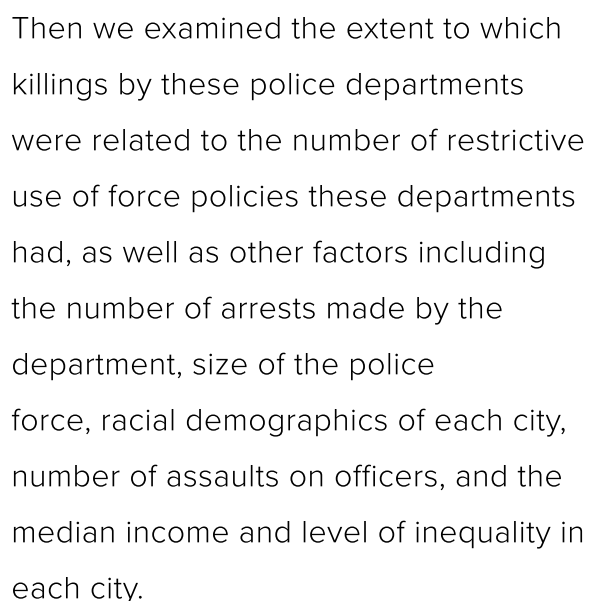
ANALYSIS

We examined the relationship between use of force policies and police killings and found significantly fewer killings by police departments with strong policies in place.

OVERVIEW

We compared police department use of force policies with police killings data for these police departments to see if there was a relationship between the two. We found that police departments with **policies that place clear restrictions** on when and how officers use force had **significantly fewer killings** than those that did not have these restrictions in place.

For this analysis, we used police killings data from The Guardian's [The Counted](#) database, from January 1, 2015 - July 15, 2016. As shown by the chart below, there was wide variation in rates of police killings among America's largest city police departments.



RESTRICTIVE USE OF FORCE POLICIES ARE ASSOCIATED WITH FEWER POLICE KILLINGS

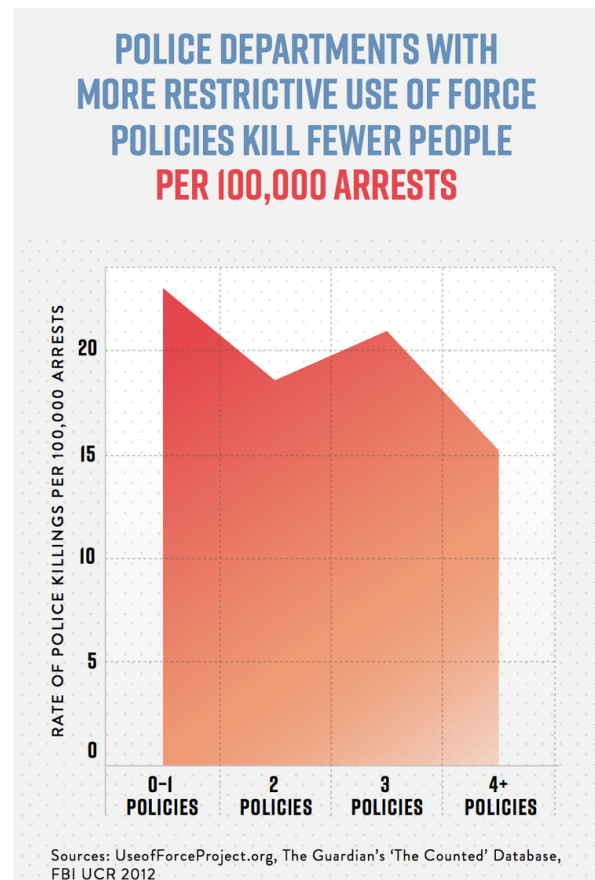
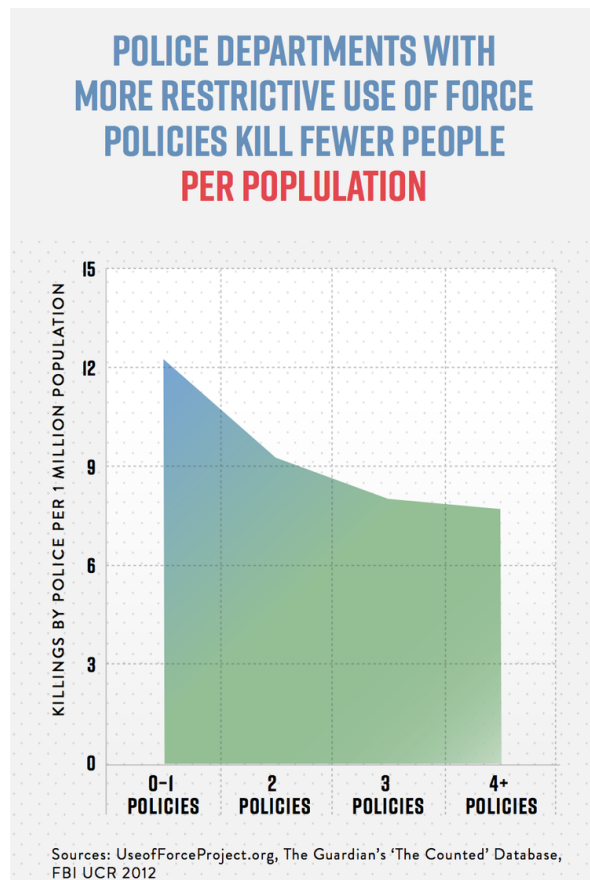
Percent fewer police killings per capita for police departments with each policy implemented

Policy	Percent Fewer Police Killings per Capita
Requires Comprehensive Reporting	-25%
Requires Officer Exhaust All Other Means Before Shooting	-25%
Bans Chokeholds and Strangleholds	-22%
Has Use of Force Continuum	-19%
Requires De-escalation	-15%
Duty to Intervene	-9%
Restricts Shooting at Moving Vehicles	-8%
Requires Warning Before Shooting	-5%

For each of the 8 policies examined, police departments that *had implemented* the policy were less likely to kill people than police departments that *had not*.

Police departments with four or more of these restrictive use of force policies had the fewest killings per population and per arrest. According to our analysis, the average

police department has **54% fewer killings** than a police department with none of these policies in place and **a police department that has all eight of these policies has 72% fewer killings** than a police department with none of these policies in place.



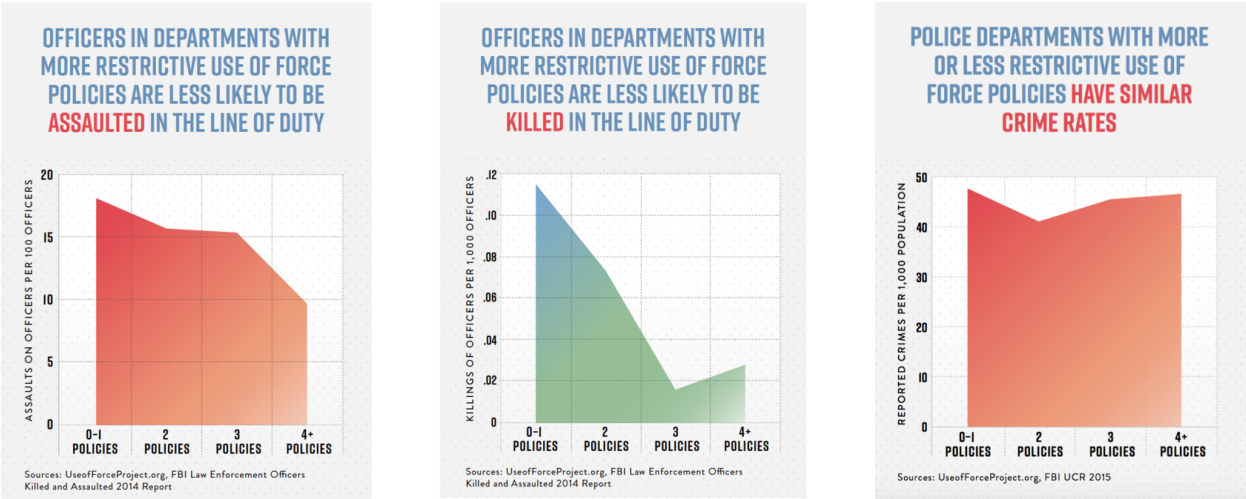
DISCUSSION

These results indicate that while the chances of killing a civilian increases the more arrests a police department makes, that likelihood is shaped by the department's policies governing how and when police can use force during those encounters. This suggests that advocacy efforts pushing police department to adopt more restrictive use of force policies - and the accountability structures to enforce them - could be a pathway for **reducing the number of people killed by police in America**. And while this analysis was limited to examining rates of deadly force, these policies may also be associated with reductions in other forms of police violence as well.

Despite their potential impact, efforts to push for these changes have often been opposed by police organizations that claim more restrictive use of force policies “endanger officers” or “put communities at risk” by preventing officers from effectively addressing crime (See [here](#), [here](#), [here](#), and [here](#)). We find that these assumptions are not supported by the data. **Officers in police departments with more restrictive policies in place are actually less likely to be killed in the line of duty, less likely to be assaulted, and have similar likelihood of sustaining an injury during an assault.**

Moreover, our findings show police departments with more restrictive use of force policies have similar crime rates, including similar violent crime rates, as police departments with less restrictive use of force policies.

In short, a commitment to protect and preserve life necessitates the immediate adoption of more restrictive policies governing when and how officers use force in our communities.



MODEL USE OF FORCE POLICY

CAMPAIGN ZERO

MODEL USE OF FORCE POLICY

I. GENERAL

This policy sets forth criteria governing the use of force for the [Insert Jurisdiction] to prevent unnecessary force, ensure accountability and transparency, and ensure the community's trust and confidence in the [Insert Jurisdiction] ability to protect and serve.

MISSION. It shall be the utmost priority and mission of [Insert Jurisdiction] Police Department to protect and serve all individuals of [Insert Jurisdiction] and to respect the inherent life, liberty, dignity, and worth of all individuals by preserving human life, and minimizing physical harm and the reliance on use of force, and by conducting their duties without retaliation.

We have developed this **model use of force policy** based on our review and analysis of effective use of force policies across the nation. The policy includes evidence-informed restrictions on police

USE OF FORCE POLICY

OFFICER'S RESPONSIBILITY AND COMPLIANCE.
All officers are responsible for knowing and complying with this policy and conducting themselves in a manner aligned with this mission. Any violation of this policy will subject the officer to disciplinary action, including and up to termination and criminal prosecution. Supervisors shall ensure that all personnel in their command know the content of this policy and operate in compliance with it.

II. USE OF FORCE

It shall be the policy of [Insert Jurisdiction] that all law enforcement officers must respect and preserve human life at all times and in all situations.

MINIMAL RELIANCE ON FORCE. Law enforcement officers of [Insert Jurisdiction] Police Department shall only use physical force when no other viable option is available and when all non-physical options are exhausted. (See section, "Alternatives to Use of Force). In all cases where force is used, only the minimum degree of force which is necessary shall be employed. The minimum degree of force is the lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective. [Model Policy: [Buffalo PD Policy](#) , [San Francisco PD Policy](#)]

To further the aim of minimal reliance on force, all law enforcement officers must carry on their person at all times at least one less-lethal weapon. [[Seattle PD policy](#)]

ALTERNATIVES TO USE OF FORCE. The following is a list of options that may be used instead of physical, non-deadly force [[Seattle PD Policy](#)].

- De-escalation
- Placing barriers between an uncooperative subject and a law enforcement officer

CAMPAIGN ZERO | [joincampaignzero.org](#)

use of force that are designed to significantly reduce police violence in communities. It should be adopted by police chiefs and local elected officials without delay.

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The Principle of Minimum Force

The Principles of Policing pp 110-132 | Cite as

- Michael S. Pike

There are no affiliations available

Chapter

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Abstract

The principle which embodies the minimum use of force became firmly established with the creation of the modern police system in 1829. The circumstances of crime and disorder which provided the impetus for police reform during the latter half of the eighteenth century and the early nineteenth century have already been described. It was essentially a conflict between those who viewed the imposition of a police force on the population as an assault on liberty and those who recognised that the establishment of a police system was the only way in which liberty could be preserved. This conflict arose largely because of public ignorance of the way in which the law operated within society and, particularly, of the way in which the law could be enforced. Lawlessness and disorder had prompted more restrictive laws and severe penalties but these had had little impact on the problem.

Keywords

Police Officer Police Force Royal Commission Coercive Power Minimum Force

These keywords were added by machine and not by the authors. This process is experimental and the keywords may be updated as the learning algorithm improves. This is a preview of subscription content, [log in](#) to check access.

Preview

Unable to display preview. [Download preview PDF.](#)

Notes

9. C. Reith, *A New Study of Police History* (1956) p. 287.
[Google Scholar](#) (http://scholar.google.com/scholar_lookup?title=A%20New%20Study%20of%20Police%20History&author=C.%20Reith&publication_year=1956)
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33. B. Smith, *Police Systems in the United States* (1940) p. 27.
[Google Scholar](#) (http://scholar.google.com/scholar_lookup?title=Police%20Systems%20in%20the%20United%20States&author=B.%20Smith&publication_year=1940)

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6 The Principle of Minimum Force

The principle which embodies the minimum use of force became firmly established with the creation of the modern police system in 1829. The circumstances of crime and disorder which provided the impetus for police reform during the latter half of the eighteenth century and the early nineteenth century have already been described. It was essentially a conflict between those who viewed the imposition of a police force on the population as an assault on liberty and those who recognised that the establishment of a police system was the only way in which liberty could be preserved. This conflict arose largely because of public ignorance of the way in which the law operated within society and, particularly, of the way in which the law could be enforced. Lawlessness and disorder had prompted more restrictive laws and severe penalties but these had had little impact on the problem.

Gradually, it became more widely recognised that the law itself was an insufficient guarantee of individual liberty unless it was supplemented by an effective means of enforcing it. Historically, the army had always represented the ultimate coercive element in society whether the threat to the established system was from internal or external sources. The notion that 'might was right' was the basis on which force was used to secure compliance, but the failure to control the widespread crime and disorder led to fierce debate and proposals for reform of the criminal law. It was not readily apparent to influential people at the time that the failure of the law to contain crime and disorder was not due to the nature of the law but the means of enforcing it. It was against this background that the measures taken by the Fielding brothers, Colquhoun and Peel assumed such significance.¹

In the early part of the nineteenth century the army had been used to suppress the Luddite riots and the 'Peterloo Massacres' at

Manchester in 1819 again saw the army deployed against the rioting working classes. There is little doubt that this latter event which involved the death of eleven people and 400 injured caused great resentment, shock and open hostility towards the use of naked force. It proved a turning point in public opinion which shifted in favour of some system of organised police.

It had long been the considered view of many people that there was something inherently wrong in using armed force in order to suppress the civilian population. The army operated on the principle of maximum force and were inevitably linked with central government and oppressive conduct. As such, it had no relationship with the criminal law nor acted under its authority. The force used to quell the mob was blind, arbitrary and oppressive.

The ultimate failure of the army to provide an acceptable means of enforcing the law and restoring order lay in the fact that the force used to achieve its objectives was excessive. Consequently, although it acted with the approval of government, on whom responsibility for law and order rested, it did not act with the approval of the people.

The lessons learned from the disorders in the early part of the nineteenth century were not lost on Peel who consciously organised and developed his new police in a way which sought to win public approval. He was clearly influenced by events in France and elsewhere and he understood the general abhorrence to any form of policing which reflected the characteristics of the French model. In seeking public approval, Peel was determined to avoid any suggestion that the new police were to be used in an arbitrary way by central government since he recognised that the liberty of the individual was highly valued.

It is doubtful if Peel could have envisaged how successful his new police were to prove. Peel's conception and vision embraced the principle of prevention and this applied not only to crime but to disorder as well. The coercive element was replaced by a persuasive approach which recognised that objectives could be achieved in many situations without resorting to the use of force. Thus the first instructions issued to the police embraced the principle of minimum force which was expressed as follows. 'By the use of tact and good humour the public can normally be induced to comply with directions and thus the necessity for using force, with its possible disapproval, is avoided.'


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TABLE OF CONTENTS

PURPOSE.....	2
POLICY	2
PROCEDURES	4
CORE PRINCIPLE #1: Officers may use force only to accomplish specific law enforcement objectives.....	4
CORE PRINCIPLE #2: Whenever feasible, officers should attempt to de-escalate confrontations with the goal of resolving encounters without force. Officers may only use force that is objectively reasonable, necessary, and as a last resort.....	4
CORE PRINCIPLE #3: Officers must use only the amount of force that is proportionate to the circumstances.....	5
CORE PRINCIPLE #4: Deadly force is only authorized as a last resort and only in strict accordance with this directive.	8
CORE PRINCIPLE #5: Officers must promptly provide or request medical aid.	9
CORE PRINCIPLE #6: Employees have a duty to stop and report uses of force that violate any applicable law and/or this directive.	9
NOTIFICATIONS REGARDING USES OF FORCE	10
REPORTING REQUIREMENTS & REAL-TIME REVIEW.....	11
INTERNAL AFFAIRS USE OF FORCE REVIEW	13
USE OF FORCE DATA COLLECTION & ANALYSIS	14
TRAINING REGARDING USE OF FORCE.....	15
DEFINITIONS	16

PURPOSE

1. The primary purpose of this directive is to ensure officers respect the sanctity of life when making decisions regarding use of force. Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. That authority is grounded in the responsibility of officers to comply with the laws of the State of New Jersey regarding the use of force and to comply with the provisions of this directive. Equally important is law enforcement's obligation to prepare individual officers in the best way possible to exercise that authority.

In situations where law enforcement officers are justified in using force, the utmost restraint should be exercised. Use of force should never be considered routine. In exercising this authority, officers must respect the sanctity of all human life, act in all possible respects to preserve human life, do everything possible to avoid unnecessary uses of force, and minimize the force that is used, while still protecting themselves and the public.

POLICY

2. This directive applies to all officer uses of force. This directive establishes guidelines for officers with regard to use of force. This directive applies to all uses of force, whether officers are on- or off-duty. This directive complements the Critical Decision-Making model (CDM) that is the core of the Department's use of force training. CDM provides officers with an organized way of making decisions about how they shall act in any situation, including situations that may involve potential uses of force.

3. This directive recognizes constitutional principles, but aspires to go beyond them. The Fourth Amendment requires that an officer's use of force be "objectively reasonable." *Graham v. Connor*, 490 U.S. 386 (1989). Under this standard, an officer may only use force that a reasonable officer would when facing similar circumstances. The objectively reasonable standard acknowledges the difficult decisions that officers are forced to make under rapidly evolving and often unpredictable circumstances, but it does not provide specific guidance on what to do in any given situation.

The Constitution provides a "floor" for government action. This Department aspires to go beyond *Graham* and its minimum requirements. Sound judgment and the appropriate exercise of discretion will always be the foundation of police officer decision making in the broad range of possible use of force situations. It is not possible to entirely replace judgment and discretion with detailed policy provisions. Nonetheless, this directive is intended to ensure that de-escalation techniques are used whenever feasible, that force is only used when necessary, and that the amount of force used is proportionate to the situation that an officer encounters.

The Department's core use of force principles are as follows:

CORE PRINCIPLE #1: Officers may use force only to accomplish specific law enforcement objectives.

CORE PRINCIPLE #2: Whenever feasible, officers should attempt to de-escalate confrontations with the goal of resolving encounters without force. Officers may only use force that is objectively reasonable, necessary, and as a last resort.

CORE PRINCIPLE #3: Officers must use only the amount of force that is proportionate to the circumstances.

CORE PRINCIPLE #4: Deadly force is only authorized as a last resort and only in strict accordance with this directive.

CORE PRINCIPLE #5: Officers must promptly provide or request medical aid.

CORE PRINCIPLE #6: Employees have a duty to stop and report uses of force that violate any applicable law and/or this directive.

4. Officers will be disciplined for violations of this directive. This directive is not intended to create or impose any legal obligations or bases for legal liability absent an expression of such intent by a legislative body, court, or agency. Nevertheless, officers have an affirmative, individual duty to ensure compliance with this directive and with applicable state and federal laws. This applies to the officer's own conduct, as well as observation or knowledge of the conduct by other employees. This directive reinforces the responsibility of officers to take those steps possible to prevent or stop illegal or inappropriate uses of force by other officers. Actions inconsistent with this directive may result in disciplinary action, up to and including termination. At the same time, officers whose actions are consistent with the law and the provisions of this directive will be strongly supported in any subsequent review of their conduct regarding the use of force.

PROCEDURES

CORE PRINCIPLE #1: Officers may use force only to accomplish specific law enforcement objectives.

5. Officers *may* use force for the following legitimate law enforcement objectives:

- a. To effect lawful law enforcement objectives, such as to effect a lawful seizure (an arrest or detention) or to carry out a lawful search;
- b. To overcome resistance directed at the officer or others;
- c. To prevent physical harm to the officer or to another person, including intervening in a suicide or other attempt to self-inflict injury;
- d. To protect the officer, or a third party, from unlawful force; or
- e. To prevent property damage or loss.

6. Officers *may not* use or threaten to use force for the following reasons:

- a. To resolve a situation more quickly, unless the extended delay would risk the safety of the person involved, officers, or others, or would significantly interfere with other legitimate law enforcement objectives;
- b. To punish a person or to retaliate against them for past conduct or to impose punishment;
- c. To prevent a person from resisting or fleeing in the future;
- d. To force compliance with an officer's request, unless that request is necessary to serve officer or public safety, or criminal adjudication; or
- e. Based on bias against a person's race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.

CORE PRINCIPLE #2: Whenever feasible, officers should attempt to de-escalate confrontations with the goal of resolving encounters without force. Officers may only use force that is objectively reasonable, necessary, and as a last resort.

7. Officers will use de-escalation and force-mitigation tactics and techniques whenever safe and feasible to do so. It should be every officer's goal to resolve all situations without using force. To make this more likely, officers must use de-escalation and force-mitigation tactics and techniques whenever doing so will not put the officer or another person at undue risk.

- a. Officers will receive substantial training on the Critical Decision-Making (CDM) model, as well as when and how to appropriately use de-escalation and force-mitigation, including but not limited to *Tactical Communication*, *Tactical Positioning*, and *Time as a Tactic*.

8. Officers will provide clear instructions and warnings whenever feasible before using force. Whenever safe and feasible, officers should not use force immediately when encountering noncompliance with lawful verbal directions. Instead, whenever safe and feasible, before using force, officers should:

- a. Provide clear instructions and warnings;
- b. Seek to communicate in non-verbal ways when a verbal warning would be inadequate (such as when the person does not speak English, or is unable to hear or understand warnings);

- c. Indicate the consequences of refusing to comply with a mandatory order, including that force will be used unless the person complies; and
 - d. Give the person a reasonable amount of time to comply.
- 9. **Officers must consider an individual's mental, physical, or other incapacities.** Officers must, when feasible, consider whether a person's failure to comply with an officer's command is due to a medical condition, mental impairment, physical limitation, developmental disability, language barrier, drug interaction, behavioral crisis, or other factors beyond the individual's control. In these situations, officers should consider whether specific techniques or resources would help resolve the situation without force.
- 10. **Officers should not exercise force unless it is necessary and as a last resort.** Officers should exhaust all other reasonable means before resorting to the use of force. Using force only as a last resort means that officers not engage in unnecessary, overly aggressive, or otherwise improper actions that create a situation where force becomes needed. Using force only as a last resort also means that an officer shall not use force if a safe alternative would achieve the law enforcement objective.

CORE PRINCIPLE #3: Officers must use only the amount of force that is proportionate to the circumstances.

11. **Officers must evaluate all the circumstances facing them in the field to determine whether force is appropriate and what amount is proportionate.** Officers encounter a wide range of situations in the field, but the sanctity of human life should be at the heart of every decision an officer makes. When force cannot be avoided through de-escalation or other techniques, officers must use no more force than is proportionate to the circumstances. In general, the greater the threat and the more likely that the threat will result in injury or death, the greater the level of force that may be immediately necessary to overcome it. Consistent with training, some of the factors that officers should consider when determining how much force to use include:
 - a. The risk of harm presented by the person;
 - b. The risk of harm to the officer or innocent citizens by using force;
 - c. The seriousness of the law enforcement objective;
 - d. Whether further de-escalation techniques are feasible, including the time available to an officer to make a decision, and whether additional time could be gained through tactical means;
 - e. If there is a practical, less harmful alternative available to the officer;
 - f. Mental or physical disability, medical condition, and other physical and mental characteristics; and
 - g. Whether there are other exigent/emergency circumstances.
12. **As a situation changes, officers must reevaluate the circumstances and continue to respond proportionately.** Over the course of an encounter, the circumstances and threats an officer faces may change. Consistent with training and the CDM process, while using force, officers must continually assess the effectiveness, proportionality, and necessity of their actions.

13. This Department trains officers on the following range of force options. The force options available to an officer fall along a continuum. Officers are not required to exhaust one type of force before moving to a greater force. Sound judgment and the appropriate exercise of discretion will always be the foundation of officer decision making in the broad range of possible use of force situations. This Department trains its officers on the following force options, from least to greatest force:

- a. Police Presence (*least*)
- b. Verbal Control Techniques
- c. Physical Contact
- d. Holding Techniques
- e. Compliance Techniques
- f. Control Instruments
- g. Physical Force
- h. Impact Weapons
- i. Canine Apprehension
- j. Conducted Energy Devices
- k. Deadly Force (*greatest*)

14. The level of resistance that an officer encounters is a key factor in determining the proportionate amount of force. It is not possible to determine ahead of time what the proportionate level of force is for every possible situation that officers may face. Nevertheless, one of the key factors in determining what level of force is necessary and proportionate in a given situation is the level of resistance that an officer encounters. In general, the less resistance an officer faces, the less force the officer should use. The types of resistance officers may encounter fall along a continuum, from a cooperative person to an active assailant. Consistent with training, the following general rules apply when officers are exercising judgment in determining what level of force is necessary and proportionate:

- a. **Cooperative Person:** When dealing with a cooperative person, officers may rely on police presence and/or verbal control techniques, but should not use greater force.
- b. **Passive Resistor:** When dealing with a passive resistor, officers may rely on police presence, verbal control techniques, holding techniques, compliance techniques, and/or control instruments, but greater force, such as physical force, impact weapons (batons), and Conducted Energy Devices (CEDs), should not be used.
- c. **Active Resistor:** In general, when dealing with an active resistor, in addition to the options available for passive resisters, properly trained personnel may use canine apprehension if the canine handler has probable cause to believe that the person has committed a crime, and less intrusive means of apprehension have been exhausted or under the circumstances would be unavailable or ineffective. Further guidance may be found in Department directive CCV4C5.
- d. **Threatening Assailant:** In general, when dealing with a threatening assailant, officers have all use of force options, other than deadly force, available to them, including impact weapons (such as batons or less lethal ammunition) and CEDs. Although a range of force options are generally available, particular options can be used only if proportional to the threat faced. For example:
 - CEDs and less lethal ammunition may be discharged only in response to resistance that poses a substantial risk of serious physical injury.

- e. **Active Assailant:** In general, when dealing with an active assailant, officers have all force options available, though deadly force should only be used as a last resort and in strict accordance with the guidance below, *see* Core Principle #4.

15. **When an individual engages in certain aggressive actions, he/she is considered an assailant, not a resistor.** When a person uses force, threatens to use force, or otherwise acts in an aggressive manner that increases the likelihood that they may cause physical injury to an officer or to another person, that person is no longer considered cooperative or even a resistor, but instead becomes an assailant. Flight from an officer does not, on its own, qualify a person as an assailant (*see* Section 24 below for more information).
16. **When an individual's actions pose an imminent danger, he/she is considered an active assailant, not a threatening assailant.** The difference between a threatening assailant and an active assailant is how immediate a threat the assailant poses to the officer or another person. When the person poses an *imminent danger*, the person is considered an active assailant. When the threat exists but does not amount to imminent danger, the person is considered a threatening assailant.
17. **Special requirements must be met before an officer may display a firearm.** Unholstering or pointing a firearm are tactics that should be used with great caution. The presence of an officer's firearm, under the right circumstances, can discourage resistance and ensure officer safety in potentially dangerous situations without the need to resort to actual force. At the same time, however, unnecessarily or prematurely drawing a firearm can limit an officer's options in controlling a situation, will create great anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Accordingly, officers should only display their firearms in appropriate tactical situations and using the following principles as guidance:
 - a. **Pointing a firearm.** Consistent with training, officers may point a firearm at a person only when circumstances create a reasonable belief that it may be immediately necessary for the officer to use deadly force. When the officer no longer reasonably believes that deadly force may be immediately necessary, the officer shall, as soon as practicable, secure or holster the firearm.
 - b. **Unholstering a firearm.** Consistent with training, officers may unholster or otherwise display a firearm only when circumstances create a reasonable belief: (1) that the officer is permitted to point a firearm at a person, *or* (2) that unholstering or displaying the firearm may itself help establish or maintain control in a potentially dangerous situation.
18. **Persons under an officer's control should be positioned in a way so that their breathing is not obstructed.** After gaining control of a person, officers should position the person in a manner to allow the person to breath unobstructed. This means that officers should not sit, kneel, or stand on a person's chest or back, and whenever feasible should not force the person to lie on his or her stomach.
19. **In addition to this directive, specific weapons directives remain applicable.** In addition to the requirements of this directive, officers may only use weapons in a manner consistent with specific Departmental weapons policies, such as directive CCV3C3 (Weapons & Ammunition), directive CCV4C3 (Conducted Energy Devices – Tasers), and other relevant directives.

CORE PRINCIPLE #4: Deadly force is only authorized as a last resort and only in strict accordance with this directive.

20. Deadly force includes, but is not limited to, use of a firearm. Deadly force is force that an officer knows or should know creates a substantial risk of causing death or serious bodily harm. Deadly force includes, but is not limited to, firing a firearm in the direction of another person. Depending on the circumstances, deadly force also includes other potentially lethal tactics, such as:

- a. Firing of a firearm at a vehicle, building, or structure in which another person is believed to be; or
- b. Applying a chokehold or similar technique.

21. Threatening deadly force does not necessarily constitute deadly force. A threat to cause death or serious bodily harm, such as by displaying a firearm, does not constitute deadly force, so long as the officer's purpose is limited to creating an apprehension that deadly force will be used if necessary.

22. Strict requirements must be met before an officer may use deadly force. As discussed above, when feasible, officers should try to de-escalate situations, issue verbal warnings, or use non-lethal force with the goal of resolving encounters without using deadly force. There are, however, occasions when deadly force is necessary to protect officers or members of the public. An officer may use deadly force only when the officer reasonably believes such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.

- a. If feasible, an officer should identify himself/herself and state his/her intention to shoot before using a firearm.
- b. Officers shall not use deadly force if the officer reasonably believes that an alternative will avert or eliminate an imminent danger of death or serious bodily harm, and achieve the law enforcement purpose at no increased risk to the officer or another person.

23. Strict additional requirements must be met before an officer may use deadly force against a moving vehicle. While any firearm discharge entails some risk, discharging a firearm at or from a moving vehicle entails an even greater risk to innocent persons and passengers because of the risk that the fleeing suspect may lose control of the vehicle. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, an officer shall not fire from a moving vehicle, or at the driver or occupant of a moving vehicle, unless the officer reasonably believes:

- a. There exists an imminent danger of death or serious bodily harm to the officer or another person; *and*
- b. No other means are available at that time to avert or eliminate the danger.

24. Strict additional requirements must be met before an officer may use deadly force against a fleeing suspect. An officer may use deadly force to prevent the escape of a fleeing person only if *all* of the following conditions are met:

- a. The officer has probable cause to believe the suspect has committed an offense in which the suspect caused or attempted to cause death or serious bodily harm; *and*

- b. The suspect will pose an imminent danger of death or serious bodily harm should the escape succeed; *and*
- c. The use of deadly force presents no substantial risk of injury to innocent persons.

25. There are specific circumstances in which the use of deadly force is prohibited. In general, officers may not discharge their weapons as a signal for help or as a warning shot, nor may they use deadly force in the following situations:

- a. Solely to prevent property damage or loss;
- b. Solely to prevent the destruction of evidence (for example, under no circumstances shall an officer use a chokehold, or any lesser contact with the neck area, in order to prevent the destruction of evidence by ingestion, unless life threatening to the actor);
- c. Solely to disable moving vehicles; or
- d. Against a person who poses a threat only to themselves (and not to others).

CORE PRINCIPLE #5: Officers must promptly provide or request medical aid.

26. Officers have a duty to provide prompt medical care. Officers shall always treat people with dignity and respect. Whenever a person is injured, complains of an injury, or requests medical attention, as soon as it is safe and practical, officers shall request medical aid (such as by contacting emergency medical services) and provide appropriate medical care consistent with the officer's training (such as by providing first aid and/or transportation to an emergency medical facility).

27. Officers have a duty to continuously monitor individuals for potential medical intervention after a use of force. Out of respect for the sanctity of life, officers shall closely monitor persons against whom force was used for signs that they require medical assistance. This responsibility applies during transportation and throughout custody. Officers should pay particular attention to persons believed to be pregnant, children, the elderly, and physically frail individuals.

CORE PRINCIPLE #6: Employees have a duty to stop and report uses of force that violate any applicable law and/or this directive.

28. Officers have a duty to prevent and stop illegal and inappropriate uses of force by other officers. Every employee has an obligation to ensure compliance, by themselves and others, with Department directives and regulations, as well as all applicable laws, regarding use of force. Any employee who observes an officer about to use force that is illegal, excessive, or otherwise inconsistent with this directive must, absent extraordinary circumstances, do whatever he/she can to interrupt the flow of events *before* the fellow officer does something that makes any official action necessary. Officers can serve each other and the public by simply saying or doing the right thing to prevent a fellow officer from resorting to force illegally or inappropriately. Similarly, any employee who observes an officer using force that is illegal, excessive, or otherwise inconsistent with this directive must, absent extraordinary circumstances, do whatever he/she can to interrupt the flow of events and *stop* the use of force.

- a. If a supervisor observes such a violation, the supervisor must issue a direct order to stop the violation.

29. Employees have a duty to report illegal and inappropriate uses of force by other officers.

Any employee who observes or has knowledge of a use of force that is illegal, excessive, or otherwise inconsistent with this directive must:

- a. Notify a supervisor as soon as possible; *and*
- b. Submit an individual written report to a supervisor before reporting off duty on the day the officer becomes aware of the misconduct.

30. Employees are prohibited from retaliating against an employee who intercedes in or reports illegal or inappropriate uses of force. No employee may retaliate, in any form, against another employee who intercedes in or reports a violation of this directive, or who cooperates with an investigation into a possible violation of this directive.

NOTIFICATIONS REGARDING USES OF FORCE

31. Officers must immediately notify the Department of all firearm discharges. All firearm discharges by an officer must immediately be reported to the Department's Real-Time Tactical Operations and Intelligence Center and to the Camden County Prosecutor's Office. This requirement includes any discharge while an officer is off duty and all unintentional discharges, but does not include discharges during training and/or qualification sessions or recreational discharges.

32. Officers must immediately notify the Department of all critical use of force incidents. All use of force by an officer that results in death or serious bodily injury, and uses of a firearm by an officer that result in an injury of any degree, must immediately be reported to the Professional Standards Division and to the Camden County Prosecutor's Office.

- a. This notification shall occur before any investigation of the incident is undertaken, other than to secure the scene and to render medical assistance as required.
- b. The Prosecutor's Office shall conduct the subsequent investigation into the use of force in accordance with the New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5. The Prosecutor's Office is also responsible for the necessary notifications to the Division of Criminal Justice ("DCJ"). DCJ may supersede the investigation where there may be a conflict or if the matter is better handled at the state level.
- c. When a prosecutor's detective or investigator, assistant prosecutor, or the prosecutor is involved in the use of force incident, DCJ shall be the lead investigating agency.
- d. If DCJ becomes the lead investigating agency, a shooting response team consisting of DCJ investigators and members of the New Jersey State Police Major Crimes Unit shall normally conduct the investigation.

33. Officers must report all other uses of force through the chain of command. All other use of force incidents—those that do not result in death or serious bodily injury and do not involve the discharge of a firearm—shall be reported through the appropriate Departmental chain of command.

REPORTING REQUIREMENTS & REAL-TIME REVIEW

34. All employees must complete their reports accurately and completely. All employees are responsible, at all times, for accurately and completely describing the facts and circumstances concerning any use of force incident, including articulating specific facts to explain an officer's own decision to use force. The Department may impose discipline for any substantial omissions or misrepresentations.

35. Every use of force greater than physical contact must be documented and reported. Whenever an officer uses a degree of force greater than physical contact, the officer must complete the following reports and submit them through the appropriate Departmental chain of command:

- a. A State of New Jersey—Use of Force Report; *and*
- b. A Department Blue Team—Use of Force Report; *and*
- c. An investigation report and/or supplementary report regarding the nature of the underlying incident (and indicating that the officer has completed Use of Force Reports), with the following conditions:
 - In accordance with New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5, supervisors shall not require officers deploying force that results in death or serious bodily harm, being investigated by the Attorney General's Office, a county prosecutor's office, or DCJ to submit investigation or supplemental reports. Officers are still required to submit Use of Force reports.
 - Only the New Jersey Attorney General's Office, a county prosecutor's office, or DCJ can order such reports. An officer's statements to these entities can suffice as their report of the incident.
 - Officers not directly involved in the use of force, but who have indirect involvement (*e.g.*, secondary responders, assisting responders, witnesses, etc.), may be required to submit investigation reports upon approval of the lead investigating agency (*i.e.* New Jersey Attorney General's Office, Camden County Prosecutor's Office, or DCJ).
- d. A Conducted Energy Device Deployment Review Report (if a CED is used);
- e. An Informational Report (if a CED is used); *and*
- f. A Police Use of Deadly Force—Attorney General Notification Report (if applicable).

36. The following additional reporting requirements apply to an officer's actions that do not involve physical contact or greater force under Section 35. An officer who takes any of the following actions, if not otherwise reportable under Section 35, must create a written incident report and/or supplementary report capturing the relevant facts and circumstances for each of the following situations:

- a. Every intentional discharge of a firearm not for training or recreational purposes;
- b. Every instance where an officer unintentionally discharges a CED or firearm, regardless of the reason;
- c. Every instance where an officer takes an official action that results in or is alleged to have resulted in death or injury to another person.

37. Supervisors have specific responsibilities as part of each use of force review. The approving Sergeant (or other supervisor) and Watch Commander shall review all reports for accuracy and completeness and shall promptly address any issues, including: policy changes, training needs, weapons or equipment issues, or discipline (*i.e.* an administrative review). Recommendations to modify policy, apply remedial training beyond what can be performed by the supervisor, change weapons, equipment, or tactics, or apply discipline shall be thoroughly documented and forwarded through the chain of command.

a. Sergeants have the following responsibilities:

- Ensure all required paper reports and related documents are complete and submitted, review them for accuracy and completeness, and either reject and return for immediate corrections or approve;
- Review all relevant documents and information, including body-worn camera video and photographs, in order to assess the underlying incident and complete an Administrative Review Report;
- Log into Blue Team, review the submitted Blue Team Report, and either reject and return for corrections or approve; *and*
- Assemble all reports and relevant documents and immediately submit them to the Watch Commander.

b. Watch Commanders have the following responsibilities:

- Review all submitted reports, body-worn camera video, photographs, and any other relevant information or documents;
- Log into Blue Team, review the submitted Blue Team Report, and either reject and return for corrections or approve;
- Complete the Use of Force Command Review Report and forward it to Executive Command personnel;
- Scan and attach the Use of Force Command Review Report and all submitted documents to the Blue Team report; *and*
- Forward the Blue Team Report with attachments to the Internal Affairs Unit in Blue Team and forward all paper documents to the Internal Affairs Office (2nd Floor) via inter-office mail.

38. Use of force records shall be retained and available according to state law. All use of force reports shall be retained as required by the New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules. Use of force reports are subject to discovery and access through the New Jersey Open Public Records Act.

INTERNAL AFFAIRS USE OF FORCE REVIEW

39. Use of force incidents will be reviewed by Internal Affairs according to set procedure.

Once a Use of Force Administrative Review Packet has been completed and submitted from the Watch Commander to Internal Affairs, the following procedure will be followed:

- a.** Review the Use of Force Administrative Review Packet to ensure all relevant documents are attached and signed, including:
 - Command Review Report
 - Sergeant Administrative Review
 - Incident Report
 - Use of Force Card
 - Use of Force Report
 - Blue Team Report
 - CAD Ticket
 - Arrest Report (if applicable)
 - Tickets/Summons
 - Impound Report
 - Victim Notification Report
 - Medical Discharge Forms (if applicable)
 - Victim Notification Form
 - Photographs
 - Any other additional documentation
- b.** Review the Command Review Report for the Watch Commander's findings and whether the officer(s) involved followed Department policy and procedures;
- c.** Review the Sergeant's Administrative Review for its findings and whether the officer(s) utilized the Critical Decision-Making model;
- d.** Review the Incident Report to gain a situational understanding of the reason force was utilized;
- e.** Review the officer's body-worn camera footage to ensure the force was necessary, proportionate, and reasonable;
- f.** Compare the officer's actions as displayed on the body-worn camera footage with the officer's Incident or Additional Information Report, Use of Force Report, and Blue Team Report (repeat for all officers who utilize force in each incident);
- g.** Review all other body-worn camera footage, including from responding officers, to gain a full panoramic view of the incident;
- h.** Upload and link all documents into IAPro, along with all body-worn camera footage, Audio Log Transmissions, Blue Team Reports, witness officers involved, and Administrative Review forms;
- i.** If there are no issues identified with the incident or the Administrative Review Packet, the incident is routed (via IAPro) and the hard copy of the Review Packet is provided to the Internal Affairs Commander for review;
- j.** If there are any issue(s) identified with any application of force, documentation, or body-worn cameras, the Watch Commander (who reviewed the incident) and the reviewing supervisor are contacted and made aware of the issue(s) and provided a date as to when the issue(s) must be resolved and corrected;
- k.** If training issues are identified, the issues are brought to the attention of the Internal

Affairs Commander (once the issue is confirmed, the Professional Development and Training Division is contacted, via an EIS Request for Training, for corrective actions);

- l.** If any criminal or rule violations are identified, an Internal Affairs complaint is generated. Rule infractions are forward to Command Level for investigation. Criminal or serious violations are investigated within the Office of Internal Affairs.

USE OF FORCE DATA COLLECTION & ANALYSIS

40. The Department shall collect and analyze use of force data. This Department collects, analyzes, and makes public data regarding uses of force. The Department does so in order to ensure our enforcement practices are fair, non-discriminatory, and involve the minimum amount of force necessary to accomplish a legitimate law enforcement objective.

41. The Professional Standards Division shall issue an annual use of force report and analysis.

- a.** The Professional Standards Division is responsible for completing an annual use of force summary report in a manner prescribed by the Camden County Prosecutor. This summary report shall be published and made available to the public upon request.
- b.** The Professional Standards Division is responsible for completing an annual analysis of the previous calendar year's use of force incidents, Department policies, and use of force practices. Examples of some analytical categories may include, but are not limited to:
 - Use of force by time of day and day of week;
 - Use of force by type of location (*e.g.*, business, residential, or industrial);
 - Use of force by type of incident;
 - Use of force by officer/detective involved;
 - Use of force by division, bureau, unit;
 - Use of force by person's actions;
 - Use of force by type (*e.g.*, deadly force);
 - Use of force resulting in injury to personnel;
 - Use of force resulting in injury to actors;
 - Use of force resulting in arrests;
 - Percentage of use of force vs. total number of custodial arrests.
- c.** The Professional Standards Division's annual analysis is designed to: (1) identify any broad patterns or trends that could indicate policy ineffectiveness, training needs, equipment upgrade needs, and/or policy modification needs; and (2) identify any pattern or practice of behavior by particular officers that could warrant intervention, remediation, and/or re-training.

TRAINING REGARDING USE OF FORCE

- 42. All officers shall be issued this directive and receive use of force training.** Prior to being authorized to carry a weapon, all personnel shall receive training regarding use of force and a copy of this directive. The training and issuance of the directive shall be documented and forwarded to the training unit.
- a.** A certified instructor shall train all employees who are or may be assigned to duties that require the application of less lethal force.
 - b.** Training in the use of chemical or natural agents, such as oleoresin capsicum (OC), mace, gas, etc., shall include procedures for the treatment of persons exposed to such chemical/natural agents, as well as safe handling and storage procedures.
 - c.** Prior to being authorized to carry and use less lethal ammunition or control and restraint techniques, employees must demonstrate proficiency in the deployment and/or use of such authorized less lethal ammunition and approved control and restraint techniques.
- 43. The Department shall conduct semiannual use of force trainings.** Use of force training shall be conducted semiannually, in concert with the Attorney General's Guidelines. This training must:
- a.** Reflect current standards established by statutory and case law, as well as state, county, and Departmental policies, directives, and guidelines;
 - b.** Be scenario based;
 - c.** Include the use of force in general, levels of force, the use of deadly force, definitions of critical terms, critical decision making, crisis recognition and response, tactical communications, operational safety tactics, the limitations that govern the use of force and deadly force, and all applicable aspects of Departmental directives;
 - d.** Integrate the Integrating Communications Assessment and Tactics Training Guide, published by the Police Executive Research Forum; and
 - e.** Be documented (electronically is permitted) each time it is conducted, listing all personnel being trained.
- 44. Officers have an ongoing obligation to review Department directives and trainings on use of force.** All officers have an ongoing obligation to review the Department's use of force directives and training materials, and to seek clarification any time they have questions or need guidance. This ongoing review may take place via formal supervisor-led training sessions as well as through mentoring opportunities to reinforce the content and philosophies.

DEFINITIONS

1. Active Assailant: A person who is using or imminently threatening the use of force against another person, with or without a weapon, in an aggressive manner that poses an imminent danger to an officer or another person.
2. Active Resistance: A person who is uncooperative and fails to comply with directions from an officer, and instead attempts to avoid physical control and/or arrest by creating distance between themselves and the officer or the officer's reach. This type of resistance includes but is not limited to evasive movement of the arm, flailing arms, and full flight by running.
3. Canine Apprehension: A properly trained police canine may be used to apprehend an Active Resister whenever the handler has probable cause to believe the person has committed a crime, and less intrusive means of apprehension have been exhausted or, under the circumstances, determined to be ineffective or unavailable. Additional guidance may be found in Department directive CCV4C5.
4. Chokehold: Sometimes referred to as a Neck or Carotid Restraint, a chokehold is a technique that involves applying direct pressure to a person's trachea (windpipe) or airway (front of the neck) with the intention of reducing the intake of air. A Carotid Restraint is a technique that applies direct pressure to the carotid artery (on the side of the neck) restricting the flow of blood to the brain and causing a temporary loss of consciousness.
5. Compliance Techniques: Physical techniques that involve the use of non-impact pressure to sensitive areas of the body (mainly areas of skin covering bone) in order to elicit and maintain control of a person. Compliance techniques include joint manipulation and pressure point techniques, but do not include any technique that restricts blood flow to carotid arteries, causing a person to lose oxygen to the brain.
6. Conducted Energy Devices (CED): A CED is any device approved by the New Jersey Attorney General that is capable of firing darts/electrodes that transmit an electrical charge or current intended to temporarily disable a person. Additional guidance may be found in Department directive CCV4C3.
7. Control Instruments: Tools (such as a baton) applied with non-impact pressure to joints and sensitive areas of the body (mainly areas of skin covering bone) in order to elicit and maintain control of a person. Additional guidance may be found in Department directive CCV3C3.
8. Cooperation: Responsiveness to and compliance with officer requests.
9. Critical Decision-Making Model: The Critical Decision-Making model or "CDM" is an organized way of making decisions about how an officer will act in any situation, including situations that may involve potential uses of force.
10. Deadly Force: Force that an officer uses with the purpose of causing, or which the officer knows to create a substantial risk of causing, death or serious bodily harm. Deadly force is not limited to firing a firearm in the direction of another person, but also includes other particularly dangerous tactics as discussed in Section 20 of this directive.
11. De-escalation (De-escalation Techniques): Actions taken by an officer meant to stabilize a situation and reduce the immediacy of a potential threat so that a potentially dangerous situation with voluntary compliance and without resorting to force.

12. Employee: Any employee of the Camden County Police Department, full or part-time, sworn and non-sworn.
13. Holding Techniques: Holding techniques include a firm grip or grab of an arm, wristlocks, come-along holds (<i>i.e.</i> escort holds that are not elevated to compliance techniques), controlled take-downs, and pins against the ground or objects, as well as any combination of the above.
14. Imminent Danger: Imminent danger describes threatened actions or outcomes that are immediately likely to cause death or serious bodily harm to an officer or another person, unless action is taken. In order to be <i>imminent</i> , the person threatening danger must have the means/instruments and opportunity/ability to cause death or serious bodily harm. The threatened harm does not have to be instantaneous. The period of time involved is dependent on the circumstances and facts of each situation and is not the same in all situations.
15. Impact Weapons: Weapons designed to establish control by means of applying mechanical impact to a person to disable elements of his or her musculoskeletal structure. Impact weapons include batons and less lethal ammunition. The Department trains officers to avoid the use of flashlights, radios, firearms, or any item not specifically designed as an impact weapon, unless immediately necessary and no other practical options are available. Additional guidance may be found in Department directive CCV3C3.
16. Officer: Also known as a law enforcement officer. Any person sworn to enforce the criminal laws of the State of New Jersey, who is certified by the Police Training Commission, or is currently employed by a public safety agency and is authorized to carry a firearm under N.J.S.A. 2C:39-6.
17. Oleoresin Capsicum Spray: Also known as OC Spray or Pepper Spray, this is an inflammatory chemical agent that causes an intense burning sensation of the skin, eyes, and mucous membranes. Direct exposure to a person's eyes will likely result in the eyes closing, tearing, and swelling. When inhaled, a person experiences choking, gagging, gasping for breath, or, on rare occasion, unconsciousness. As a result of these symptoms, a person may experience nausea or temporarily impaired thought processes, or may become disoriented or lose his or her balance.
18. Passive Resistance: A person who is not cooperative, in that the person fails to comply (in a non-movement way) with verbal or other direction from an officer.
19. Physical Contact: Routine or procedural contact necessary to effectively accomplish a legitimate law enforcement objective. Examples include, guiding a subject into a police vehicle, holding the subject's arm while transporting, handcuffing a subject and maneuvering or securing a subject for a frisk.
20. Physical Force: Forceful, concentrated striking movements such as punching and kicking, or focused pressure strikes and pressures. These techniques can be combined with take-downs or pins against the ground or other objects.
21. Police Presence: Police presence established through identification of authority and proximity to the person.
22. Proportionate Force: Actions, including de-escalation and force, which correspond appropriately with the particular circumstances confronting the officer.
23. Professional Standards Division: Division within CCPD that includes the Internal Affairs

<p>Section, which is responsible for the investigation of all internal complaints, and the Quality Assurance Section, which is responsible for managing the department's in-service training curriculum as well as completing various audits of department processes.</p>
<p>24. Real-Time Tactical Operations and Intelligence Center: The RT-TOIC maintains a real-time awareness of conditions of certain places within the Department's integrated technology platform and monitors the tactical deployment of all Department assets in the field to ensure compliance with the Department's weekly crime reduction plan. RT-TOIC also deploys virtual patrollers utilizing the Department's CCTV camera system, and manages police dispatch and 911 functions.</p>
<p>25. Substantial Risk: A substantial risk is one that is foreseeably likely to occur. That is, the risk is one that a reasonable officer in the same circumstances should anticipate as the likely outcome.</p>
<p>26. Tactical Communication: Verbal communications techniques that are designed to avoid or minimize the use of force. Such techniques include attempts to exercise persuasion, advice, instruction, and warning prior to the use of physical force.</p>
<p>27. Tactical Positioning: Making advantageous use of positioning, distance, and cover to isolate and contain a person and avoid the need to resort to force.</p>
<p>28. Threatening Assailant: A person who is using or threatening the use of force against another person, with or without a weapon, in an aggressive manner that may cause physical injury. Examples may include: (1) a person who puts an officer in fear of a battery by advancing on the officer in a threatening manner or closing the distance between the assailant and the officer, thereby reducing the officer's reaction time, and (2) a person who fails to disarm, thereby increasing the likelihood the person's actions are likely to cause physical injury.</p>
<p>29. Time as a Tactic: Establishing a zone of safety around a person that creates an opportunity for an assessment and action, when feasible, thereby decreasing the need to resort to force.</p>
<p>30. Verbal Control Techniques: Consists of persuasion, advice, instruction, and warning in the form of verbal statements or commands that may result in compliant behavior. Whenever it is safe and feasible, officers shall attempt to de-escalate confrontations by utilizing verbal control techniques prior to, during, and after the use of physical force.</p>

Senate Bill No. 230

CHAPTER 285

An act to add Chapter 17.4 (commencing with Section 7286) to Division 7 of Title 1 of the Government Code, and to add Section 13519.10 to the Penal Code, relating to law enforcement.

[Approved by Governor September 12, 2019. Filed with
Secretary of State September 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 230, Caballero. Law enforcement: use of deadly force: training: policies.

(1) Existing law requires each law enforcement agency to annually furnish specified information to the Department of Justice regarding the use of force by a peace officer. Existing law requires the Department of Justice, once per year, to update a summary of information contained in the reports received on its internet website. Existing law requires a department or agency that employs peace officers or custodial officers to establish a procedure to investigate complaints by members of the public against those officers.

This bill would, by no later than January 1, 2021, require each law enforcement agency to maintain a policy that provides guidelines on the use of force, utilizing deescalation techniques and other alternatives to force when feasible, specific guidelines for the application of deadly force, and factors for evaluating and reviewing all use of force incidents, among other things. The bill would require each agency to make their use of force policy accessible to the public. By imposing additional duties on local agencies, this bill would create a state-mandated local program.

(2) Existing law establishes the Commission on Peace Officer Standards and Training in the Department of Justice and requires the commission to adopt rules establishing minimum standards regarding the recruitment of peace officers. Existing law requires the commission to develop guidelines and implement courses of instruction regarding racial profiling, domestic violence, hate crimes, vehicle pursuits, and human trafficking, among others.

This bill would require the commission to implement a course or courses of instruction for the regular and periodic training of law enforcement officers in the use of force. The bill would require the commission to develop uniform, minimum guidelines for adoption and promulgation by California law enforcement agencies for the use of force, as specified. The bill would require law enforcement agencies to adopt and promulgate a use of force policy and would state the intent of the Legislature that each law enforcement agency adopt, promulgate, and require regular and periodic training consistent with the agency's policy that complies with the guidelines developed under this bill.

This bill would make findings and declarations regarding the intent of the bill, as it pertains to law enforcement agencies' use of force policies, including that those policies may be introduced in legal proceedings and may be considered as a factor in determining the reasonableness of an officer's actions, but do not impose a legal duty on an officer to act in accordance with the policy.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(4) This bill would also make its provisions operative contingent on the enactment of Assembly Bill 392 of the 2019–20 Regular Session.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares:

(a) The highest priority of California law enforcement is safeguarding the life, dignity, and liberty of all persons, without prejudice to anyone.

(b) Law enforcement officers shall be guided by the principle of reverence for human life in all investigative, enforcement, and other contacts between officers and members of the public. When officers are called upon to detain or arrest a suspect who is uncooperative or actively resisting, may attempt to flee, poses a danger to others, or poses a danger to themselves, they should consider tactics and techniques that may persuade the suspect to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation safely.

(c) Vesting officers with the authority to use necessary force as determined by an objectively reasonable officer and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

(d) The authority to use force is a serious responsibility given to peace officers by the people who expect them to exercise that authority judiciously and with respect for human rights, dignity, and life.

(e) The intent of this act is to establish the minimum standard for policies and reporting procedures regarding California law enforcement agencies' use of force. The purpose of these use of force policies is to provide law enforcement agencies with guidance regarding the use and application of force to ensure such applications are used only to effect arrests or lawful detentions, overcome resistance, or bring a situation under legitimate control.

(f) No policy can anticipate every conceivable situation or exceptional circumstance which officers may face. In all circumstances, officers are expected to exercise sound judgment and critical decisionmaking when using force options.

(g) A law enforcement agency's use of force policies and training may be introduced as evidence in proceedings involving an officer's use of force. The policies and training may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training.

(h) Every instance in which a firearm is discharged, including exceptional circumstances, shall be reviewed by the department on a case-by-case basis to evaluate all facts and to determine if the incident is within policy and in accordance with training.

SEC. 2. Chapter 17.4 (commencing with Section 7286) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.4. LAW ENFORCEMENT USE OF FORCE POLICIES

7286. (a) For the purposes of this section:

(1) "Deadly force" means any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm.

(2) "Feasible" means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

(3) "Law enforcement agency" means any police department, sheriff's department, district attorney, county probation department, transit agency police department, school district police department, the police department of any campus of the University of California, the California State University, or community college, the Department of the California Highway Patrol, the Department of Fish and Wildlife, and the Department of Justice.

(b) Each law enforcement agency shall, by no later than January 1, 2021, maintain a policy that provides a minimum standard on the use of force. Each agency's policy shall include all of the following:

(1) A requirement that officers utilize deescalation techniques, crisis intervention tactics, and other alternatives to force when feasible.

(2) A requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

(3) A requirement that officers report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer.

(4) Clear and specific guidelines regarding situations in which officers may or may not draw a firearm or point a firearm at a person.

(5) A requirement that officers consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.

(6) Procedures for disclosing public records in accordance with Section 832.7.

(7) Procedures for the filing, investigation, and reporting of citizen complaints regarding use of force incidents.

(8) A requirement that an officer intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

(9) Comprehensive and specific guidelines regarding approved methods and devices available for the application of force.

(10) An explicitly stated requirement that officers carry out duties, including use of force, in a manner that is fair and unbiased.

(11) Comprehensive and specific guidelines for the application of deadly force.

(12) Comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident, including reporting use of force incidents to the Department of Justice in compliance with Section 12525.2.

(13) The role of supervisors in the review of use of force applications.

(14) A requirement that officers promptly provide, if properly trained, or otherwise promptly procure medical assistance for persons injured in a use of force incident, when reasonable and safe to do so.

(15) Training standards and requirements relating to demonstrated knowledge and understanding of the law enforcement agency's use of force policy by officers, investigators, and supervisors.

(16) Training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

(17) Comprehensive and specific guidelines under which the discharge of a firearm at or from a moving vehicle may or may not be permitted.

(18) Factors for evaluating and reviewing all use of force incidents.

(19) Minimum training and course titles required to meet the objectives in the use of force policy.

(20) A requirement for the regular review and updating of the policy to reflect developing practices and procedures.

(c) Each law enforcement agency shall make their use of force policy adopted pursuant to this section accessible to the public.

(d) This section does not supersede the collective bargaining procedures established pursuant to the Myers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4), the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4), or the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4).

SEC. 3. Section 13519.10 is added to the Penal Code, immediately following Section 13519.9, to read:

13519.10. (a) (1) The commission shall implement a course or courses of instruction for the regular and periodic training of law enforcement officers in the use of force and shall also develop uniform, minimum guidelines for adoption and promulgation by California law enforcement agencies for use of force. The guidelines and course of instruction shall stress that the use of force by law enforcement personnel is of important concern to the community and law enforcement and that law enforcement should safeguard life, dignity, and liberty of all persons, without prejudice to anyone. These guidelines shall be a resource for each agency executive to use in the creation of the use of force policy that the agency is required to adopt and promulgate pursuant to Section 7286 of the Government Code, and that reflects the needs of the agency, the jurisdiction it serves, and the law.

(2) As used in this section, “law enforcement officer” includes any peace officer of a local police or sheriff’s department or the California Highway Patrol, or of any other law enforcement agency authorized by law to use force to effectuate an arrest.

(b) The course or courses of the regular basic course for law enforcement officers and the guidelines shall include all of the following:

- (1) Legal standards for use of force.
- (2) Duty to intercede.
- (3) The use of objectively reasonable force.
- (4) Supervisory responsibilities.
- (5) Use of force review and analysis.
- (6) Guidelines for the use of deadly force.
- (7) State required reporting.
- (8) Deescalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence.
- (9) Implicit and explicit bias and cultural competency.
- (10) Skills including deescalation techniques to effectively, safely, and respectfully interact with people with disabilities or behavioral health issues.
- (11) Use of force scenario training including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don’t-shoot situations, and real-time force option decisionmaking.
- (12) Alternatives to the use of deadly force and physical force, so that deescalation tactics and less lethal alternatives are, where reasonably feasible, part of the decisionmaking process leading up to the consideration of deadly force.
- (13) Mental health and policing, including bias and stigma.
- (14) Using public service, including the rendering of first aid, to provide a positive point of contact between law enforcement officers and community members to increase trust and reduce conflicts.

(c) Law enforcement agencies are encouraged to include, as part of their advanced officer training program, periodic updates and training on use of force. The commission shall assist where possible.

(d) (1) The course or courses of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field on use of force. The groups and individuals shall include, but not be limited to, law enforcement agencies, police academy instructors, subject matter experts, and members of the public.

(2) The commission, in consultation with these groups and individuals, shall review existing training programs to determine the ways in which use of force training may be included as part of ongoing programs.

(e) It is the intent of the Legislature that each law enforcement agency adopt, promulgate, and require regular and periodic training consistent with an agency's specific use of force policy that, at a minimum, complies with the guidelines developed under subdivisions (a) and (b).

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 5. This act shall take effect only if Assembly Bill 392 of the 2019–20 Regular Session is enacted and becomes operative.