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FORWARD

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I want to dedicate this work to the men and women of law enforcement and corrections. It is their job to protect and serve, and I have dedicated myself to helping protect and serve them. They have my respect and admiration for the monumental task they have undertaken.

When things get rough and you are feeling forgotten, I say to all of you from the bottom of my heart “non solus” – you are never alone.

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SECTION ONE

- ◆ **Judging The Efficacy of Police Officers Decisions To Use Force: The Context of Decision Making and Legal Precedence**
 - Introduction
 - Criminal Law and Excessive Force
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- ◆ **Law Enforcement Officer Survey**
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JUDGING THE EFFICACY OF POLICE OFFICERS DECISIONS TO USE FORCE: THE CONTEXT OF DECISION MAKING AND LEGAL PRECEDENCE

INTRODUCTION

The relationship in a democratic society between the police and the public is one that has been labeled a “balanced tension” (Bittner, 1970; McLaughlin, 1992). Scholars such as Goldstein (1977:1) and Manning (1977) noted that the police “are an anomaly in a free society.” Others, Lundman (1980) and Langworthy and Travis (1994), noted a “dynamic tension” between the police and the public, contrasting the concepts of liberty and civility. These authors state that on one hand we have a government that protects individual rights and freedom of expression. On the other, the state authorizes a police force that is given “almost” unlimited freedom to use coercion and force to make people behave in certain ways.

Police use of force, whether justified or not, can have grave effects on individual citizens, officers, departments, states, and communities as a whole (Friedrich, 1980). For instance, an unjustified killing by a police officer results not only in loss of life, but community outrage may lead to civil disturbances, riots, property damage, political jeopardy, job termination for the offending officer, and civil liability for all interested parties (Blumberg, 1993). These consequences of police force have historically plagued the public’s perception of the police (Pate and Fridell, 1993). For instance, Smith (1994) and Montgomery (1980) noted that public perceptions of misuse of force were one of the precipitating causes of the Chicago riot of 1919, the Harlem disturbance of 1935, the Watts riot of 1965, and the Miami riot of 1980.

Given the significance of the problem and possible community ramifications, it is not surprising that police use of force has received considerable attention lately. Citizens, academics, practitioners, and legislators have begun to ask the important questions. These questions include: how often do the police use either appropriate or excessive force? What circumstances precipitate the use of force? And what officers are more likely to use it (Friedrich, 1980:83)?

INCIDENCE AND PREVALENCE

How pervasive the problem of excessive force by the police is within our nation is currently unclear. Although several studies have concluded that the illegal use of force is extensive, no reliable estimate of its magnitude exists (Conklin, 1981:56; Kania and Mackey, 1977; Kobler, 1975). In fact, after concluding a nationwide survey of 1,111 police agencies, Pate and Fridell (1993) found that there is little information available regarding the extent to which police use even marginal amounts of force. Furthermore,

Hirschel (1994) found that a relatively large number of departments do not record the use of most types of force. When they do, reports are typically required only when injuries or complaints result from a confrontation.

Compounding this problem, Reiss (1970:33) stated that “police chiefs are notoriously reluctant to disclose information that would allow us to assess the nature and volume of complaints against the police.” Illustrating the extent of either the lack of acknowledgment of the problem or the intentional failure to disclose sensitive information, when the Virginia Association of Chiefs of Police initiated a use of force survey in 1993, only 23 percent of departments surveyed responded (Virginia Association of Chiefs of Police, 1994).

Although the threat of police use of force is present in all aspects of law enforcement, the frequency where force is used and defined as excessive is rare (Chevigny, 1969). It has been suggested that if we are truly interested in how pervasive the use of excessive force by the police is within our communities, we should look to the community in order to gauge their perceptions of the magnitude of the problem (Ross, 1996). However, citizen surveys must be treated cautiously since the public’s conceptualization of how often and to what degree the police routinely use force is shaped by extensive media coverage of highly publicized incidents (Rudosvsky, 1992). As such, the public’s perception of the extent to which police-citizen interactions involve force may not be an accurate indicator.

For academics, use of force knowledge is not much better. Aside from research on deadly force, there is sparse mention in the literature about the utilization of low levels of force within police-citizen encounters. Pate and Fridell (1993: 21) claim that our current knowledge base on police force is based on researchers’ intuition, personal experiences, and limited ride alongs with the police. Adams (1995) and Klockars (1995) both agree that data on police use of force is just as difficult to attain as to interpret.

The first reason why so little is known about the extent to which police use force is that measurement of this phenomenon is extremely difficult. There is no study indicating the prevalence of police force without validity problems (Alpert, 1994; Pate and Fridell, 1993). Early observational studies base their conclusions on limited sample sizes, inadequate training of observers, and questionable inter-rater reliability. Official records may indicate departmental biases in record keeping. Counts of successful litigation may include systematic biases, thereby conservatively underestimating the prevalence of excessive force. Finally, surveys of police officers often tap only the socially desirable responses since officers are often unwilling to reveal to researchers personal beliefs or behaviors on such a sensitive topic – especially to those who may not fully understand the dynamics of a heated police-citizen encounter (Pate and Fridell, 1993; Dillman, 1983).

The second reason why so little is known about the application of police force is that there is no clear definition of what acts or circumstances comprise justifiable force,

much less excessive force. Police force or the escalation in the amount of force used must be thought of in terms of all the individual, situational, organization, and communal factors both known and unknown to the officer at the time of the encounter. Klockars (1995) claims that the proper standard for judging the proper amount of force to be used by an officer in a given situation must come from the same source where every other profession finds its standards, within the policing profession. He states that improper force need not be maliciously or sadistically applied to be considered excessive. Rather, improper force may result from good intention, mistakes, a misreading of a situation, prejudice or even inadequate training.

THE ROLE OF FORCE AND ITS ESSENTIAL ELEMENTS DEFINED

The key to conceptualizing the use of force, its application, and community ramifications lies in the role that force or coercion plays in the lives and careers of our nation's law enforcement officers. Bittner (1970) and others claim that the capacity to use non-negotiable coercive force is at the core of the police role in society (Sherman 1980; Reiss 1971; Scharf and Binder, 1983; Walker and Fridell, 1993). So basic is the element of force to the police, that Langworthy and Travis (1993) claim the reason we call the police is based on the belief that force may be necessary. This force legitimately and properly applied, is an essential element of maintaining an ordered society.

Before proceeding with this discussion, it seems imperative that we define exactly what is meant by force. Kania and Mackey (1977:29) define force as the "exertion of power to compel or restrain the behavior of others." Generally, police force can be classified into several modal categories. In the past, the general categories used to describe force have been deadly vs. non-deadly, physical vs. non-physical, reasonable vs. excessive and extralegal vs. unnecessary. Generally speaking, deadly force is defined as force that is likely to cause death or serious bodily harm. Conversely, non-deadly force is that force that is not likely to result in death or serious bodily harm (Pate and Fridell, 1993). Physical force implies the touching or prodding of a resistor to comply with a state agent's demands. Non-physical force implies the use of threats or other verbalization techniques to gain compliance (Clede, 1987).

Other researchers have conceptualized force at a more complex level. One of the first researchers to operationally define the difference between reasonable and excessive force was Albert Reiss. Reiss (1967), in his study of three large metropolitan police departments, classified force as reasonable if it were used in terms of defense of self or others and if its application was needed in order to make an arrest. For Reiss, excessive force was defined as force that did not meet this criteria.

Tackling only force that appears out of the public's normative boundaries, Fyfe (1995) differentiated between extralegal and unnecessary force. According to his definition, extralegal force is force that is inflicted willfully and knowingly beyond the bounds of the officer's office or authority. Whereas unnecessary force is violence that occurs when

a well-meaning officer because of haste, lack of training, or an inability to communicate with the citizen, mishandles a situation and resorts to violence without need. The key to the distinction of Fyfe's two categories is the intent of the officer, although both are unacceptable and inappropriate applications of police force.

The key to dissecting this issue in the larger sociological context was addressed by Bittner (1970) in his classic work *The Functions of Police in Modern Society*. In his perspective, it is not important that we divide force into deadly or non-deadly categories. He claims that the distinctions in types of use of force, whether it be lawful or unlawful, justified or unjustified, legal or non-legal are meaningless because no one knows what the thresholds of appropriate force utilization are. Similarly, Reiss (1967) states that the conditions under which force is used is a fuzzy one since judgments are made by real people, under stressful conditions attempting to resolve a situation quickly and efficiently.¹

The distinctions in the various types of use of force appear on the surface to be straight forward; however, when examined more closely, the collective agreement disappears. This is especially true when the distinctions involve greater levels of coercion. While we all would agree that excessive force is unnecessary, would we also agree that all unnecessary force is also excessive? It is clear that Fyfe would not. However, coercive actions taken by the officers that deprive any person of liberty, or cause some type of duress that is more than necessary, is unreasonable and by default excessive.

USE OF FORCE CONTINUUMS

Prior stated differences in the concepts of excessive and reasonable force do not help the average layperson or officer remove the ambiguity in the meanings of these phrases. Because it is not possible to specify the appropriate police response to every given situation, police department trainers and academics have developed numerous ways to conceptualize the escalation of police force. These conceptual models have been since labeled as "use of force continuums." Use of force continuums acknowledge that police force is not a static concept or an issue that an abstractly stated policy statement can deal with. Rather these typologies recognize that police-citizen confrontations are dynamic. Faulkner (1991) states that force is "not just a word, a push or a pull, but all of the above in a rapidly advancing random order." Furthermore he states that it is best to think of police-citizen encounters in terms of areas of resistance and control. It is within these areas that police force must be understood.

Faulkner (1991) and others claim that proper training on the use of force through the avenues of resistance and control can help define within modal categories, when and what officer responses are necessary given a narrowly defined scenario (O'Linn, 1992; Graves et al., 1992). Serving as a training officer with the Ohio Peace Officer Training Academy, Faulkner defined an "action-response use of force continuum" that explains

¹ Also see (Bittner, 1970).

ACTION-RESPONSE USE OF FORCE CONTINUUM

Weapons Used Against Officer Attempting to Disarm Officer Life Threatening Weaponless Assault	Deadly Force	OFFICER-SUBJECT FACTORS 1. Age 2. Sex 3. Size 4. Skill Level 5. Multiple Subjects/Officers 6. Relative Strength SPECIAL CIRCUMSTANCES 1. Closeness of Weapon 2. Injury Exhaustion 3. Being on the Ground 4. Distance from Subject 5. Special Knowledge 6. Availability of Other Options
Striking or Kicking Officer	Baton-Striking Techniques or Lateral Vascular Neck Restraint	
Wrestling With Officer Pushing Officer	Striking, Punching, Kicking Aerosols or Electrical Devices Baton-Hold Techniques	
Pulling Away Refusing to Move-Dead Weight	Striking Muscle Groups Take Downs, Joint Manipulations or Pressure Points	
Not Responding to Commands Verbal or Physical Danger Cues	Balance Displacement Escort Position Assistance from Other Officers Verbal or Physical Command Officer Presence	*Adapted From Samuel Faulkner's Use of Force Continuum (1991)
INDIVIDUAL'S ACTIONS	OFFICER'S RESPONSES	

officers' responses to resistors' actions. As shown in Figure 1.1, Faulkner (1991) conceptualizes that officer responses to individual actions vary along 12 dimensions. The lower end of the responses begin with the officers' presence while the upper end culminates with the infliction of deadly force.

O'Linn (1992) explains that since law enforcement officers are expected to make split second decisions based on rapidly evolving situations, the incorporation of a use of force continuum into departmental policy will provide the guidance to officers in making force decisions.

Although these continuums are useful for training and policy setting, they provide very little information for academics delving into the subject – quite simply because there is very little information on the actual levels of resistance that officers encounter. To clarify this point, Conner (1991) found that 95 to 97 percent of all police-citizen contacts involve cooperative subjects. Thus, it is not hard to see why there is virtually no information on how and under what circumstances force is used, given the limited amount of data that we have detailing police-citizen encounters, coupled with the rarity of the actual use of police force (Pate and Fridell, 1993; Croft, 1985; Skolnick and Fyfe, 1993; Reiss, 1970; Chevigny, 1969).

The concept of a continuum of force is the primary focus for this study. More specifically, having the dependent variable arranged in a continuum of possible responses provides a more complete understanding of the dynamics and discretionary choices that officers face in potential force incidents. More specifically, officers were asked to

select a response from a continuum of force after reading a vignette containing assigned individual, situational, and community factors. Their responses will permit us to model and predict the thresholds of the profession's opinions regarding the determinants of appropriate police force.

THE PRESENT STUDIES

The existing research has addressed several features associated with police force. First, theorists have suggested that the authority to use force is a central tenet of the police occupation (Bittner, 1970, Langworthy and Travis). Second, researchers examining the prevalence of use of force have suggested that it is rarely part of policing (Pate and Fridell, 1993; Skolnick and Fyfe, 1993; Reiss, 1970; Friedrich, 1978; Chevigny, 1969.) And third, research during the past two decades examining the correlates of police use of force have suggested that a variety of situational, individual, and community factors appear to be related to police-citizen encounters where force was used. However, to date, very little if any attention has been directed at factors that influence when and how much force officers should use in a given situation.

To begin to appreciate the complexity of situations where the police use force, one must conceptualize force not as a static concept, but rather a continuum of responses, ranging from verbal commands to deadly force. Unfortunately, extant research has failed to examine those factors that influence an officer's decision to use one type of force over another. While researchers have not looked at this, the U.S. Supreme Court has set some broad guidelines. For example in 1986, the Court etched the interpretation of excessive force in case law with the decision of *Graham v. Conner*. In this decision, the Court laid out the "objective reasonableness standard" that mandates that actions of officers involving questions of use of excessive force be "judged from the perspective of a reasonable officer coping with a tense, fast-evolving situation."

The Supreme Court also addressed the use of deadly force in the case of *Tennessee v. Garner* (1985). In this case, the Court ruled that the state can legally "seize the life of an individual" when an officer believes that a suspect's actions places in jeopardy either the life of the officer or other citizens nearby. By phrasing their decision under the auspices of an individual's Fourth Amendment protection, the Court left the lower courts to interpret the extent to which nature of the officers' actions matched the suspect's right to be free from their loss of liberty.

These Supreme Court decisions, while providing a general standard for the efficacy of police behavior, fail to provide some type of specific criteria that officers may use when deciding whether to use force and the extent of the forcible intrusion. The following chapters will provide insight into officers' operational definitions of these Supreme Court decisions. They will detail the progression of studies conducted and currently underway by the author and the Ohio Attorney Generals Office to provide officers with some guidelines as to when, and in what situations, force is needed.

THE CRIMINAL LAW AND EXCESSIVE FORCE

INTRODUCTION

The discretionary choices open to officers to resolve disputes are extensive, however, they are not without limits. One of the constraints placed on the decision to use one form of force over another is the criminal law. The coercive methods the police use in order to make an arrest, serve a warrant, or bring situations under control would be considered criminal if they were attempted by anyone other than police officers. State authorization to use coercive force is lawful in all 50 states if it can be shown that the officers acted reasonably, while on duty, to reach legitimate law enforcement ends (Klockars, 1995). Even though state legislatures and departmental policies provide officers with a host of coercive techniques in dealing with citizens, there are limits. For example, officers found to use excessive force either sadistically, frivolously, or while not on duty are subject to criminal *sanctions* (*Johnson v. Glick*, 1973).¹ Aside from state and departmental guidelines for acceptable behavior by officers, there are few legal remedies that victims of excessive force can invoke without taking up a Federal Title 18 suit. Under this federal law, officers are subject to a penalty of up to a \$1,000 fine and imprisonment for one year to life, if a death results for any person who: “under the color of law, statute, ordinance, regulation or custom willfully subjects any inhabitant of any state, territory or district to the deprivation of any right, privileges, or immunities secured or protected by the Constitution or laws of the United States.”

While the penalties attached to Title 18 are rather grave, the filing of federal suits claiming a constitutional deprivation seldom make it to court. There are three reasons for this. First, suits are screened by a prosecutor with whom the credibility of the plaintiff pales in comparison with that of the officer. Second, Geller and Scott (1992) found that there is a reluctance of witnesses of fellow officers to come forth due to fear of reprisals. And finally, these authors claim that the public is generally unwilling to punish the police with penalties normally reserved for criminals.

As one might expect, the successful prosecution of officers for use of excessive force is an extremely rare event (Katz, 1991; Kobler, 1975; Waegel, 1954; Hubler, 1991; Levitt, 1991). Demonstrating the rarity of criminal prosecution, Petrillo (1990) found that San Diego police officers were absolved in all 190 shootings by officers from 1985 until the end of 1990. Similarly, Blumberg (1989) found that criminal prosecutions were filed for only 1 in 500 officer shootings.

¹ The Glick decision established four criteria to be considered before a plaintiff could obtain redress for an abuse of force complaint. These criteria include: the need for the application of force; the relationship between the need and the amount of force used; the extent of injury inflicted, and if the force was applied in good faith to maintain or restore discipline.

Aside from issues around deadly force, a recent study completed by the U.S. Civil Rights Commission on police misconduct found in one jurisdiction that the number of incidents of reporting of abuse of force to police is increasing. In a series of reports, they found that in Milwaukee, of the 301 complaints filed, only 14 went to a hearing. Of these cases, 13 were found not to meet the necessary burden of proof, and only one was sustained (Thomas, 1995).

CIVIL LIABILITY AND THE USE OF EXCESSIVE FORCE

The second constraint placed on officers guiding their discretionary choices as to when and how much force to apply is the actual or threat of civil litigation against the officer, the department, or both. While criminal prosecution of officers for use of excessive force is rare, civil litigation is not. Anytime an officer uses force, the possibility of a civil suit exists. Federal civil rights statutes can provide the grounds for a civil suit for those who have been victims of excessive force. In both federal and state cases, departmental guidelines or policies concerning use of force are central to the establishment of civil liability. Should a policy exist, the failure to act within its broad guidelines implies that an officer may not have been operating with an appropriate standard of care. If no such policy exists, or it does not address the issue at hand, the department and city may be at risk for a civil judgment.

Demonstrating the prevalence of civil suits, McCoy (1987) in a survey of cities with a population of 100,000 or more, found that the majority of police departments have been sued and expect to be sued in the future. Klockars (1995) suggests reasons, aside from obvious monetary gains, why these claims have flourished in the civil arena. First, the level of culpability of the offending parties is much lower in civil suits as opposed to criminal litigation. Second, in civil suits there are no screening mechanisms like prosecutors in criminal cases. Third, the plaintiff and his/her attorney are free to choose their own forum, and often choose to file a suit in federal court. Fourth, the rights of discovery are less restrictive. The cost of defending a department or an individual against such a claim pales in comparison to the cost of a compromised settlement. And fifth, in federal cases, lawyers fees are recoverable if the plaintiff's complaint is sustained. For these reasons, Klockars (1995:14) claims that the settlement of plausible civil claims for use of excessive force is often a cost effective alternative.

LEGAL DECISIONS AFFECTING USE OF FORCE COMPLAINTS

No discussion of the control of police force would be complete without an examination of the legal precedence that determines liability for departments in excessive force claims. Under the legal framework, the definitive standards for the efficacy of use of force are split among non-deadly and deadly force. The legal framework for these two types of force was laid down by the U.S. Supreme Court in *Tennessee v. Garner* (1985) and *Graham v. Conner* (1989).

The definitive standard for police use of deadly force was legally established by the Supreme Court in the case of *Tennessee v. Garner* (1985). The Court stipulated a “balancing test” where the state had to “balance the nature ... of the intrusion on the individual’s Fourth Amendment’s interests against ... the governmental interests alleged to justify the intrusion” (1985:8). This balancing test that the Court promulgated takes into account the need for effective law enforcement and the need and value that the state places on freedom and individual liberties. According to the Court, the government can seize (in this case seize the life) an individual only when the officer suspects that the individual’s actions present immediate danger to the officer or others in close proximity. While some have argued over the point of what constitutes immediate danger, the Court has found that the individual must both possess a weapon and show signs that he/she is willing to use it. The mere possession of a weapon with no perceived intent to cause injury has been ruled to not meet the constitutional standard for use of deadly force (*York v. City of San Pablo*, 1985).

Kaune and Tischler (1989), in their analysis of the *Garner* decision, claim that the use of deadly force is not only justified by immediate threats to the officer or citizens, but can also be inferred by the suspect’s past dangerousness. Kappeler and Kaune (1993), in looking at past dangerousness, found that deadly force may be justified when the police believe a suspect has committed a crime or is threatening to cause great physical harm. While the issue is not presently clear, such crimes as murder, bank robbery, and armed robbery are believed to be violent enough to justify use of deadly force.

The *Garner* decision clarified many important issues surrounding the proper use of deadly force. However, the justification for the use of non-lethal force remained unclear until May of 1989, when the Supreme Court announced a new standard for determining liability for less than lethal claims of excessive force. In *Graham v. Connor* (1989), the Court held that the determination of whether a law enforcement officer used excessive force in the course of an arrest, traffic stop, or some other seizure was based on the Fourth Amendment’s objective reasonableness standard. The Court mandated that the actions of officers involving questions of excessive force should be “judged from the perspective of a reasonable officer coping with a tense, fast-evolving situation.” In its decision, the Court declared the justification of force to be reasonable, requires a careful balancing of the nature and quality of the official intrusion into the complainant’s life against the countervailing government interest at stake. Thus, in any case concerning the propriety of force, the Court must properly review all the facts and circumstances of the case, the threat imposed to the safety of the officer or others, and the level of resistance that the officer encountered.

The Court decided that the “reasonableness” of a specific officer’s conduct “is not capable of precise definition or mechanical application” (Graham, 1989:1871). Thus, this objective reasonableness standard could only be defined and judged from the perspective of a reasonable officer at the scene, responding to rapidly developing situations rather than a retrospective view from an impartial observer. The Court stated that: “As in other Fourth Amendment contexts, however, the “reasonableness” inquiry in an

excessive force case in an objective one: The question is whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent and motivation ..." (*Graham v. Conner*, 1989:1971-1872). In wording their decision in this way, the Court reversed the Fourteenth Amendment's standard of "shocking the conscience" and that was enumerated by *Glick v. Johnson* (1973), and clarified the ambiguity that was created by previous decisions.

Kappeler and Kaune (1993) note that prior to *Graham*, there was considerable confusion over which constitutional right was violated in claims of police use of excessive force. They stated that most courts applied a test under the Fourteenth Amendment's due process guarantee when determining legal liability. Thus, if force was applied in a good faith effort to maintain and restore order and was not implemented either maliciously or sadistically, then no criminal or civil liability was implied or could exist. In contrast, other courts followed either the Fourth Amendment's prohibition against unreasonable searches and seizures or the Eighth Amendment's protection against cruel and unusual punishment.

The use of force, its prevalence, and its definition are problems that have evaded researchers and practitioners for the better half of two centuries. While we may never be able to tap the prevalence of police use of force incidents, we may be able to analyze the multitude of factors related to its use. With the affirmation of *Graham v. Conner* (1989) by the Supreme Court, we currently have a legal standard dictating that police use of force at any level can be justified so long as the officer is acting like other reasonable officers given the same set of circumstances. However, the question still remains – what is reasonable?

While previous studies have been useful in defining the situational correlates of police force, no study to date has set out to define an occupational standard where police force is both justified and accepted. If research is to get beyond this impasse, it makes sense to do like other professional organizations such as the American Medical Association and the American Bar Association have done by having the profession define its own set of ethical behavior (Klockars, 1995).

Prior research has assessed the police's ability to evaluate their own work. Toch et al. (1975) found that police officers and specifically patrol officers, are able to evaluate what good police work is and when force is excessive. This research endeavor will complete two primary tasks. First it will identify the individual and situational correlates of forceful police-citizen encounters. And second, it will go beyond our current state of knowledge and identify the reasonable officer's perception of appropriate intervention strategies for handling potentially volatile police-citizen encounters. Specifically, officers will be asked to use a use of force continuum when deciding when and what type of force is appropriate in a series of vignettes. With such a benchmark, situationally specific responses to suspect actions will serve as a guide for officers across the country to rate their present behavior, as well as serve as a guide for the courts to assess criminal and civil responsibility. With such a guide in place, training officers and police adminis-

trators may be able to tailor use of force classes and departmental policies to reflect the occupational (or reasonable officer) standard, thereby protecting themselves from potential criminal or civil litigation.

LEGAL REVIEW

Tennessee v. Garner, 471 U.S.1, 105 S.Ct., 85 LED. 2d 1 (1985), is the benchmark case decided by the U.S. Supreme Court that altered the scope of law enforcement policies and training around the nation. The *Garner* decision is best known for abolishing the “fleeing felon” rule and has been accepted by all United States courts as the correct framework by which to analyze deadly, or lethal, force. All deadly force encounters between law enforcement and civilians are to be considered under the Fourth Amendment, which refers to unreasonable search and seizure.

Without going deeply into the specifics of the case, a Memphis police officer shot a 15-year-old who was fleeing from the scene of a nighttime residential burglary. The youth was about to get away and the officer was “reasonably sure” that the subject was unarmed. Acting under the authority of Tennessee statute and in compliance with Memphis Police Department policy, officers were allowed to use deadly force to prevent the escape of all fleeing felons.

The U. S. Supreme Court heard the case on appeal and stated the following:

“The use of deadly force to prevent the escape of all felony subjects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are a little slower afoot does not always justify the killing of the subject. A police officer may not seize an unarmed, non-dangerous suspect by shooting him dead.”

The Court went on to define under what circumstances deadly force could be employed:

“Where the officer has probable cause to believe the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent

escape by using deadly force. Thus, if a suspect threatens the officer with a weapon, or if there is probable cause to believe that he committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape and if — where feasible — some warning has been given.”

The court made it clear that it is a Fourth Amendment stricture against unreasonable seizures that protects us against the excessive use of force by the government. The police must be able to articulate a governmental interest greater than the subject’s interest in the seizure of his/her life. Failure for law enforcement administrators to recognize and apply these standards leaves them open to claims of failure to train, and worse yet, claims of unconstitutional use of force.

The following principles are essential to all use of force policies :

1. The correct constitutional standard to apply in use of force cases is the Fourth Amendment “objective reasonableness” test. The court must stand in the officer’s shoes and judge the reasonableness of the actions based on the information and perception of the individual responding to the situation. Reasonableness depends not only on when the seizure was made, but also on how it was made.
2. It is not constitutionally reasonable to use deadly force to prevent the escape of a felon who is unarmed and who poses no threat to others.
3. It is constitutionally reasonable to use deadly force to prevent escape of a fleeing felon if:
 - a. The officer has probable cause to believe the suspect poses a threat of serious physical harm to himself/herself or others;
 - b. Probable cause of this sort exists if the subject threatens the officer with a weapon or there is probable cause to believe the offender has committed a crime involving the infliction or threat of serious physical harm; and
 - c. Where feasible, some warning has been given.

In *Graham v. Connor* 490 U.S. 386, 104 L.Ed.2d 443, 190 S.Ct. 1865 (1989), the U.S. Supreme Court heard a case concerning a less-than-lethal force issue. The Court reviewed the standards of evaluating officer conduct according to those used in the *Tennessee v. Garner* case. The Supreme Court held that a central issue in physical force cases was whether the officer's actions are objectively reasonable in light of the facts and circumstances at the time of the incident. The language of the Court stated, "all claims that law enforcement officers have used excessive force — deadly or not — in the course of an arrest, investigatory stop, or other 'seizure' of a free citizen should be analyzed under the Fourth Amendment and its 'reasonableness' approach." 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. The Court, determining whether a particular application of force was reasonable, will require a careful case-specific review of the following factors:

1. The severity of the crime in question;
2. The **apparent threat** posed by the suspect;
3. Whether the suspect was trying to resist or flee; and
4. Whether the situation was judged from the perspective of a **reasonable officer** coping with a tense, fast evolving situation.

It was further stressed that an officer's "evil" intentions will not make a Fourth Amendment issue out of an objectively reasonable use of force; nor will an officer's "good" intentions make an objectively unreasonable use of force constitutional. Thus, we see the officers intentions are no longer at issue; only the facts and circumstances on a case by case basis will be the focus of the analysis.

The objective reasonableness standard provides a clear guide as to how to draft policy, conduct training, or to approach and defend use of force cases. At the same time it creates two problems that will affect future cases. These include:

1. An increase of the reliance on expert witnesses by plaintiffs to support their claims of excessive force. Experts can suggest that in their opinions, other tactics, weapons, or equipment may have been more appropriate; and

2. When coupled with factual disputes between the plaintiff and the defendant, a judge is less likely to summarily dismiss a civil suit.

It should now be clear that all force decisions, lethal or less-than-lethal, by a law enforcement officer against a free citizen will be a Fourth Amendment issue. The officer must act as other reasonable officers would have acted in a like or similar situation. This allows a real world approach for officers to be judged by how others in their own profession would have acted in actual encounters. The problem is that up to now, no one has been able to define how “reasonable officers” act or what they do.

On the corrections side of the profession, the governing cases when dealing with lethal force is *Whitley v. Albers*, 106 S.Ct. (1986), in which the Supreme Court ruled that the use of lethal force to quell a prison disturbance did not violate constitutional rights. The court examined the case as an Eighth Amendment issue and stated it is a violation only if the force is: “inflicted unnecessarily and wantonly.” Wantonness must consider if the force was applied as part of a good faith effort to maintain or restore discipline, or if it was applied maliciously or sadistically for the purpose of causing harm, as well as efforts made to temper the severity of the forceful response.

Hudson v. McMillian, 112 S.Ct. 995 (1992), involved a situation where relatively little force was applied to inmate Hudson. The Supreme Court reversed previously held court standards and found that the use of excessive physical force against a prisoner may constitute cruel and unusual punishment, even though the prisoner does not suffer serious injury. Inmate Hudson had suffered minor bruises, facial swelling, loosened teeth, and a cracked dental plate. The Supreme Court said the factors that were to be considered are as follows:

- The need for the application of force
- The amount of force used
- The extent of injury
- The threat reasonably perceived by a reasonable correctional official
- Efforts to temper

It can be seen that even though force used by a correction officer is examined under a different constitutional measure, there is a common theme between the Eighth and the Fourth Amendment. Did the correctional officer or did the law enforcement officer act as other “reasonable” officers in their respective professions would have acted?

Being aware of the legal standards governing force, this author embarked on a mission beginning in 1988, to determine and define what law enforcement officers consid-

ered to be appropriate responses to resistance, aggression, and assault. Since this author has the luxury of training and speaking before thousands of officers each year, a “Use of Force” survey was developed, in which officers could take charge of their own destinies and decide what constitutes reasonable force. The author would start every class and lecture with this statement, “If you do not decide what reasonable force is, it will be decided for you.” The strongest aspect of the “Use of Force” survey is that officers have a hand in the shaping of their own destiny. The “Use of Force” survey provides answers as to what law enforcement officers, correction officers, and members of the civilian community consider to be reasonable responses by officers to virtually all areas of resistance. This offers an invaluable tool that answers the requirements the Court imposes for law enforcement and provides a much needed bridge between those acting under color of law and the public they serve.

Appropriate or reasonable use of force is a topic that is on the mind of every law enforcement agency and officer throughout the United States. Whenever force is used in official capacity, officers, supervisors, departments, and the governing bodies they represent are exposed to the risk of alleged excessive force claims. Liability exists not only to the use of deadly force but to the multitude of less-than-lethal force options as well. Public perceptions of police use of force incidents have been credited with being one of the precipitating causes of the Chicago riot in 1919, the Harlem disturbance of 1935, the Watts riot of 1965, the Miami riot of 1980, and the Los Angeles riots immediately following the Rodney King decision. Given the scope of the problem, it is not surprising that law enforcement force has received considerable attention lately. Citizens, practitioners, and legislators have begun to ask such questions as: what circumstances precipitate the use of force? What officers are most likely to use force? How do they decide how much force to use? Most important is: how do officers, administrators, judges, and other agents of the criminal justice system define and differentiate between appropriate and inappropriate force?

CONTINUUM DESIGN

Adult education principles inform us that in most cases, the mind learns in pictures. For an adult to learn and retain information, it must be relevant and of direct importance to him/her. Most discussions on use of force are held on a theoretical level. Abstract words are used to describe levels of resistance and the appropriate level of officer response. The levels of resistance are given names such as “active aggression,” “psychological intimidation,” “Resistant Level I or II,” “Assaultive Level I or II,” etc. The levels of control offered are again in abstracts such as “Soft or Hard Empty Hand Controls,” “Contact Controls,” “Compliance Techniques,” or “Mechanical Control.” This terminology requires explanation to the officer when learned, explanation to the supervisor who decides if the proper amount of force was employed, and explanation to the jury if the case should go to trial.

The more natural the naming of an event, the easier it is for a person to create a mental picture and thus more readily categorize and remember. What the officer sees on the street is some form of a danger cue, or an individual not responding to commands. What the officer feels is a subject pulling away, pushing, striking, kicking, or attempting to take the officer's firearm away. To afford the best chance for an officer to respond correctly to his/her policy dictates, the choices of response should be stated in natural, realistic, common sense terms. The moves should be techniques that the officer's departmental policy authorizes as correct and reasonable, and the officer should then be trained in the proper execution of the approved techniques using stimulus – response training.

Adult learning teaches us that if we want an adult to “buy in” to a concept or a policy, the adult should have a voice in creating that policy. Most officers feel their departmental use of force policy is a tool with which to “hang them” following an incident. This being the case, it is often difficult for departments to obtain compliance with policies by their officers. Just as it is recommended that a mission statement should be created by all employees, it is also important that a use of force policy should be created by officers. Another problem with most policies is that they use abstract wording, which is difficult to understand. The language used causes a confusing mental picture when describing a confrontation and creates a lack of consistency in the analysis of the actual confrontation in relation to policy directives.

Confrontation is not static; rather, it is dynamic. It is not just a word, a pull, a push, or a shove. It is perhaps all of these, in a fast-evolving, random order. It is much more appropriate to describe confrontations as areas of resistance, and areas of control. Some may ask “What's in a word?” Those who have been indicted in a criminal proceeding involving use-of-force, or who have answered a civil excessive force suit, know well the importance of every single word. If the adult learner does not feel information is of direct benefit to his/her best interest, effective learning will not take place. Use of force training must be re-shaped to be more in line with the officer's reality and belief system. Correct application and reporting of use of force should not seem threatening to the officer, but should be perceived as directly beneficial to him/her.

It has been demonstrated that, under stress, the part of the brain responsible for the conscious control of motor behavior gets priority. The areas of the brain that handle reasoning and decision making are inhibited. This concept is discussed in the book by Dr. Richard A. Schmidt, *Motor Learning and Performance*, and is referred to as the “inverted U principle.” In the training of physical skills, stimulus-response training has been shown to be the best method of predicting how an individual may react in a stressful situation. Consideration must be given to the directness and simplicity of stimulus-response training at the cognitive level. If it is known that an officer's ability to make a decision will be inhibited under stress, it is necessary to imprint the proper responses prior to the event. This process can be accomplished by conducting repetitive use of force training, preferably in realistic, decision-making scenario situations. The officer's responses should be analyzed by a user-friendly, natural, use of force continuum that is

developed and trusted by the officers and understood by the supervisors conducting the evaluation.

In the February 1992 issue of *The Police Chief*, police use of force expert and attorney Missy K. O'Linn discuss use of force continua. She states:

“Numerous types of use-of-force continua are available ... The department should examine whether the suggested model is easily understandable and readily recalled by officers under stress. It is necessary to facilitate understanding of appropriate levels of force by exhibiting the actions of both the assailant and the officer on a comparative scale. It is also necessary to incorporate a statement in the use of force policy that deals with officer - subject factors such as age, size, relative strength, skill level, injury or exhaustion, and number of officers versus the number of suspects.”

This author offers for your consideration a use of force model that takes into account all of the previously mentioned factors, titled “Action - Response Use of Force Continuum.” It uses areas of subject resistance that are reflective of the actual situations that street officers routinely encounter. The levels of response are the techniques and terms that officers have received in their defensive tactics training. They take into account the normal responses of humans to threats, principles of reaction time, officer size, age, and relative strength disparities. With a continuum using types of subject actions and officers’ responses, rather than specific levels, it is believed that it is more reflective of the real world situations in which law enforcement functions. Officers can easily relate to and understand this continuum, and so they feel more confident and comfortable.

Psychological studies have shown that color enhances initial learning and retention. Since this is the goal, the “Action - Response Use of Force Continuum” uses a standard color spectrum from blue to red. There are numerous “officer - subject factors” and “special circumstances” that one normally considers in use of force incidents. These factors and circumstances are included in this continuum, thus building in flexibility. This broad-based approach is essential, given that the standard for evaluating use of force claims is “reasonable under the facts and circumstances known to the officer at the time of the incident.”

Most use of force continua reflect what either training companies or certain well versed individuals in the use of force field think are appropriate responses to resistance. A department should be cautious before formulating a subject control/use of force policy or program solely on the recommendations of a training or police products company. The primary function of these companies is to promote their organization or product. This may bias their considerations and recommendations to departments.

To create the “Action - Response Use of Force Continuum,” a unique approach was taken. A national research project was conducted that led to the creation of the continuum. This offers a degree of validity and ratification that no other continuum offers. This research project elevates the “Action - Response Use of Force Continuum” from being the work of a single individual or a training company, to a continuum reflective of the opinions of the nearly 3,000 officers who were surveyed in its development. Since its inception, a series of additional research projects have been conducted to further validate and fine tune the continuum. These validation studies will be discussed in detail later in this manual.

ORIGINAL SUBJECT DESIGN

The use of force questionnaire, which was instrumental in the validation of this continuum, was broken down into 10 levels of resistance, or “actions against officers.” They were stated in plain language, avoiding the use of abstract words.

1. Verbal or physical danger cues
2. Not responding to commands
3. Refusing to move - dead weight
4. Pulling away from officer
5. Pushing officer
6. Wrestling with officer
7. Striking or kicking officer
8. Life-threatening weaponless assault
9. Attempting to disarm officer
10. Weapons attempted/used against officer

This was done for three reasons:

1. To minimize explanation to anyone who is learning, using, or evaluating the continuum.
2. To evoke easy mental pictures by the officers since the human mind understands by forming pictures.
3. To improve the desired responses and to minimize reaction time.

There were 12 areas of responses from which officers could choose to control a subject’s resistance. These 12 levels outline subject control techniques that are well

known and highly accepted among defensive tactics trainers nationally. The goal in subject control is to be able to control a resistive individual as quickly as possible. Officers attempt to cause the least amount of injury or trauma to the subject, while still limiting the exposure of risk to themselves. The 12 levels of “response of officers” are:

1. Officer Presence
2. Verbal or Physical Directions or Commands
3. Assistance From Other Officer
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking , Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

The response techniques in levels one through five are extremely low profile. They afford very little chance of injury to the individual, and rely on using mostly verbalization by the officer to gain compliance. The techniques in levels six through nine, while still creating little chance of injury, rely on the principle of pain compliance to affect resistive behavior. “Striking, Punching, or Kicking Techniques” obviously have a higher possibility of causing injury, but are necessary due to the greater threat to the officer by the elevated resistance level of the subject. “Baton Techniques” refers to the striking of motor point, or muscle mass areas with an impact instrument. To be consistent with firearms training, officers should be instructed to strike center mass of the attacking individual’s arms, legs, or torso. Officers should use striking techniques to stop the attacker’s delivery system or neutralize the attack, but should not use the baton to “beat someone into compliance.” Intentional strikes to certain areas, such as the head, neck, throat, or groin areas should be avoided unless the resistance level of the subject necessitates this high level of response.

The vascular neck restraint, or “sleeper hold,” has been used in Judo for centuries. Among trained, physically fit individuals in competition, there is little chance of injury. In fact, the track record for field usage of this technique is very good. Since we cannot know the degree of fitness or levels of drugs or alcohol involved, this technique should be used with care. The sleeper hold is implemented at lower levels of resistance by some agencies but because of public concern and perception, it is advised that this technique only be used against a high level of resistance. It may be the only thing that may work, other than lethal force options, against individuals who abuse drugs to the extent that they are impervious to pain compliance.

The best way for departments to control and manage their liability is for them to take the information offered here and use it as a starting point from which to develop their use of force policy, or more appropriately called "Response to Resistance/Aggression" policies. In order to have the optimum effect, departments may call and request a scenario video and administer the Phase V Use of Force Questionnaire to all of their officers. This author will send your department an input disk to record the responses of your department. The department can then return the completed disk and the information will be analyzed. The analysis will then be returned to the department and should be retained along with this document. If you are sued or have internal force questions, all of this information can be used in order to make quality decisions. This will allow departments to determine the paradigm or belief system of their officers and to evaluate if it is in line with what other officers consider to be reasonable responses to resistance, assault, or aggression. County commissioners, mayors or city managers, city or county prosecutors, judges, etc., all should understand this program. This offers a pro-active, educational tool, allowing all parties involved to know what are considered to be reasonable responses by law enforcement officers in relation to the actions of the individuals they are attempting to control. If it is agreed upon prior to an incident, it is much easier to accurately and fairly judge the actions of all in question. This approach can be compared to liability risk reduction program. There is no way to eliminate the risks, but this model can certainly go a long way toward managing the risks.

In line with community based policing concepts, the members of the community should also be educated to this program. Civic groups, community clubs, schools, and churches should be informed about the manner in which they can expect their officers to deal with resistance/aggression. Since it is the function of law enforcement to protect and serve, this will show the community that their law enforcement agency is willing and open to respond to its needs and wishes. It will also send a strong, clear message to the officers that their departments are concerned about use of force. Officers are offered concrete, realistic guidelines on acceptable use of force that they themselves created, and then are expected to adhere to the developed policies.

Once the departmental supervisory personnel, the governing body, and the appropriate legal representatives agree on policy, training officers should be employed to implement the agreed-upon plan. The format of the "Action - Response Use of Force Continuum" should be used, but only those techniques that have been agreed to should be taught to the officers. If it is agreed that there will be no use of electrical devices, or no vascular neck restraint, eliminate them from the continuum. The final product should reflect the wishes and dictates of those responsible. An officer does not have to be equipped with every tool or be trained in every technique on the market today. The only requirement is that whatever the tool or technique used, it must be used following the reasonable force guidelines that are illuminated in this work.

UNDERSTANDING THE ACTION - RESPONSE USE OF FORCE CONTINUUM

Those who have been actively involved know that physical confrontation is not static, but rather, dynamic. It is more than “not responding to commands,” “pulling away from the officer,” “pushing the officer,” “striking or kicking the officer,” etc.; physical confrontation is most often a combination of many of these factors. These factors rarely follow an exact pattern or order of progression. This is why it is somewhat of an injustice to label the resistance as a “level.” It is much more accurate to describe the situation as an area of resistance and an area of response. The more natural the mapping of the continuum to the actual confrontation, the better the officer’s chance of responding appropriately. When referring to the “Action - Response Use of Force Continuum,” confrontation is often not all blue, all green, or all yellow. It may be a combination of each at different moments in time.

It must be remembered that these are tense, uncertain, fast-evolving situations that push human capabilities to their limits. In the “Action - Response Use of Force Continuum,” there are no lines. Rather, there are colored areas with shaded areas between the blocks of color. This reinforces the concept that we are not responding to a static set of circumstances. It affords the officer the opportunity to explain the area of resistance encountered, and the area of response employed to establish control. It allows officers to live in the real world and to function within the “Totality of the Circumstances,” as courts have instructed.

The officer’s response is based on his/her perception of the situation. The “Officer - Subject Factors” and the “Special Circumstances” that are listed along with the continuum allow departments, the judge, juries, etc., to consider the factors that confronted the officer at the time he/she made the decision in question. If an officer makes a sincere good faith attempt to handle a situation correctly, there should be no undue cause for worry. The evaluation tool used by the court is, “Did the officer act as other reasonable officers would have acted in a similar situation?” Since the officer is a reasonable person, all he/she has to do is relate fully, and completely, what happened.

There are some potential sources of error in the above reasoning. It is possible that the officer may have misjudged the situation. The speed of the incident, the stress level, fear, injury, exhaustion, etc., may have forced an error in judgment. This will certainly increase civil liability, but that is what the civil process is all about, to right unintentional wrongs. The major problem is when an officer realizes the mistake after the fact, and he/she is reluctant to admit it. This is where our fear pushes us like a snowball rolling downhill, to our demise. Instead of admitting an honest mistake, some decide to “cover-up” the truth. It starts by offering a non-factual account to the officers who respond after the incident. It is worsened by the intentional falsification of the police report, which is an official document. The cover to the coffin is sealed in the courtroom when the officer raises his/her right hand, “solemnly swears,” and then offers an altered or false account of the situation. The officer has gone from making an honest

mistake that most people can understand, to the ultimate sin of perjury, from which an officer can never recover.

The other source of error, and probably more grievous than the previous examples, is when due to frustration, hatred, or stupidity, officers do not listen to their inner selves. If they know in their hearts that what they are doing is incorrect and still proceed, there is little that can be done on their behalf. If officers do not act in what they consider to be a reasonable manner, other officers' perceptions and feelings will not be in their favor.

Because everyone is different, the chances of everyone agreeing on all points of the continuum are slim. Agreement is not a necessity. As long as an officer acts within the relative area of what others consider understandable in light of the circumstances, he/she will be all right. We are striving for at least the following: It may not have been the way I would have handled the situation, but I can understand why the other officer did what he/she did. It is probably easiest to understand this way: The more closely your responses are to the color codes of actions and responses outlined in the continuum, the more other "reasonable officers" will agree with your decisions.

A word of caution is to avoid being in the "one-percent" club. Since the mind conceptualizes in pictures, visualize the following: An officer attempts to affect a lawful arrest. The person is advised he/she is under arrest, asked to step out of his/her chair, turn around, and place his/her hands behind his/her back. The person hears you and understands, but decides not to respond to your commands. You make a second request, with no compliance. From the use of force questionnaire responses, most officers recommend three verbal warnings prior to taking physical actions against the resister. In a command tone of voice, you issue your third and final request. Having satisfied the "three request" opinion learned from the survey, you pull out your firearm and shoot the individual. Anyone reading this scenario now recognizes this as ridiculous. This is a completely unacceptable response in relation to the actions offered. Here is what is meant by being in the "one percent club." You want to avoid acting in a manner that either few or none will think is reasonable.

Referring to the continuum color code, consider the following: If the person is acting in a bluish, greenish, yellowish area and we respond with techniques from the corresponding correct color area, we will be acting reasonably. It will be an area of response that other officers would either do themselves or at least understand being done. Our downfall will come if we drastically skip color areas of the continuum. Again referring to the scenario in the previous paragraph, assume we have an individual resisting in a bluish-yellowish color code area, not exhibiting any significant officer subject factors or special circumstances. If we respond with a technique from a reddish color code, we are at great risk.

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LAW ENFORCEMENT OFFICER SURVEY

Results from Complete Use of Force Questionnaire completed in May 1993. The following information is derived from 2785* returned officer survey forms.

Mean	The mean is the arithmetic average. It is equal to the sum of the individual scores divided by the total number of scores.
Mode	The mode is the number that occurs more frequently than any other.
Standard Deviation (Std. dev.)	This statistic tells you what kind of deviation from the mean is typical of a given population. For most populations you encounter, about two-thirds of all the numbers in the population are within one standard deviation of the mean.
Minimum Score (Min.)	Lowest score recorded from the population.
Maximum Score (Max.)	Greatest score recorded from the population.

* The first 720 interviews were conducted in a verbal format. These are included in the statistics only.

SECTION ONE

SUBJECTS' ACTIONS AND OFFICERS' RESPONSES

1. If a subject squares off, clenches his/her fists, or offers verbal threats and does not desist with your requests to do so, what would you consider to be the greatest appropriate level of control to be used at the "verbal or physical danger cues," or "not responding to commands" level of resistance?

VALUE	FREQUENCY	VALID PERCENT
1	5	.2
2	117	5.7
3	649	31.4
4	143	6.9
5	113	5.5
6	397	19.2
7	197	9.5
8	57	2.8
9	321	15.5
10	18	.9
11	48	2.3
12	0	0
TOTAL:	2065	100.00

MEAN: 5.39
 MODE: 3.00
 STD. DEV.: 2.47
 MIN.: 1.00
 MAX.: 11.00

1. Officer Presence
2. Verbal and Physical Directions or Commands
3. Assistance from Other Officers
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking, Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

2. If a subject is not attempting to harm you or others, but resists by using the weight of his/her body, what would you consider to be the greatest appropriate level of control to be used with the “refusing to move - dead weight” level of resistance?

VALUE	FREQUENCY	VALID PERCENT
1	0	0
2	9	.4
3	154	7.5
4	165	8.0
5	302	14.6
6	1314	63.6
7	33	1.6
8	50	2.4
9	36	1.5
10	0	0
11	2	.1
12	0	0
TOTAL:	2065	100.00

MEAN: 5.57
 MODE: 6.00
 STD. DEV.: 1.15
 MIN.: 2.00
 MAX.: 11.00

1. Officer Presence
2. Verbal and Physical Directions or Commands
3. Assistance from Other Officers
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking, Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

3. You can see a subjects’ hands and no weapons are present. The subject does not try to strike or push you and continually pulls away from you each time you grab or touch him/her. What would you consider to be the greatest appropriate level of control to be used at the “pulling away from officer” level of resistance?

VALUE	FREQUENCY	VALID PERCENT
1	0	0
2	9	.4
3	36	1.7
4	93	4.5
5	248	12.0
6	1123	54.4
7	256	12.4
8	189	9.2
9	87	4.2
10	13	.6
11	11	.5
12	0	0
TOTAL:	2065	100.00

MEAN: 6.21
 MODE: 6.00
 STD. DEV.: 1.26
 MIN.: 2.00
 MAX.: 11.00

1. Officer Presence
2. Verbal and Physical Directions or Commands
3. Assistance from Other Officers
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking, Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

4. You attempt to affect an arrest and the subject pushes you away each time you step close enough to gain control. What would you consider to be the greatest appropriate level of control to be used at the “pushing officer” level of resistance?

VALUE	FREQUENCY	VALID PERCENT
1	0	0
2	2	.0
3	11	.5
4	9	.4
5	60	2.9
6	326	15.8
7	724	35.1
8	249	12.1
9	449	21.7
10	98	4.7
11	138	6.7
12	0	0
TOTAL:	2065	100.00

MEAN: 7.71
 MODE: 7.00
 STD. DEV.: 1.55
 MIN.: 2.00
 MAX.: 11.00

1. Officer Presence
2. Verbal and Physical Directions or Commands
3. Assistance from Other Officers
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking, Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

5. You attempt to affect an arrest and end up in a push-pull match with the resisting subject. You are not on the ground and he/she has not made any attempt to grab your gun. What would you consider to be the greatest appropriate level of control to be used at the “wrestling with officer” level of resistance?

VALUE	FREQUENCY	VALID PERCENT
1	0	0
2	0	0
3	2	.1
4	1	.0
5	42	2.0
6	174	8.4
7	479	23.2
8	199	9.6
9	477	23.7
10	415	20.1
11	274	13.3
12	2	.1
TOTAL:	2065	100.00

MEAN: 8.57
 MODE: 7.0 & 9.00
 STD. DEV.: 1.65
 MIN.: 3.00
 MAX.: 12.00

1. Officer Presence
2. Verbal and Physical Directions or Commands
3. Assistance from Other Officers
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking, Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

6. You attempt to effect an arrest when the subject starts punching and kicking at you. If you step back, he/she won't pursue you, but each time you step toward him/her you're met with a barrage of feet and fists. What would you consider to be the greatest appropriate level of control to be used at the "striking or kicking officer" level of resistance?

VALUE	FREQUENCY	VALID PERCENT
1	0	0
2	0	0
3	2	.1
4	0	.0
5	1	.0
6	9	.4
7	175	8.5
8	64	3.1
9	425	20.6
10	354	17.1
11	1032	50.0
12	33	.1
TOTAL:	2065	100.00

MEAN: 9.95
 MODE: 11.00
 STD. DEV.: 1.13
 MIN.: 3.00
 MAX.: 12.00

1. Officer Presence
2. Verbal and Physical Directions or Commands
3. Assistance from Other Officers
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking, Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

7. You attempt to affect an arrest when the subject viciously attacks, backing you into a corner and assaulting you by choking you, gouging your eyes, or other similarly lethal techniques. What would you consider to be the greatest appropriate level of control to be used at the "life threatening weaponless assaults" level of resistance?

VALUE	FREQUENCY	VALID PERCENT
1	0	0
2	0	0
3	0	0
4	0	0
5	0	0
6	0	0
7	7	.3
8	3	.1
9	57	2.8
10	192	9.3
11	441	21.4
12	1365	66.1
TOTAL:	2065	100.00

MEAN: 11.49
 MODE: 12.00
 STD. DEV.: 0.83
 MIN.: 7.00
 MAX.: 12.00

1. Officer Presence
2. Verbal and Physical Directions or Commands
3. Assistance from Other Officers
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking, Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

8. You are affecting an arrest when the subject grabs your firearm and is attempting to take it from you. What would you consider to be the greatest appropriate level of control to be used at the “attempting to disarm the officer” level of resistance?

VALUE	FREQUENCY	VALID PERCENT
1	0	0
2	0	0
3	0	0
4	0	0
5	1	.0
6	0	0
7	7	.3
8	1	.0
9	13	.6
10	172	8.3
11	237	11.5
12	1634	79.1
TOTAL:	2065	100.00

MEAN: 11.68
 MODE: 12.00
 STD. DEV.: 0.72
 MIN.: 5.00
 MAX.: 12.00

1. Officer Presence
2. Verbal and Physical Directions or Commands
3. Assistance from Other Officers
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking, Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

9. You attempt to affect an arrest. The subject produces a weapon. He/she is intent on injuring you with it. He/she is close enough to do so unless you act immediately. What would you consider to be the greatest appropriate level of control to be used at the “weapons attempted/used against officer” level of resistance?

VALUE	FREQUENCY	VALID PERCENT
1	0	0
2	0	0
3	0	0
4	0	0
5	0	0
6	0	0
7	0	0
8	0	0
9	0	0
10	8	.4
11	9	.4
12	2048	99.2
TOTAL:	2065	100

MEAN: 11.99
 MODE: 12.00
 STD. DEV.: 0.14
 MIN.: 10.00
 MAX.: 12.00

1. Officer Presence
2. Verbal and Physical Directions or Commands
3. Assistance from Other Officers
4. Escort Position
5. Balance Displacement
6. Take-Downs, Joint Manipulations, or Pressure Points
7. Striking Muscle Groups
8. Baton Restraints
9. Aerosols or Electrical Devices
10. Striking, Punching, or Kicking Techniques
11. Baton Techniques or Vascular Neck Restraint
12. Deadly Force

SECTION TWO OFFICER/SUBJECT FACTORS

1. What age difference between officer and subject would you consider to be significant?

Age difference average = 11 years

0-19:	1,243
20-39:	373
40-59:	25
60-79:	2

2. What difference in size would you consider to be influential?

Weight difference average = 34 pounds

0-19:	11,081
20-39:	792
40-59:	657
60-79:	89
80-100:	124

Height difference average = 4 inches

0-2:	142
3-5:	846
6-8:	584
9-11:	47
12-Up:	90

3. In the case where an individual is resisting in a passive or defensive manner and not attempting to harm the officer or others, how many verbal warnings should the officer give the subject, (following informing the individual he/she is under arrest) before the officer lays hands on the individual to affect the arrest?

Verbal warnings average = 3

1:	220
2:	825
3:	866
4:	77
5:	71

4. How influential is gender difference between officer and subject?

None	274
Not Very	361
Somewhat	1,019
Quite A Bit	715
A Great Deal	251

5. How influential would you consider “skill level” to be between officer and individual?

None	82
Not Very	100
Somewhat	464
Quite A Bit	1,123
A Great Deal	844

6. How much would an officer, untrained in defensive tactics, be any more justified in using a higher level of force, than an officer who had a significant amount of defensive tactics training? NOTE: Many people wrote notes on this question stating it is ridiculous to have an officer who is untrained in defensive tactics.

None	409
Not Very	504
Somewhat	854
Quite A Bit	653
A Great Deal	200

7. How important is it for an officer to give verbal commands before, during, and after a confrontation?

BEFORE	None	3
	Not Very	8
	Somewhat	50
	Quite A Bit	494
	A Great Deal	2,074
DURING	None	48
	Not Very	138
	Somewhat	435
	Quite A Bit	728
	A Great Deal	1,266

NOTE: The people who said it was not important to verbalize during the encounter said so because of difficulty to talk and fight at the same time.

AFTER	None	115
	Not Very	281
	Somewhat	613
	Quite A Bit	649
	A Great Deal	961

NOTE: The people who said it was not important to verbalize after an encounter were referring to taunting or downgrading, not to issuing commands and instructions.

8. How much would multiple subjects/officers influence the use of force continuum?

None	19
Not Very	42
Somewhat	287
Quite A Bit	1,374
A Great Deal	1,185

9. If a subject had a weapon close at hand, how much would it influence the continuum?

None	5
Not Very	21
Somewhat	84
Quite A Bit	641
A Great Deal	1,869

10. If an officer was injured, or became exhausted in a confrontation, how much would it influence the continuum?

None	5
Not Very	6
Somewhat	41
Quite A Bit	401
A Great Deal	820

11. If the officer was on the ground, how much would it influence the continuum?

None	4
Not Very	6
Somewhat	41
Quite A Bit	401
A Great Deal	820

12. If the officer knew that the individual he/she was dealing with had been assaultive toward officers previously, how much would it influence the continuum?

None	10
Not Very	15
Somewhat	186
Quite A Bit	846
A Great Deal	1,363

13. How strongly would you consider the availability of other options against the officer? (Ex: He/she should have waited for back-up, he/she should not have initiated the pursuit, etc.)

None	23
Not Very	40
Somewhat	407
Quite A Bit	1,188
A Great Deal	962

Note: This was a tough question to answer, as reflected in the wide variety of responses. We are often asked in court, “shouldn’t you have attempted X or Y?” Your replies show you realize how difficult it can be to think of numerous responses during a confrontation.

14. If a night shift officer was approaching a subject while holding his/her flashlight and was suddenly assaulted, how appropriate would it be to use the flashlight as an impact weapon?

None	22
Not Very	75
Somewhat	210
Quite A Bit	788
A Great Deal	1,525

15. How much does the physical condition of the officer influence you in use of force cases?

None	106
Not Very	261
Somewhat	872
Quite A Bit	985
A Great Deal	395

16. If an individual was coming toward an officer at a walking pace with a knife in hand, announcing he/she was going to kill the officer, at what distance would it be appropriate to shoot from?

1 - 5 Feet	210
6 - 10 Feet	706
11 - 15 Feet	409
16 - 20 Feet	463
21 - 25 Feet	602
26 - 30 Feet	143
30 Plus Feet	76

Note: It is obvious many officers have been trained in the 21 foot drill or have seen the tape "Surviving Edged Weapons." The responses by some officers, however, show us there is still much training to be done in this area.

17. How often do you feel officers should be re-trained and re-certified in empty hand, or baton techniques?

Monthly	70
Quarterly	248
Bi-annually	606
Annually	1,575
Every 2 Years	114
Every 3 Years	22
Every 4 Years	2
Every 5 Years	12

Note: From the tight grouping of responses, the opinion on the necessity of training is obvious. For the departments that do not train, how can we help them when they do not follow their own advice?

18. Are there any factors, other than the ones previously stated, that an officer should consider during use of force incidents?

- 132 - Is the subject under the influence of drugs or alcohol?
- 96 - What is the subject's mental condition (EDP, suicidal, etc.)?
- 87 - What is the availability of backup for the officer?
- 71 - Environmental conditions (weather, footing, visibility)?
- 69 - What is the location of the incident?
- 67 - Location of innocent bystanders.
- 59 - Hostile crowd conditions.
- 47 - Type of crime committed.
- 33 - Time of day of the incident.
- 19 - Departmental policy.
- 15 - The physical condition of the subject.
- 15 - The officer's confidence and proficiency level.
- 14 - The mental attitude of the officer.
- 13 - The officer must consider the totality of the circumstances.
- 7 - Equipment issued to the officer in the field.
- 6 - The individual commitment level (statements such as "you'll never take me alive.")
- 4 - Known health considerations of the individual (AIDS, T.B., etc.)
- 4 - Officer's fear level.
- 4 - Previous adverse or hostile contacts with the officer.
- 4 - Information given by the dispatcher prior to arrival.
- 3 - "Political" climate of the area.

- 3 - Deafness.
- 3 - Language barrier between officer and subject.
- 3 - Attitude of the community.
- 3 - Availability of cover.
- 3 - Calls involving weapons or gang-related calls.
- 2 - Fast-moving vehicle toward officer.
- 2 - Loss of radio contact to call for assistance.
- 2 - Type of weapon used against the officer.
- 2 - Past history of violence, even if not directed toward the officer.
- 2 - Proximity of other threats.
- 2 - Local or ethnic customs or feelings.
- 2 - How critical is it to make the arrest right at that time.
- 2 - How long the confrontation lasts.
- 2 - Furtive movements by the subject.
- 1 - Screaming or extreme noise to heighten the stress level.
- 1 - Appearance of a weapon.
- 1 - Exhaustion of the officer.
- 1 - Willingness to comply with the officer's commands.
- 1 - The subject's body language.
- 1 - The danger involved to the officer or his/her partner.
- 1 - The possible escalation of violence in waiting for backup.
- 1 - Quick action by the subject, surprise assault.
- 1 - Concealability of weapons on a subject.

- 1 - Vision restrictions on the officer.
- 1 - Obstacles in the way of the officer.
- 1 - The type of confrontation.
- 1 - Verbal statements made by the subject, threats.
- 1 - The reality of reaction time, officers' overestimation of their abilities.
- 1 - Experience level of the officer.
- 1 - Attitude of the local courts.
- 1 - Verbal training taken by the officer.
- 1 - Medical history of the officer or the subject.
- 1 - Type of community the confrontation takes place in.
- 1 - Visibility.
- 1 - Rising problems with youth gangs.
- 1 - Types of weapons available to the subject.
- 1 - Motivation of the subject, commitment level.
- 1 - Legal ramifications.
- 1 - Possibility for officer to retreat, withdraw, and assess.
- 1 - Stress factors present.
- 1 - Whether the officer could identify the subject.
- 1 - The criminal mental culpability is important. He/she may be setting up the officer for use in a courtroom later on.
- 1 - Emotional state of the officer in the past 24 hours.

ACTION - RESPONSE USE OF FORCE CONTINUUM

IMPORTANT - The list of officer responses is *not* intended to be in any specific order, but reflects on the amount of resistance encountered. The officer will choose the necessary response to gain control of the situation based on departmental policy, his/her physical capabilities, perception, training, and experience.



OFFICER - SUBJECT FACTORS

1. Age
2. Sex
3. Size
4. Skill Level
5. Multiple Subjects/Officers
6. Relative Strength

SPECIAL CIRCUMSTANCES

1. Closeness of a Weapon
2. Injury or Exhaustion
3. Being on the Ground
4. Distance From the Subject
5. Special Knowledge
6. Availability of Other Options

INDIVIDUAL'S ACTIONS

OFFICER'S RESPONSES

Continuum of Arrest: Control – Handcuff – Search – Evaluate – Transport



SECTION TWO

- ◆ Phase II - Use of Force Research
- ◆ Phase V - Use of Force Survey
 - Section One - Subjects' Actions and Officers' Responses
 - Section Two - Perceived Threat
- ◆ Law Enforcement Total Group Statistics
- ◆ Understanding the Statistics
- ◆ Law Enforcement - Officer/Subject Factors and Special Circumstances
- ◆ Non-Law Enforcement Total Group Statistics
- ◆ Civilian - Officer/Subject Factors and Special Circumstances
- ◆ Law Enforcement Television Network Survey and Statistics
- ◆ Examples of Officers Beliefs Using the Current Format
 - Toledo P.D. Total
 - Elyria P.D. Total
 - Fairborn P.D. Total
- ◆ Take Charge of Your Own Destiny

PHASE II - USE OF FORCE RESEARCH

As soon as the continuum was formulated, I immediately started on phase two. There were a number of reasons for continuing the research. It was obvious from the initial continuum research that not all officers felt the exact same degree or force technique was reasonable. Phase two was an effort to examine exactly where officers disagree and to what extent. Adult learning principles instruct us that for an adult to “buy into” a program, they should have some input in its formulation. The continuum demonstrates what roughly 3,000 officers consider to be reasonable force. Phase two allows officers the opportunity of evaluating the continuum and deciding what they agree or disagree with. It also offers a chance to greatly enlarge the research number, which serves a dual purpose. First, it acts as a great educational tool for training officers and in formulating policies. Second, the greater number of officer’s opinions are more compelling when introduced in court to justify and explain officers’ force usage. Third, there is a greater chance with compliance with the continuum if law enforcement officers know what other officers consider to be reasonable force.

For a number of years, Officer Subject Factors and Special Circumstances were researched. When the influence of these factors and circumstances were clearly defined, a new format was undertaken. You will notice that for some questions there are smaller subject numbers than for others. This is because that question was added later in the study. You will still be able to judge how influential these individual factors are by the grouping of the numbers surveyed. On request from SWAT personnel, additional questions were formulated, relating to less-than-lethal munitions, light/sound distraction devices, and aerosols. A large number of officer’s opinions were collected using this format.

Since it is our job to protect and serve, and realizing that virtually every document law enforcement uses is obtainable by the public, I wanted to survey civilians to cross reference their opinions on “reasonable” force with those of law enforcement. The civilian responses are found directly behind those of law enforcement. This tool offers some valuable information. If the techniques law enforcement use to control certain levels of resistance offend a large portion of the general public that we are sworn to serve, we would know we were on the wrong track. The responses found here are from surveying Kiwanas clubs, Rotary clubs, Optimist clubs, high school and college students and teachers, and a broad sampling of the business community.

The most recent survey format consists of “Section One – Subjects’ Actions and Officers’ Responses” and “Section Two – Perceived Threat.” These are the two basic questions outlined in the *Graham* decision by the Supreme Court:

1. The apparent threat posed by the subject
2. Judged from the perspective of a reasonable officer coping with a tense, fast-evolving situation

The following pages are examples of the current survey instrument being used. Following that is the information obtained from surveying law enforcement, civilians, and corrections.

PHASE V - USE OF FORCE SURVEY

Law Enforcement (circle one): Yes No

If yes, circle your rank: Patrol First line supervisor
 Detective Upper management

Years on the job: _____ Height: _____

Age: _____ Weight: _____

Sex: _____ Race: _____

Number of officers 1-10 101-250
on the department (circle one): 11-19 251-500
 20-50 501&up
 51-100

Education (circle one): High school Four-year college
 Two-year college Graduate school

Date and location survey was taken: _____

SECTION ONE SUBJECTS' ACTIONS AND OFFICERS' RESPONSES

1. If a subject is not responding to an officer's instructions or commands, or offers verbal threats or physical signs of resistance, is it reasonable for the officer to attempt the following?

- ___ Issue Verbal or Physical Commands
- ___ Call for Assistance from Other Officers
- ___ Use an Escort Position (gentle hold on subject's arm)
- ___ Balance Displacement (use of balance to move subject)

Do you: Agree ___ Disagree ___ If you disagree, check the technique you disagree with.

2. If the subject is not attempting to harm the officer or others but resists by using the weight of his/her body, or if a subject pulls away from the officer's grasp, is it reasonable for the officer to attempt the following?

Any technique listed in # 1
 Joint Manipulations or Pressure Points (techniques that have little chance of injury)
 Take-Downs
 Striking Muscle Masses (designed to cause cramping or a "charlie horse")

Do you: Agree Disagree If you disagree, check the techniques you disagree with.

3. If the subject is pushing the officer away, or if they wind up in a push/pull wrestling type of encounter, is it reasonable for the officer to attempt the following?

Any technique listed in questions #1 and #2
 Baton Restraints (control holds, with no strikes employed)
 Chemical Agents (mace, tear gas, O.C., etc.)
 Electrical Devices (stun gun or taser)
 Striking, Punching, or Kicking Techniques

Do you: Agree Disagree If you disagree, check the techniques you disagree with.

4. If a subject is striking or kicking the officer, is it reasonable for the officer to attempt the following?

Any of the techniques listed in questions #1 and #2
 Baton Strikes to the Arms, Legs, or Torso (designed to stop the attacking system of the subject)
 Vascular Neck Restraint ("sleeper" or control hold, a rear neck lock, not a choke hold)

Do you: Agree Disagree If you disagree, check the technique you disagree with.

5. If a subject is seriously attempting to injure or kill an officer with personal weapons (hands and feet), or if a subject is trying to take the officer's firearm away or is using a weapon against the officer (gun, knife, shank, club, etc.), is it reasonable for the officer to attempt the following?

Any technique listed in questions #1 - #4
 Deadly force (firearms, shotgun, rifles, baton strikes to any area needed, non-traditional weapons)

Do you: Agree Disagree If you disagree, check the technique you disagree with.

SECTION TWO PERCEIVED THREAT

How much of a threat does the behavior of the suspect in the following present to you?

- | | |
|--|---|
| A. Verbal Resistance or Non-Compliance
(circle one) | 1 2 3 4 5 6 7 8 9 10 |
| | Least Serious Most Serious |
| B. Dead Weight Resistance
(circle one) | 1 2 3 4 5 6 7 8 9 10 |
| | Least Serious Most Serious |
| C. Pulling Away from the Officer
(circle one) | 1 2 3 4 5 6 7 8 9 10 |
| | Least Serious Most Serious |
| D. Pushing the Officer Away
(circle one) | 1 2 3 4 5 6 7 8 9 10 |
| | Least Serious Most Serious |
| E. Push/Pull Wrestling Type of
Encounter
(circle one) | 1 2 3 4 5 6 7 8 9 10 |
| | Least Serious Most Serious |
| F. Subject Striking or Kicking the Officer
(circle one) | 1 2 3 4 5 6 7 8 9 10 |
| | Least Serious Most Serious |
| G. Subject Attempting to Seriously Injure
or Kill the Officer With Hands/Feet
(circle one) | 1 2 3 4 5 6 7 8 9 10 |
| | Least Serious Most Serious |
| H. Subject Attempting to Take Away the
Officer's Firearm
(circle one) | 1 2 3 4 5 6 7 8 9 10 |
| | Least Serious Most Serious |
| I. Subject Using a Weapon Against the
Officer (Gun, Knife, Shank, Club, etc.)
(circle one) | 1 2 3 4 5 6 7 8 9 10 |
| | Least Serious Most Serious |

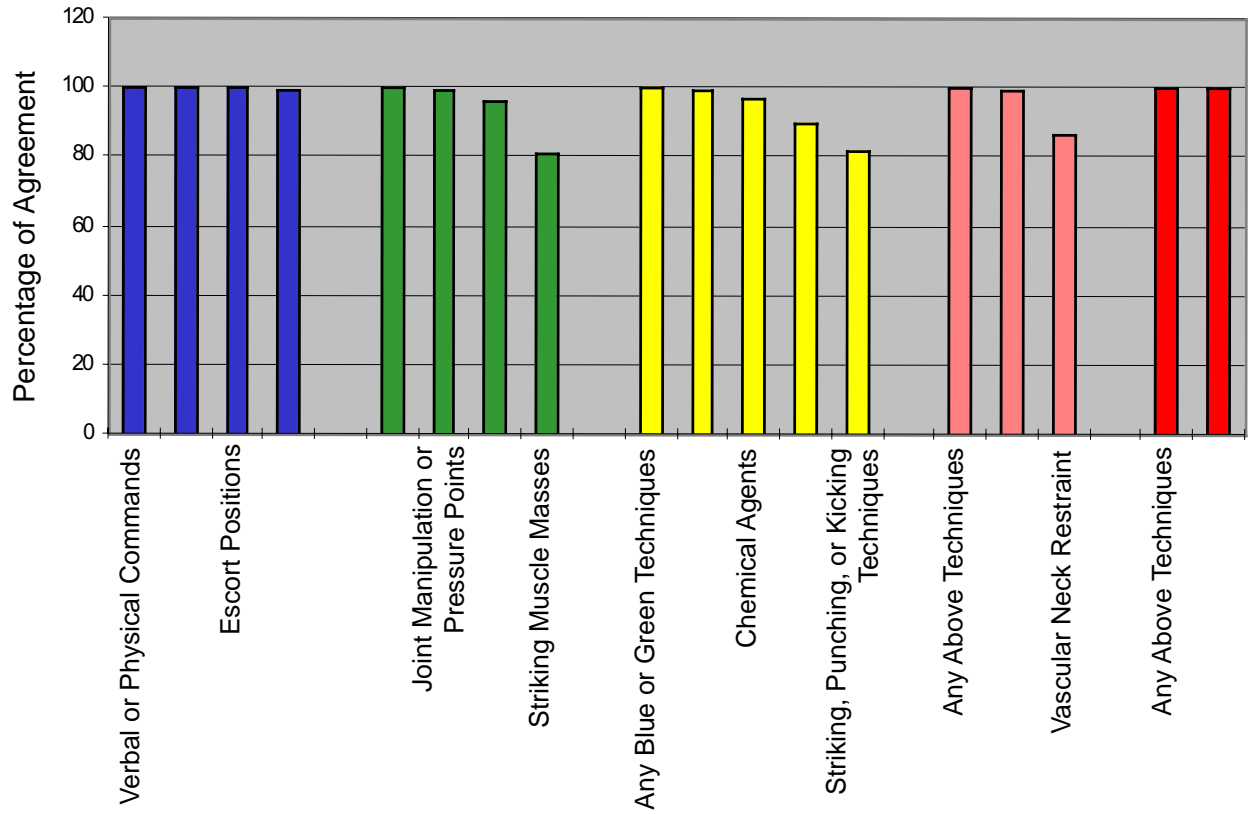
USE OF FORCE REPORT

**LAW ENFORCEMENT TOTAL
GROUP**

**6100
OF RESPONSES**

<u>AREA OF RESISTANCE</u>	<u>AGREE</u>	<u>VARIANCE</u>	<u>% AGREE</u>
1. BLUE COLOR CODE			
- Officer Presence	A.	0	100.00%
- Verbal or Physical Commands	B.	0	100.00%
- Assistance from Other Officers	C.	0	100.00%
- Escort Position	D.	13	99.79%
- Balance Displacement	E.	26	99.57%
2. GREEN COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Joint Manipulations, Pressure Points	B.	33	99.46%
- Take-Downs	C.	211	96.54%
- Striking Muscles to Cause Cramps	D.	1147	81.20%
3. YELLOW COLOR CODE			
- Any of the Above Techniques	A.	1	99.98%
- Baton Restraints	B.	27	99.56%
- Chemical Agents	C.	193	96.84%
- Electrical Devices	D.	628	89.71%
- Striking, Punching, or Kicking	E.	1123	81.59%
4. ORANGE COLOR CODE			
- Any of the Above Techniques	A.	4	99.93%
- Baton Strikes	B.	23	99.62%
- Neck Restraints - Sleeper Holds	C.	821	86.54%
5. RED COLOR CODE			
	6100	0	100.00%
- Any of the Above Techniques			
- Deadly Force			

Percentage of Agreement to the Action
 Response Use of Force Continuum
LAW ENFORCEMENT TOTAL - GROUP



USE OF FORCE REPORT

LAW ENFORCEMENT TOTALS

PERCEIVED THREAT

AVERAGE

A. Verbal Resistance or Non-Compliance **2.76**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	179	364	274	111	71	29	24	4	0	2	

B. Dead Weight Resistance **3.34**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	69	249	346	196	107	48	29	9	2	3	

C. Pulling Away from the Officer **4.72**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	3	40	181	293	255	150	88	37	6	5	

D. Pushing the Officer Away **5.84**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	3	46	155	272	231	210	82	42	17	

E. Push/Pull Wrestling Type of Encounter **6.97**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	7	24	133	232	292	221	101	48	

USE OF FORCE REPORT

LAW ENFORCEMENT TOTALS

PERCEIVED THREAT

AVERAGE

F. Subject Striking or Kicking the Officer **8.20**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	10	67	194	356	289	142	

G. Subject Attempting to Seriously Injure or Kill the Officer with Hands/Feet **9.60**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	3	17	78	204	756	

H. Subject Attempting to Take Away the Officer's Firearm **9.91**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	0	2	10	74	972	

I. Subject Using a Weapon Against the Officer (Gun, Knife, Shank, Club, Etc.) **9.97**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	3	0	0	0	0	0	1	1	3	1050	

UNDERSTANDING THE STATISTICS

It is important to remember what the statistics and graph represent. Since 1991, thousands of officers were shown a series of videos in which an individual was exhibiting a definite level of resistance and officers were using control techniques from the corresponding area on the continuum. Officers were then given a survey form and asked to state whether they agree or disagree with what they witnessed in the video. The officer was not asked to recite what the departmental policy states or regurgitate what any trainer had said, but rather what the officer would be willing to stand up in court and under oath state that what he or she recorded was his or her true belief.

From looking at the graph of law enforcement officers surveyed, we can see that virtually every officer agrees with the blue area. We have the right to be there, talk to the subjects, and call for backup if we feel it is necessary. If the people do not respond to our commands, we can place our hands on them in a non-injurious manner to lead them and encourage them to cooperate. Other than moving an individual for his/her well being, or to clear an area because of a necessity, probable cause should exist before physical force is applied.

We can also infer from the statistics and the graph that if someone is attempting to cause serious bodily harm to an officer, he/she is reasonable in resorting to deadly force if necessary. Not only do officers think it is reasonable, they have been granted that right by the Supreme Court. In the case of *Tennessee v. Garner*, 471 U.S.1, 105 S. Ct., 1694, 85 LED. 2d 1 (1985), the Supreme Court defined what factors were necessary for an officer to be justified in using deadly force. Those factors are as follows:

1. When the officer has probable cause to believe the subject poses a threat of serious physical harm to the officer or others;
2. When the subject threatens the officer with a weapon or there is probable cause to believe the offender has committed a crime involving the infliction or threat of serious physical harm.

In the survey of officers, there were different levels of consensus for the other techniques within the various color codes. At the end of each year, the surveys taken for that specific year were examined separately. For most techniques, the lack of consensus from one year to the next was minimal. For example, when determining when it was reasonable to use the baton, there was not more than one tenth of one percent deviation from one survey year to the other. Plaintiffs' attorneys can claim anything, but these statistics clearly state what reasonable officers consider to be reasonable responses to resistance, assault, and aggression.

In the green color code, the first real significant variance occurs when determining when it is appropriate to strike muscle masses to cause cramps. In law enforcement training circles, this is referred to as striking motor points. Eighty-one percent of the officers surveyed believe it is acceptable to strike a muscle mass if a subject is refusing to move or is pulling away from the officer. Nineteen percent believe that motor point strikes should not be employed against that specific level of resistance identified on the continuum. If a subject is truly attempting to pull away while an officer is holding on to the subject's arm, there will be certain muscles that are contracted in the subject's arm and a certain attitude to his/her body. If the officer feels the muscles in the subject's arm tighten up and sees the attitude of the subject's body change, such as a dipping of the arm being held, the officer knows that the subject is attempting to turn in the direction of the officer. The officer cannot know if the subject is turning to slap the officer, punch the officer, or attempt to take the officer's gun away; but the officer certainly does know that the subject is no longer in the green area of the continuum. If an officer were able to accurately communicate what he/she felt in the above scenario, anyone would be able to see that the resistance was at least in the yellow area of the continuum. In the yellow area, 100 percent of the officers surveyed indicated that it is appropriate to strike motor points to stop that type of attack.

For some officers, there is a difference of opinion on the placement of aerosol agents on the continuum. The majority of officers surveyed place it in the yellow area of the continuum, which corresponds to a pushing/wrestling action. Some officers would like to see the use of aerosols placed lower on the continuum. Everything that law enforcement does regarding subject control is based on what I refer to as associated cues. If an individual is raising his/her arm in the direction of an officer while holding a firearm, the officer will associate that physical cue with severe threat. With that type of threatening movement, most officers would probably respond with the use of his/her firearm. That officer does not have to wait until the subject fires the weapon and the bullet strikes before responding. It is the same in this case – officers do not have to wait until an individual is pushing them or wrestling with them before they deploy their aerosol. (It is recommended that aerosols be used at a distance of four feet or greater.) Officers should deploy their aerosol when a subject moves in a manner that causes the officer to believe the subject is going to push or wrestle.

It should be remembered that the current position of aerosols on the continuum is not arbitrary, it was placed there by the opinions of the thousands of officers surveyed. From surveying around the country, it is evident that there is a bigger variance on when to deploy an aerosol agent than any other tool or technique in law enforcement. When I would ask groups 10 or 12 years ago, "How many officers here are authorized to use aerosol agents?" about 20 percent of the room would raise their hands. Today, when I ask groups the same question, usually 80 percent of the room or more will raise their hands. Usually, they are referring to pepper gas and it should be noted that this is a relatively new tool available to them.

It should be stated that I am very much in favor of aerosols. I would much rather have officers deploy aerosols than engage in physical encounters of even moderate intensity. Some aerosol companies and their trainers have contributed to misunderstandings in our field. To sell their products they claimed that aerosols control everyone and harm no one. Documented field encounters have proven these statements to be inaccurate. It has also been stated too casually that if an officer encounters a subject with an aerosol, that officer can shoot the individual. I am not saying that it would always be unreasonable to shoot, but there are a number of other factors to consider. If the subject is spraying while running away from the officer, the officer definitely should not shoot. The effective range of most aerosols is less than 15 feet. I would much prefer that an officer attempt to disengage before reaching for his/her firearm. If an officer is contaminated and attacked, his/her first response probably should not be to draw a firearm. If the subject is close enough to spray the officer, he/she is also probably close to attempt to disarm the officer. Fifty percent of holstered weapon retention is keeping the weapon in the holster. If an officer is contaminated and attempts to draw his/her firearm, he/she may inadvertently make it easier for a subject to disarm them.

If a subject is trying to disarm an officer, the continuum states that it is reasonable for an officer to use his/her firearm to protect himself/herself. In the above example, if an officer is contaminated, that is a special circumstance, which further supports the reasonableness of that officer's actions. A special circumstance cannot stand by itself, but rather must be predicated by the action of a subject. The disarming attempt is the factor that places the subject's actions on the continuum.

It will be noticed that there is another relatively significant variance in officer opinion in the yellow area of the continuum at the striking, punching, or kicking level. This means that if a person is pushing or wrestling with the officer, roughly 21 percent of the officers surveyed believe that it is not reasonable at that time to use the stated corresponding level of force. If the confrontation progresses to the orange area, virtually every officer considers strikes or kicks reasonable. In the early years of the survey process, these figures remained relatively constant from year to year. In 1996, the consensus of officers at this level dropped by almost 10 percent. This is the largest single variance I have ever encountered since the beginning of this study. The question is "What was the reason for such a deviance on opinions?" During that year, I was conducting a research project with the U.S. Justice Department, National Institute of Justice. The findings of that study will be discussed in the next chapter. I was only able to capture 668 additional survey forms that year. Also, I conducted a number of field schools for smaller, more rural departments and sheriffs' offices. It is widely known that officers from rural departments tend to use less force than officers in larger cities. This may account for some of the variance.

Another factor for varying opinion is that officers and departments are becoming more suit conscious. If strikes and kicks are thrown, the chance of civil litigation increases. Most major law enforcement training journals are advocating the use of palm heel strikes rather than punching. When officers punch they have a tendency to break

their own hands. Punches also have a tendency to increase the resistance and violence level of the person being struck. When punches are thrown, it is likely that someone will be cut. Now we have exchange of bodily fluids and in today's society, we know what a safety hazard that represents. The greatest reason for the growing non-consensus for employing strikes or kicks in the yellow area of resistance is that law enforcement now has a better tool. With the introduction and widening use of pepper gas, law enforcement has a better way of potentially controlling individuals who are attempting to push or wrestle with officers. Officers, supervisors and trainers all tend to agree that at this level, aerosols are preferable to other physical force options.

Finally, in the orange color code, we find a 14 percent variance with the use of sleeper holds to control an individual who is striking or kicking officers. The use of a sleeper hold is quite controversial within the law enforcement community. This is reflective of the officers' opinions by placing it right beneath deadly force. At certain low levels of resistance, almost no physical moves are reasonable and at the higher levels of resistance, dealing with officer survival, any technique is reasonable. The Cleveland Police Department in Ohio found themselves in a tight spot following an in-custody death in which it was alleged that their officers had applied some form of a neck restraint to the individual who died. Cleveland officers were not trained in any form of a neck restraint and thus found it very difficult to defend their situation. As a result, Cleveland officers are now trained in sleeper holds and also in a direct arm bar choke of the airway. The officers are authorized to use these techniques only when the subject's actions are in the red area of the continuum and deadly force is justified.

Regardless of what level of force an officer uses, nothing will be more important than the officer's report of the incident. I know the last thing officers want to hear is that they need more work in report writing and communication skills, but the hard fact is, they do. I would never want an officer to make up a story or stretch the truth, but by the same token, it is essential that officers accurately reflect the amount of resistance they encounter. The courts have stated that when juries consider the actions of officers, they are to place themselves in the footprints of the officer and base their decision only on the facts that the officer could have known or should have known at the time of the incident. The only way officers can place the jury in their footprints is by detail and clarity in the officer's written reports and oral statements. I recommend that an officer report include the following:

- The type of call, time of day, how the officer responded, etc.;
- The subjects demeanor;
- Any verbal threats and/or threatening physical movements of the subject;
- The dialogue and verbal commands of the officer;
- The actions of the subject;
- The responses of the officer;

- When the subject was cuffed, cuffs gapped and double locked;
- De-escalation measures employed by the officer;
- Transport information, method, length, and subject demeanor during;
- Any subject injuries and medical follow-up, (pictures included);
- Any officer injuries and follow-up (pictures included);
- Names and statements from any witnesses;
- Notification of supervisors and supervisory follow-up.

Using a format such as this will assist supervisors, trainers, and courts to accurately assess the incident. It will also document that there was a confirmed threat, resistance, or assault and what steps the officer used to bring that subject under control.

LAW ENFORCEMENT OFFICER/SUBJECT FACTORS AND SPECIAL CIRCUMSTANCES

1. What age difference between an officer and a subject would you consider to be significant?

00 - 19:	3,276
20 - 39:	987
40 - 59:	62
60 - 79:	3

2. What difference in size would you consider to be influential?

Pounds		Inches	
00 - 19:	255	0 - 2:	310
20 - 39:	1,935	3 - 5:	2,120
40 - 59:	1,704	6 - 8:	1,528
60 - 79:	280	9 - 11:	974
80 - 100:	335	12 - Up:	276

3. If an individual was resisting in a passive or defensive manner and not attempting to harm the officer or others, how many verbal warnings should the officer give the subject (following informing the individual he/she is under arrest), before the officer lays hands on the individual to affect the arrest?

1:	412
2:	1,753
3:	2,504
4:	233
5 and Up:	260

4. How influential is gender difference between officer and subject?

None	547
Not Very	751
Somewhat	2,233
Quite A Bit	1,678
A Great Deal	541

5. How influential would you consider skill level to be between officer and individual?

None	170
Not Very	210
Somewhat	1,035
Quite A Bit	2,497
A Great Deal	1,823

6. How much would an officer, untrained in defensive tactics, be justified in using a higher level of force, than an officer who had a significant amount of defensive tactics training?

None	790
Not Very	970
Somewhat	1,577
Quite A Bit	1,201
A Great Deal	344

7. How many hours of defensive tactics/subject control training did you receive?

INITIALLY		ANNUALLY	
0 – 16:	247	0 – 16:	633
17 – 24:	142	17 – 24:	68
25 – 32:	114	25 – 32:	31
33 – 40:	173	33 – 40:	23
Over 40:	192	Over 40:	49

8. How important is it for an officer to give verbal commands before, during, and after a confrontation?

BEFORE		DURING		AFTER	
None	6	None	77	None	216
Not Very	12	Not Very	222	Not Very	538
Somewhat	109	Somewhat	853	Somewhat	1,237
Quite A Bit	978	Quite A Bit	1,578	Quite A Bit	1,458
A Great Deal	4,614	A Great Deal	3,014	A Great Deal	2,300

9. How much would multiple subjects/officers influence the Use of Force Continuum?

None	52
Not Very	78
Somewhat	621
Quite A Bit	2,584
A Great Deal	2,699

10. If a subject had a weapon close at hand, how much would it influence the continuum?

None	19
Not Very	55
Somewhat	201
Quite A Bit	1,488
A Great Deal	3,984

11. If an officer was injured or became exhausted in a confrontation, how much would it influence the continuum?

None	24
Not Very	28
Somewhat	182
Quite A Bit	1,455
A Great Deal	2,710

12. If the officer was on the ground, how much would that influence the continuum?

None	20
Not Very	23
Somewhat	217
Quite A Bit	1,615
A Great Deal	2,463

13. If the officer knew the individual he/she was dealing with had been assaultive toward officers previously, how much would that influence the continuum?

None	42
Not Very	75
Somewhat	663
Quite A Bit	2,264
A Great Deal	2,505

14. How strongly would you consider the availability of other options against the officer?
(Ex: He/she should have waited for backup, he/she should not have initiated the pursuit, etc.).

None	75
Not Very	225
Somewhat	1,383
Quite A Bit	1,935
A Great Deal	1,216

15. If a night shift officer was approaching a subject while holding his/her flashlight and was suddenly assaulted, how appropriate would it be to use the flashlight as an emergency impact instrument?

None	48
Not Very	154
Somewhat	521
Quite A Bit	1,843
A Great Deal	3,194

16. How much does the physical condition of the officer influence you in use of force decisions?

None	195
Not Very	460
Somewhat	1,766
Quite a Bit	2,240
A Great Deal	1,081

17. What is the number of times you have been injured in confrontations with subjects?

0 - 2:	481
3 - 4:	164
5 - 6:	52
7 -8:	18
8 & Up:	48

18. If an individual was coming toward an officer with a knife, announcing he/she was going to kill the officer, at what distance from the officer would you consider it appropriate to shoot?

1 - 5 Feet	413
6 - 10 Feet	1,401
11 - 15 Feet	732
16 - 20 Feet	886
21 - 25 Feet	1,060
26 - 30 Feet	228
30 Plus Feet	125

19. How often do you feel officers should be re-trained and re-certified in empty hand or baton techniques?

Monthly	272
Quarterly	638
Bi-Annually	1,477
Annually	3,786
Every 2 Years	351
Every 3 Years	66
Every 4 Years	8
5 Years or More	20

20. In a tactical situation where special response personnel are required, what are your opinions regarding the following?

A. They may deploy chemical munitions (CS, CN, OC)	Yes - 2,966	No - 17
B. They may use non-lethal stunning projectiles	Yes - 2,872	No - 112
C. They may deploy light/sound distraction devices	Yes - 2,922	No - 62
D. I have had SRT training or experience	Yes - 879	No - 2,101

A Note to Trainers: There may be a number of responses in the above that bother you greatly and rightly so. For example, feeling an influential size difference is 80 – 100 pounds and a height difference of 12 inches or more is influential. There are many officers who have not been in severe physical encounters and who do not know how disastrous it could be to engage an opponent with such a size advantage. You will also see that from number 16, many officers have been trained in the “21 foot rule.” You will additionally see that a number of officers feel they should wait to shoot until the subject is six feet or less. If officers hold fire that long, they will most probably not be able to successfully stop the attacker, due to principles of human reaction time. If the responses of some of these officers disturbs you, you are the ones who can shape and mold new opinions. I urge you to use this information as a tool and educate your officers to improve their chances in control and survival situations.

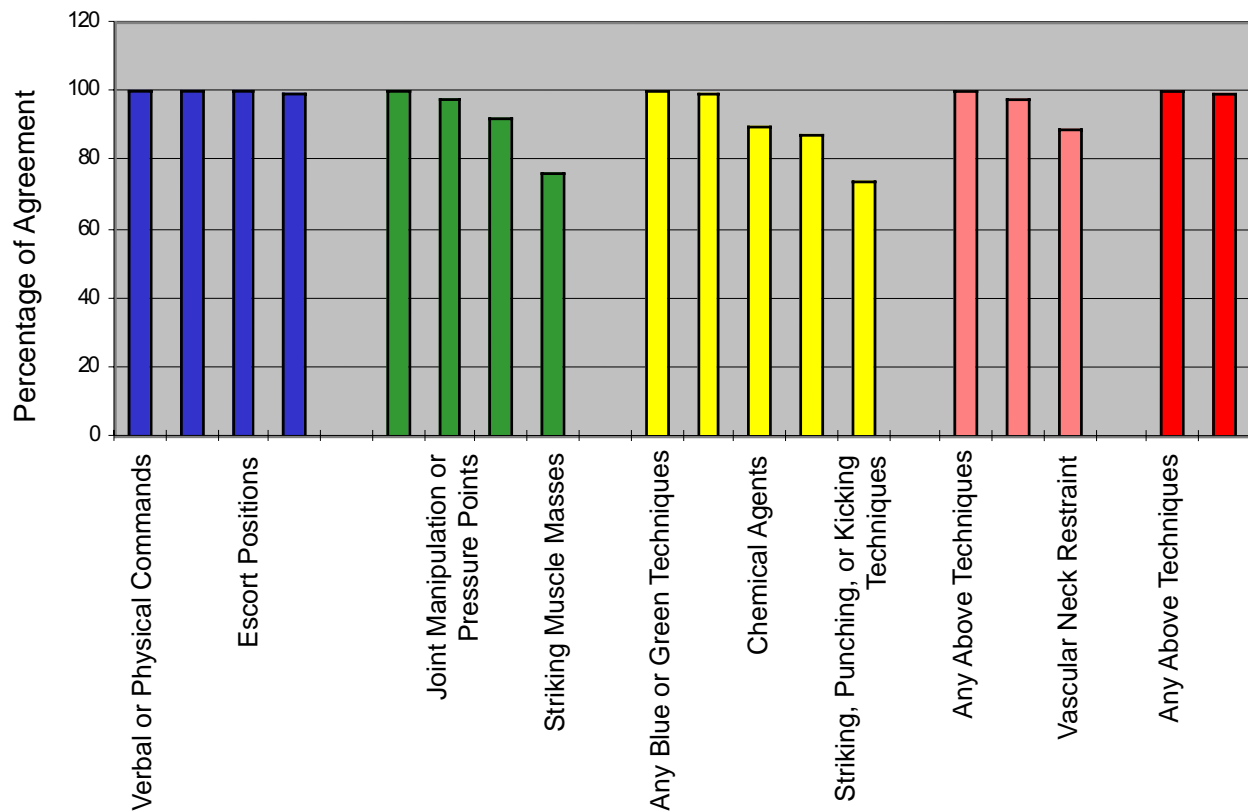
USE OF FORCE REPORT

**NON-LAW ENFORCEMENT TOTAL
GROUP**

**2349
OF RESPONSES**

<u>AREA OF RESISTANCE</u>	<u>AGREE</u>	<u>VARIANCE</u>	<u>% AGREE</u>
1. BLUE COLOR CODE			
- Officer Presence	A.	0	100.00%
- Verbal or Physical Commands	B.	0	100.00%
- Assistance from Other Officers	C.	0	100.00%
- Escort Position	D.	6	99.74%
- Balance Displacement	E.	9	99.19%
2. GREEN COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Joint Manipulations, Pressure Points	B.	53	97.74%
- Take-downs	C.	176	92.25%
- Striking Muscles to Cause Cramps	D.	550	76.59%
3. YELLOW COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Baton Restraints	B.	21	99.11%
- Chemical Agents	C.	237	89.91%
- Electrical Devices	D.	295	87.44%
- Striking, Punching, or Kicking	E.	613	73.90%
4. ORANGE COLOR CODE			
- Any of the Above Techniques	A.	5	99.79%
- Baton Strikes	B.	50	97.87%
- Neck Restraints - Sleeper Holds	C.	261	88.89%
5. RED COLOR CODE			
- Any of the Above Techniques	2328	21	99.11%
- Deadly Force			

Percentage of Agreement to the Action
 Response Use of Force Continuum
NON-LAW ENFORCEMENT TOTAL - GROUP



CIVILIAN OFFICER/SUBJECT FACTORS AND SPECIAL CIRCUMSTANCES

1. What age difference between an officer and a subject would you consider to be significant?

0 - 19	440
20 - 39	195
40 - 59	14
60 - 79	0

2. What difference in size would you consider to be influential?

Pounds		Inches	
00 - 19:	255	0 - 2:	310
20 - 39:	1,935	3 - 5:	2,120
40 - 59:	1,704	6 - 8:	1,528
60 - 79:	280	9 - 11:	974
80 - 100:	335	12 - Up:	276

3. If an individual was resisting in a passive or defensive manner and not attempting to harm the officer or others, how many verbal warnings should the officer give the subject (following informing the individual he/she is under arrest) before the officer lays hands on the individual to affect the arrest?

1	76
2	224
3	414
4	32
5 and Up	64

4. How influential is gender difference between officer and subject?

None	90
Not Very	73
Somewhat	282
Quite A Bit	278
A Great Deal	99

5. How influential would you consider skill level to be between officer and individual?

None	43
Not Very	50
Somewhat	151
Quite A Bit	321
A Great Deal	255

6. How would an officer, untrained in defensive tactics, be any more justified in using a higher level of force than an officer who had a significant amount of defensive tactics training?

None	144
Not Very	156
Somewhat	225
Quite a Bit	155
A Great Deal	57

7. How important is it for an officer to give verbal commands before, during, and after a confrontation?

BEFORE		DURING		AFTER	
None	0	None	17	None	47
Not Very	6	Not Very	31	Not Very	95
Somewhat	14	Somewhat	134	Somewhat	163
Quite A Bit	106	Quite A Bit	227	Quite A Bit	181
A Great Deal	695	A Great Deal	369	A Great Deal	337

8. How much would multiple subjects/officers influence the Use of Force Continuum?

None	15
Not Very	15
Somewhat	130
Quite A Bit	336
A Great Deal	320

9. If a subject had a weapon close at hand, how much would it influence the continuum?

None	5
Not Very	8
Somewhat	37
Quite A Bit	250
A Great Deal	561

10. If an officer was injured or became exhausted in a confrontation, how much would it influence the continuum?

None	3
Not Very	10
Somewhat	56
Quite a Bit	329
A Great Deal	420

11. If the officer was on the ground, how much would that influence the continuum?

None	4
Not Very	14
Somewhat	61
Quite A Bit	304
A Great Deal	435

12. If the officer knew the individual he/she were dealing with had been assaultive toward officers previously, how much would that influence the continuum?

None	6
Not Very	15
Somewhat	109
Quite A Bit	329
A Great Deal	357

13. How strongly would you consider the availability of other options against the officer?
(Ex: He/she should have waited for backup, he/she should not have initiated the pursuit, etc.).

None	13
Not Very	68
Somewhat	275
Quite A Bit	262
A Great Deal	106

14. If a night shift officer was approaching a subject while holding his/her flashlight and was suddenly assaulted, how appropriate would it be to use the flashlight as an emergency impact instrument?

None	7
Not Very	17
Somewhat	81
Quite A Bit	277
A Great Deal	427

15. How much does the physical condition of the officer influence you in use of force decisions?

None	40
Not Very	86
Somewhat	208
Quite A Bit	284
A Great Deal	188

16. If an individual was coming toward an officer with a knife, announcing he/she was going to kill the officer, at what distance from the officer would you consider it appropriate to shoot?

1 - 5 Feet	182
6 - 10 Feet	291
11 - 15 Feet	70
16 - 20 Feet	66
21 - 25 Feet	63
26 - 30 Feet	20
30 Plus Feet	17

17. How often do you feel officers should be retrained and re-certified in empty hand or baton techniques?

Monthly	47
Quarterly	68
Bi-Annually	202
Annually	568
Every 2 Years	84
Every 3 Years	0
Every 4 Years	0
5 Years or More	0

18. In a tactical situation where special response personnel are required, what are your opinions regarding the following?

A. They may deploy chemical munitions (CS, CN, OC)	Yes - 805	No - 49
B. They may use non-lethal stunning projectiles	Yes - 798	No - 52
C. They may deploy light/sound distraction devices	Yes - 825	No - 25
D. I have had SRT training or experience	Yes - 67	No - 781

LAW ENFORCEMENT TELEVISION NETWORK SURVEY

In 1994, a project was undertaken in conjunction with the Law Enforcement Television Network (LETN). A video was produced at the Ohio Peace Officer Training Academy depicting an individual resisting at each color coded level of the continuum. Officers were shown responding to the resistance and bringing that individual under control using techniques in compliance with the continuum. Viewers were sent a survey form by LETN, asked to watch the video, fill out the survey form, and return the information to LETN. The Law Enforcement Television Network then collected all of the survey forms and sent them to me to be analyzed. Officers were instructed to state only what they personally believed was reasonable force.

At the time the survey was conducted, the Law Enforcement Television Network had some 4,000 viewing sites from around the United States and an additional tape market that was even larger. This would have been a great opportunity for officers to take charge of their own destinies and to go on record stating their beliefs. The program was announced well in advance and the survey forms were sent out as promised. The video was aired for two days and we waited for what should have been a flood of responses. Much to our disappointment, only 557 forms were returned. Another missed golden opportunity by law enforcement.

Below is a listing of the states that did respond to the survey and the following pages are the statistics obtained and a graph of the officer's beliefs.

States From Which Force Surveys Were Obtained:

Arizona	Montana
Arkansas	Nebraska
Colorado	Nevada
Florida	New Hampshire
Georgia	New Jersey
Illinois	New Mexico
Indiana	New York
Iowa	North Carolina
Kentucky	North Dakota
Louisiana	Ohio
Maryland	Oklahoma
Massachusetts	South Carolina
Michigan	Tennessee
Minnesota	Texas
Mississippi	Utah
Missouri	Wisconsin

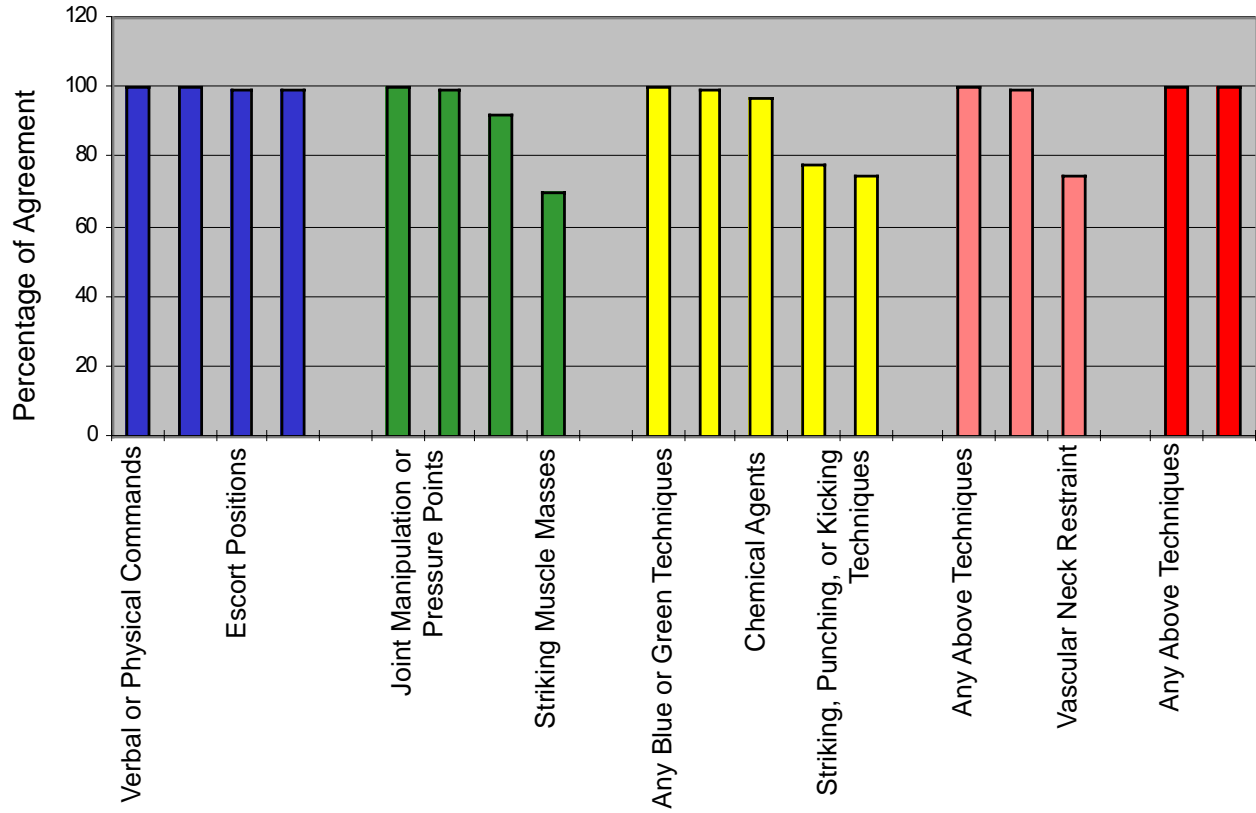
USE OF FORCE REPORT

**LAW ENFORCEMENT TELEVISION NETWORK
GROUP**

**557
OF RESPONSES**

<u>AREA OF RESISTANCE</u>	<u>AGREE</u>	<u>VARIANCE</u>	<u>% AGREE</u>
1. BLUE COLOR CODE			
- Officer Presence	A.	0	100.00%
- Verbal or Physical Commands	B.	0	100.00%
- Assistance from Other Officers	C.	0	100.00%
- Escort Position	D.	2	99.64%
- Balance Displacement	E.	3	99.46%
2. GREEN COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Joint Manipulations, Pressure Points	B.	5	99.10%
- Take-downs	C.	45	91.92%
- Striking Muscles to Cause Cramps	D.	166	70.20%
3. YELLOW COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Baton Restraints	B.	5	99.10%
- Chemical Agents	C.	17	96.95%
- Electrical Devices	D.	124	77.74%
- Striking, Punching, or Kicking	E.	141	74.69%
4. ORANGE COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Baton Strikes	B.	4	99.28%
- Neck Restraints - Sleeper Holds	C.	142	74.51%
5. RED COLOR CODE			
- Any of the Above Techniques	557	0	100.00%
- Deadly Force			

Percentage of Agreement to the Action
Response Use of Force Continuum
LAW ENFORCEMENT TELEVISION NETWORK - GROUP



EXAMPLES OF OFFICERS' BELIEFS USING THE CURRENT FORMAT

The following three sets of statistics are offered as examples of the current format in the on-going survey process. The officers were attending a use of force class but before they were given the national statistics, the group itself was surveyed to find out their own personal beliefs. The survey process itself is a very powerful educational tool. Most officers have not sat down and thought about what they really believe is reasonable force. They also usually have not considered all of the factors that go into force decisions or incidents. *Graham v. Connor* looks at two key issues in determining appropriate force by a law enforcement officer – the amount of force an officer would consider reasonable in response to the degree of resistance he/she is receiving; and the level of threat the officer considers that resistance to represent.

USE OF FORCE REPORT

TOLEDO POLICE DEPARTMENT
GROUP

542
OF RESPONSES

<u>AREA OF RESISTANCE</u>	<u>AGREE</u>	<u>VARIANCE</u>	<u>% AGREE</u>
1. BLUE COLOR CODE			
- Officer Presence	A.	0	100.00%
- Verbal or Physical Commands	B.	0	100.00%
- Assistance from Other Officers	C.	0	100.00%
- Escort Position	D.	0	100.00%
- Balance Displacement	E.	1	99.82%
2. GREEN COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Joint Manipulations, Pressure Points	B.	1	98.82%
- Take-downs	C.	1	98.82%
- Striking Muscles to Cause Cramps	D.	34	93.73%
3. YELLOW COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Baton Restraints	B.	0	100.00%
- Chemical Agents	C.	6	98.89%
- Electrical Devices	D.	34	93.73%
- Striking, Punching, or Kicking	E.	50	90.77%
4. ORANGE COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Baton Strikes	B.	0	100.00%
- Neck Restraints - Sleeper Holds	C.	13	97.60%
5. RED COLOR CODE			
- Any of the Above Techniques	542	0	100.00%
- Deadly Force			

USE OF FORCE REPORT

TOLEDO POLICE DEPARTMENT

PERCEIVED THREAT

AVERAGE

A. Verbal Resistance or Non-Compliance **3.15**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	55	153	165	74	49	21	21	2	0	2	

B. Dead Weight Resistance **3.66**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	24	99	174	107	70	33	23	7	2	3	

C. Pulling Away from the Officer **5.01**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	11	68	147	137	86	57	28	4	4	

D. Pushing the Officer Away **6.07**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	2	19	56	136	121	116	51	30	11	

E. Push/Pull Wrestling Type of Encounter **7.11**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	2	14	56	114	144	121	59	32	

USE OF FORCE REPORT

TOLEDO POLICE DEPARTMENT

PERCEIVED THREAT

AVERAGE

F. Subject Striking or Kicking the Officer **8.27**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	4	28	96	186	143	85	

G. Subject Attempting to Seriously Injure or Kill the Officer with Hands/Feet **9.61**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	1	8	39	105	389	

H. Subject Attempting to Take Away the Officer's Firearm **9.90**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	0	2	6	34	500	

I. Subject Using a Weapon Against the Officer (Gun, Knife, Shank, Club, Etc.) **9.97**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	1	0	0	0	0	0	1	1	1	538	

USE OF FORCE REPORT

ELRYIA POLICE DEPARTMENT
GROUP

72
OF RESPONSES

<u>AREA OF RESISTANCE</u>	<u>AGREE</u>	<u>VARIANCE</u>	<u>% AGREE</u>
1. BLUE COLOR CODE			
- Officer Presence	A.	0	100.00%
- Verbal or Physical Commands	B.	0	100.00%
- Assistance from Other Officers	C.	0	100.00%
- Escort Position	D.	0	100.00%
- Balance Displacement	E.	0	100.00%
2. GREEN COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Joint Manipulations, Pressure Points	B.	0	100.00%
- Take-downs	C.	1	98.61%
- Striking Muscles to Cause Cramps	D.	11	84.72%
3. YELLOW COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Baton Restraints	B.	0	100.00%
- Chemical Agents	C.	4	94.44%
- Electrical Devices	D.	10	86.11%
- Striking, Punching, or Kicking	E.	16	77.78%
4. ORANGE COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Baton Strikes	B.	0	100.00%
- Neck Restraints - Sleeper Holds	C.	10	86.11%
5. RED COLOR CODE			
- Any of the Above Techniques	72	0	100.00%
- Deadly Force			

USE OF FORCE REPORT

ELYRIA POLICE DEPARTMENT

PERCEIVED THREAT

AVERAGE

A. Verbal Resistance or Non-Compliance **2.15**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	22	32	10	4	3	0	0	1	0	0	

B. Dead Weight Resistance **2.67**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	11	23	25	9	2	1	0	1	0	0	

C. Pulling Away from the Officer **4.18**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	5	23	19	12	7	4	2	0	0	

D. Pushing the Officer Away **5.36**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	4	17	24	11	11	3	1	1	

E. Push/Pull Wrestling Type of Encounter **6.61**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	3	13	18	19	13	6	0	

USE OF FORCE REPORT

ELYRIA POLICE DEPARTMENT

PERCEIVED THREAT

AVERAGE

F. Subject Striking or Kicking the Officer **7.93**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	1	9	17	21	15	9	

G. Subject Attempting to Seriously Injure or Kill the Officer with Hands/Feet **9.47**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	0	3	7	15	47	

H. Subject Attempting to Take Away the Officer's Firearm **9.88**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	0	0	0	9	63	

I. Subject Using a Weapon Against the Officer (Gun, Knife, Shank, Club, Etc.) **9.75**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	2	0	0	0	0	0	0	0	0	70	

USE OF FORCE REPORT

FAIRBORN POLICE DEPARTMENT
GROUP

28
OF RESPONSES

<u>AREA OF RESISTANCE</u>	<u>AGREE</u>	<u>VARIANCE</u>	<u>% AGREE</u>
1. BLUE COLOR CODE			
- Officer Presence	A.	0	100.00%
- Verbal or Physical Commands	B.	0	100.00%
- Assistance from Other Officers	C.	0	100.00%
- Escort Position	D.	0	100.00%
- Balance Displacement	E.	0	100.00%
2. GREEN COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Joint Manipulations, Pressure Points	B.	0	100.00%
- Take-downs	C.	1	96.43%
- Striking Muscles to Cause Cramps	D.	4	85.71%
3. YELLOW COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Baton Restraints	B.	0	100.00%
- Chemical Agents	C.	2	92.86%
- Electrical Devices	D.	4	85.71%
- Striking, Punching, or Kicking	E.	8	71.43%
4. ORANGE COLOR CODE			
- Any of the Above Techniques	A.	0	100.00%
- Baton Strikes	B.	0	100.00%
- Neck Restraints - Sleeper Holds	C.	2	92.86%
5. RED COLOR CODE			
- Any of the Above Techniques	28	0	100.00%
- Deadly Force			

USE OF FORCE REPORT

FAIRBORN POLICE DEPARTMENT

PERCEIVED THREAT

AVERAGE

A. Verbal Resistance or Non-Compliance **2.57**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	2	7	3	1	0	0	1	0	0	0	

B. Dead Weight Resistance **3.07**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	5	5	2	2	0	0	0	0	0	

C. Pulling Away from the Officer **4.64**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	3	4	4	1	2	0	0	0	

D. Pushing the Officer Away **5.93**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	2	3	6	1	1	1	0	

E. Push/Pull Wrestling Type of Encounter **7.14**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	1	1	1	7	1	2	1	

USE OF FORCE REPORT

FAIRBORN POLICE DEPARTMENT

PERCEIVED THREAT

AVERAGE

F. Subject Striking or Kicking the Officer **8.29**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	1	1	6	5	1	

G. Subject Attempting to Seriously Injure or Kill the Officer with Hands/Feet **9.79**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	0	0	0	3	11	

H. Subject Attempting to Take Away the Officer's Firearm **9.86**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	0	0	1	0	13	

I. Subject Using a Weapon Against the Officer (Gun, Knife, Shank, Club, Etc.) **10.00**

Least	1	2	3	4	5	6	7	8	9	10	Most
<hr/>											
Answer	0	0	0	0	0	0	0	0	0	14	

TAKE CHARGE OF YOUR OWN DESTINY

While attending a conference a number of years ago, the speaker gave a quote that held a great deal of meaning for me. He said, "It is better to build a fence on top of the hill then to place an ambulance beneath it." This is exactly what the purpose of these projects has been – to take charge and to define our own destinies. I invite you to participate in the project you have before you. If you contact me at the below listed address or number, I will send you a survey video, a sample survey form, and an input disk. Please make a copy of the survey disk and return it to me at the below address. This will enable us to have a wider distribution of the video, while holding down the cost.

The video should be viewed by your department and the survey form completed by officers of all ranks and assignments. Feel free to have any civilians complete the survey also. Their information is imputed into a different database, but it is still very informative. The directions are as follows:

- Do not tell us what you think we want to hear;
- Do not tell us what your departmental policy states is reasonable;
- Do not repeat what any trainer or company has told you was reasonable force;
- Fill out your survey form so that you would be willing to stand up in a court of law, raise your right hand, and swear that what you are writing is an honest explanation of how you feel;
- As long as those taking the survey put down what they believe in their hearts and minds to be reasonable force, we can't go wrong.

Once the survey is complete, the forms should be imputed on the disk provided. It is set up in a Microsoft Access Program. When all forms are completed, send the disk back to the address listed below. I will place your department's information into the total of all the other responses. For your trouble and efforts, I will send you the analysis of your department's belief system of what constitutes reasonable force. You can then cross-reference this against the national statistics. This is what you should retain to use in your defense if you are ever sued.

The database is now at around 15,000 responses. If the law enforcement community will make use of this offer, imagine the number of responses we could have to defend ourselves in the near future. Thank you for your participation.

Sam Faulkner

Ohio Peace Officer Training Academy
Attn: Samuel D. Faulkner
P.O. Box 309
London, Ohio 43140
614-466-7771



SECTION THREE

- ◆ **Corrections Officers Determination of Reasonableness**
- ◆ **Corrections Total Group Statistics**
- ◆ **Corrections - Officer/Subject Factors and Special Circumstances**
- ◆ **Individual and Situational Determinants of Law Enforcement Use of Force**
 - **Post Script - Reasonable Force When Dealing With Juvenile Offenders**
 - **References**

CORRECTIONS OFFICERS DETERMINATION OF REASONABLENESS

After presenting a force lecture at one of the Ohio Attorney General's Law Enforcement Conferences, a supervisor from the Ohio Department of Rehabilitation and Corrections (DR&C) introduced himself. The Lucasville incident had happened only two months prior to our meeting. One of the outgrowths of that disaster was a determination that DR&C would upgrade their policy on the use of force. This supervisor said that the agency brought a large group of management together and attempted to formulate a policy. He said it basically turned into a fist fight and nothing could be decided. He requested permission to use my survey tool to gather information for their problem, and I provided them with it along with the computer backup. This being my first time really working with corrections, I later realized I had made a large mistake.

Those DR&C sent to survey the Lucasville corrections officers were from their Inspector Division. What I did not realize at the time was that one of the functions of inspectors for corrections is equivalent to that of Internal Affairs for law enforcement. To you, the reader, the blunder is obvious. I sent "Internal Affairs" to Lucasville, two months after the incident, to conduct a force survey. This was met by an understandable high level of distrust by the corrections officers. They felt that administration was in some way attempting to insinuate that Lucasville was their fault. The corrections officers contacted their AFSCME union, and the survey was shut down. I spoke with the union, and explained what the survey process really was all about. They were assured that they would be provided with all of the same results as was DR&C.

The survey was allowed to continue, and the data was collected – results were staggering. There was a greater amount of variance than in any other group that was ever surveyed. Also, there was variance in areas where it was never before encountered. I am not sure if it was due to fear, distrust, or from actually not having a clue of how much force could be used to control an incident.

As a result of this incident, I started speaking at a number of AFSCME regional seminars and collecting data. The membership became excited about this process and I was contacted by AFSCME Corrections United out of Washington D.C. It was decided that we would conduct a large scale study to determine what corrections officers consider to be reasonable force. A new survey tool was constructed and the survey process was initiated at the union's national conference in Niagara Falls. When the study was over, we had collected survey forms from 34 different states. The following pages show the results of all of the corrections surveys. As you will see, the corrections results are in close alignment with the opinions of law enforcement and civilians. This speaks well for the reliability and repeatability of the overall project. It also verifies that we really do have a strong handle on what those from within the profession, as well as those we serve, consider to be "reasonable force."

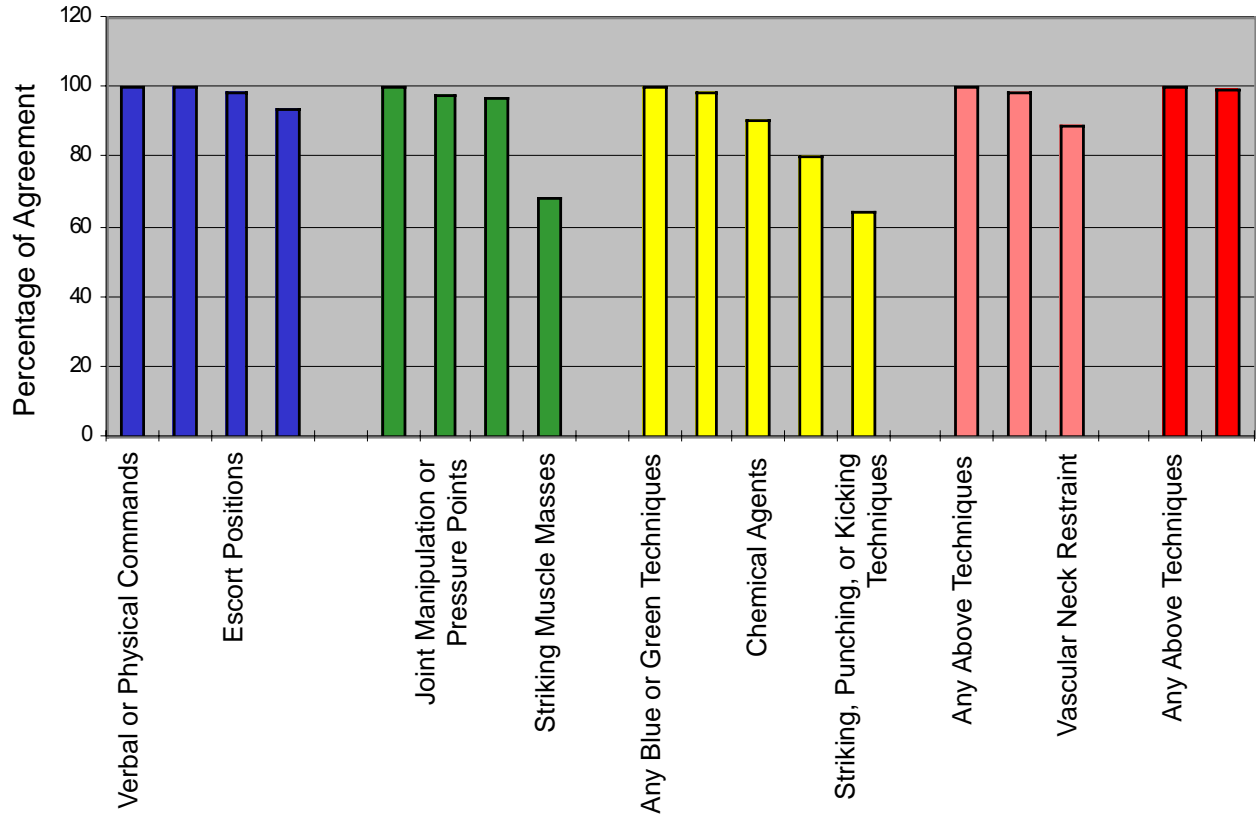
USE OF FORCE REPORT

**CORRECTIONS TOTAL
GROUP**

**3598
OF RESPONSES**

<u>AREA OF RESISTANCE</u>	<u>AGREE</u>	<u>VARIANCE</u>	<u>% AGREE</u>
1. BLUE COLOR CODE			
- Officer Presence	A.	0	100.00%
- Verbal or Physical Commands	B.	0	100.00%
- Assistance from Other Officers	C.	0	100.00%
- Escort Position	D.	50	98.29%
- Balance Displacement	E.	197	94.05%
2. GREEN COLOR CODE			
- Any of the Above Techniques	A.	2	100.00%
- Joint Manipulations, Pressure Points	B.	60	97.95%
- Take-downs	C.	107	96.92%
- Striking Muscles to Cause Cramps	D.	1095	68.58%
3. YELLOW COLOR CODE			
- Any of the Above Techniques	A.	4	99.86%
- Baton Restraints	B.	72	98.15%
- Chemical Agents	C.	314	90.42%
- Electrical Devices	D.	644	80.49%
- Striking, Punching, or Kicking	E.	1259	64.68%
4. ORANGE COLOR CODE			
- Any of the Above Techniques	A.	6	99.86%
- Baton Strikes	B.	88	98.22%
- Neck Restraints - Sleeper Holds	C.	454	89.05%
5. RED COLOR CODE			
- Any of the Above Techniques	1459	16	99.86%
- Deadly Force			

Percentage of Agreement to the Action
 Response Use of Force Continuum
CORRECTIONS TOTAL - GROUP



CORRECTIONS OFFICER/SUBJECT FACTORS AND SPECIAL CIRCUMSTANCES

1. What age difference between an officer and a subject would you consider to be significant?

0 - 19	489
20 - 39	234
40 - 59	23
60 - 79	0

2. What difference in size would you consider to be influential? (Averages: 33 pounds; 4 inches.)

Pounds		Inches	
00 - 19:	49	0 - 2:	53
20 - 39:	252	3 - 5:	263
40 - 59:	259	6 - 8:	242
60 - 79:	44	9 - 11:	23
80 - 100:	117	12 - Up:	87

3. If an individual was resisting in a passive or defensive manner and not attempting to harm the officer or others, how many verbal warnings should the officer give the subject (following informing the individual he/she is under arrest) before the officer lays hands on the individual to affect the arrest? (Average: two warnings.)

1	135
2	370
3	365
4	14
5 and Up	17

4. How influential is gender difference between officer and subject?

None	139
Not Very	68
Somewhat	376
Quite A Bit	320
A Great Deal	177

5. How influential would you consider skill level to be between an officer and an individual?

None	77
Not Very	52
Somewhat	264
Quite A Bit	414
A Great Deal	258

6. How many hours of defensive tactics/subject control training did you receive?

INITIALLY		ANNUALLY	
0 – 16:	525	0 – 16:	833
17 – 24:	236	17 – 24:	67
25 – 32:	67	25 – 32:	14
33 – 40:	105	33 – 40:	39
Over 40:	123	Over 40:	78

7. How important is it for an officer to give verbal commands before, during, and after a confrontation?

BEFORE		DURING		AFTER	
None	5	None	31	None	92
Not Very	7	Not Very	51	Not Very	108
Somewhat	34	Somewhat	190	Somewhat	210
Quite A Bit	185	Quite A Bit	305	Quite A Bit	229
A Great Deal	840	A Great Deal	493	A Great Deal	431

8. How much would multiple subjects/officers influence the Use of Force Continuum?

None	44
Not Very	46
Somewhat	161
Quite A Bit	345
A Great Deal	461

9. If a subject had a weapon close at hand, how much would it influence the continuum?

None	61
Not Very	89
Somewhat	246
Quite A Bit	350
A Great Deal	311

10. If an officer was injured or became exhausted in a confrontation, how much would it influence the continuum?

None	37
Not Very	36
Somewhat	114
Quite a Bit	366
A Great Deal	515

11. If the officer was on the ground, how much would that influence the continuum?

None	29
Not Very	16
Somewhat	69
Quite A Bit	282
A Great Deal	668

12. If the officer knew the individual he/she were dealing with had been assaultive toward officers previously, how much would that influence the continuum?

None	47
Not Very	51
Somewhat	186
Quite A Bit	348
A Great Deal	436

13. How strongly would you consider the availability of other options against the officer?
(Ex: He/she should have waited for backup, he/she should not have initiated the pursuit, etc.).

None	46
Not Very	45
Somewhat	178
Quite A Bit	359
A Great Deal	429

14. If a night shift officer was approaching a subject while holding his/her flashlight and was suddenly assaulted, how appropriate would it be to use the flashlight as an emergency impact instrument?

None	81
Not Very	85
Somewhat	266
Quite A Bit	346
A Great Deal	279

15. How much does the physical condition of the officer influence you in use of force decisions?

None	560
Not Very	109
Somewhat	60
Quite A Bit	13
A Great Deal	33

16. If an individual was coming toward an officer with a knife, announcing he/she was going to kill the officer, at what distance from the officer would you consider it appropriate to shoot?

1 - 5 Feet	288
6 - 10 Feet	167
11 - 15 Feet	76
16 - 20 Feet	81
21 - 25 Feet	38
26 - 30 Feet	44
30 Plus Feet	169

17. How often do you feel officers should be re-trained and re-certified in empty hand or baton techniques?

Monthly	156
Quarterly	292
Bi-Annually	266
Annually	592
Every 2 Years	26
Every 3 Years	2
Every 4 Years	0
5 Years or More	5

INDIVIDUAL AND SITUATIONAL DETERMINANTS OF LAW ENFORCEMENT USE OF FORCE

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INTRODUCTION

In 1996, I was contacted by the U.S. Department of Justice, National Institute of Justice and asked if I would be willing to share my research on the topic Use of Force. Information that is not shared and used is useless, so I immediately agreed. The Institute sent an individual named Stephen T. Holmes to collaborate with me on this project. I bought a tape drive for my computer and gave Dr. Holmes all of the law enforcement, corrections, and civilian data. Shortly after our meeting, I was invited to a Cluster Conference in Washington D. C. and was given the opportunity to explain the *Action - Response Use of Force Continuum* (Faulkner, 1991) and the statistics on which it was based. A great deal of excitement was generated from that conference and it was decided that NIJ and myself would conduct a joint intramural research project. The results of this study have been presented at the Academy of Criminal Justice Sciences and the American Society of Criminology. It has also been published in academic journals and has been peer reviewed. An overview of our findings will be discussed in this section.

More than 2 million federal research dollars have been spent over the past three years to better understand how police use and implement force. This cost outlay actually has produced little useful information to explain the dynamics of police and citizen confrontations. One reason for this failure is that the number of encounters in which law enforcement officers use force is rare. It is believed that force is used in fewer than three percent of all police-citizen encounters (Friedrich, 1977; Fife, 1995; Garner, 1995; Klockers, 1995; Reiss, 1967; Worden, 1995). The *Police-Public Contact Survey* of 1996 found that out of the estimated 45 million face-to-face contacts between police and the public, only one percent of those contacts resulted in force being threatened or used by the police (Greenfield, Langan, and Smith, 1997). The second reason for the failure is that a large amount of actual field research time is required to observe and record the factors related to the level of force the profession used in police-citizen contacts. Because the use of force is rare, the time and expense of conducting field observations by researchers has focused on a relatively small population of officers over a short period of time. Pate and Fridell (1993, p. 21) claim that our current knowledge base on police

use of force has come from researcher intuition, personal experience, and limited ride-alongs with law enforcement personnel.

The thrust of this study was to focus on the types of situations that officers face every day to develop insight into two major components that influence use of force outcomes. The first component examined an officer's perception of the threat level or risk inherent in police-citizen encounters to the officer and to others in the immediate vicinity. The second component was to understand more fully how officers respond to the totality of the situation.

The main color-coded body of the *Action - Response Use of Force Continuum* basically summarized what officers believe to be reasonable force if all things are equal. The truth is that all things are almost never equal. Officer/Subject Factors, Special Circumstances, and the totality of the circumstances play a major part in the final analysis of the reasonableness of an officer's responses. This study reveals the effect that the totality of the circumstances has on the continuum model, and how much force is appropriate. This effort seeks to explain the factors that officers believe contribute to their estimation of the dangers inherent in police-citizen encounters. This study shows that although threat and perceptions of the appropriate amount of force that should be used in a given situation are related, they are not the same. Furthermore, the data indicates that the predictors of these two related concepts fail to share some common expected elements.

REVIEW OF LITERATURE

Current literature suggests that there are several individual, situational, and organizational factors that are present when officers interact with citizens. Friedrich (1980) tested to see if officers' individual characteristics, such as race, age, gender, experience, and years on the job, would help predict when and how often they used physical force to control police-citizen encounters. What he found was that very few individual-level characteristics of police officers have any significant effect on an officer's behavior. Croft and Austin (1987) found otherwise – their study revealed that the amount of time officers spend on the job and the numbers of arrests they make are related to the number of times force is used annually.

Friedrich (1980) also tested the effect of individual suspect characteristics, and again found little support. Other studies, however, have suggested that suspect characteristics play a significant role in the application of police force (Black, 1991; Friedrich, 1977; Lundman et al., 1978). Race is reported to be highly correlated with the frequency of arrest. Binder and Scharf (1980) claim that youth and minority group membership stand out as important predictors of police force since these elements may point to the actual or perceived amount of danger or threat inherent in an encounter. In the late 1960's, it was reported that minorities exhibited more disrespectful behavior and outward hostility toward law enforcement personnel (Mulvihill & Tumin, 1969). This type

of behavior may be an aggravating factor and lead to more arrests and, potentially, police use of force. However, when the seriousness of the offense is held constant, others found the effect of race disappears (Black, 1991; Black & Reiss, 1970; Bogomoly, 1976; Friedrich, 1977; Lundman et al., 1978).

Gender differences also impact arrest rates. Women have been found to be less likely to be questioned, detained, or arrested than men (Visher, 1983). One possible explanation is that women are less threatening and not perceived to be as dangerous as men. Also, the typical police encounter with a woman is for a minor offense or a request for assistance where arrest is not necessary.

One of the most important and highly debated characteristics of encounters is the demeanor of the suspect. Antagonistic or hostile behavior by suspects has been found to increase the chance of arrest (Bittner, 1970; Black, 1971; Black & Reiss, 1971; Sykes & Clark, 1975). Conversely, suspects who submit to police authority are not arrested as often. It is claimed that “hostility directly increases the odds of arrest” and is “part of the criminological cannon” (Klinger, 1994, p. 447). Klinger found the relationship between force and demeanor to be overstated because in studies, suspect demeanor includes actual attacks on officers. Worden and Shepard (1996) found support for the relationship of demeanor and arrest even when the physical attack factor was taken into account.

Incident location is another important aspect of the officer-citizen interaction. Studies that examined public versus private places found that more arrests are made for incidents occurring in public places (Lundman, 1994). Another factor that relates to public space is the presence of others who are not directly involved. When bystanders are around, there is evidence that officers may perceive a need to exercise a higher level of visible formal control. This exercise of formal control often leads to more arrests than would occur in nonpublic places. Evidence suggests that when there are more than 10 people present, the incident of arrest increases. It is clear that location has an effect on police officers’ responses and when the location is in a public place, the likelihood for formal police action is greater than in a nonpublic environment (Friedrich, 1980; Westly, 1970).

Another critical aspect of police-citizen encounters involves how the police are called to the situation. In general, the literature agrees that the majority of police-citizen encounters are reactive, rather proactive (Black, 1991; Reiss, 1971). In the 1996 *Police-Public Contact Survey*, 44 percent of the respondents indicated that they had initiated the contact, 32 percent said that the police had initiated the contact, and 24 percent were uncertain how the contact was initiated (Greenfield, Langan, and Smith, 1997, p.11). Police-initiated encounters generally involve less serious offenses and appear to differ substantially from reactive encounters. In an officer-initiated contact, the officer may be granted less legitimacy and react more aggressively to establish a position of authority (Friedrich, 1980).

While each of the above mentioned factors may be important in determining the frequency and amount of force that may be used in police-citizen encounters, this study is interested in determining how these factors affect the perceived level of threat inherent in police-citizen encounters. The focus of this study was to measure the attitudes and perceptions of police officers concerning the amount of threat they perceive and the amount of force that they would consider appropriate in a police-citizen encounter in a context that includes the independent variables mentioned above.

THE IMPORTANCE OF MEASURING LAW ENFORCEMENT PERCEPTIONS

In the U.S. Supreme Court case, *Graham v. Conner* (1989), the Court mandated that the correct test to measure of the appropriateness of an officer's actions is by using the "objective reasonableness" standard. The reasonableness of an officer's actions is not subject to interpretations from others outside of the profession but is to be judged from the prospective of a "reasonable officer." The Supreme Court went on to say that officers' actions should be judged without regard to the intent or motivation of the responding officer. Further, such decisions should be made "from the perspective of a reasonable officer coping with a tense, fast evolving scene, rather than with 20/20 hindsight" (*Graham*, 1989, p. 1872). The *Graham* decision provides a basis that can be used to examine the role and factors that are important to the legal determination and evaluation of the "reasonableness" of an officer's actions. However, the decision clearly states that "reasonableness ... is not capable of precise definition or mechanical application" (*Graham*, 1989, p. 1981). It is evident that no policy or other organizational procedure is capable of providing precise definition as to what appropriate force is or how much force should be used. Thus, the only approach that can approximate this standard is one that roughly estimates the situational context in which force incidents occur. Kappeler (1997, p. 72) states that these factors include:

1. Whether the suspect poses an immediate threat to the officer or others;
2. The severity of the crime;
3. Whether the suspect is actively resisting arrest; or
4. Whether the suspect is attempting to escape custody.

The importance of the factors stated by Kappeler (1997) and the *Graham* decision cannot be overstated. These factors represent the apparent danger or element of risk both clearly evident and perceived by officers as they arrive at a scene and interact with citizens and suspects. Skolnick (1966), spoke of "symbolic assailant" factors, which are elements of encounters possessed by the suspect, but the truth is that there is a combination of individual, situational, and environmental elements that contribute to the totality of the circumstances. We must examine all of the above stated Kappeler elements, which identify the perceived risk to the officer or others in the immediate area.

There are at least three elements that need to be included in any examination of the correct police response. The first element is threat. Threat includes situational clues that are given by the suspect, as well as environmental concerns. The second element is the severity of the offense to which the officer is responding. Past experience of the officer may put the officer on guard as to what type of person or situation he or she is dealing with. Severity of the offense may be considered part of the overall threat perceived by the officer, but in this study, we have chosen to include offense as a predetermining factor of overall threat. The final element that is essential is the level at which the subject is resisting or attempting to get away. In an ideal world, this should be the only element that determines if an officer acted correctly in using physical force. However, given the nature of society and the unpredictability of human beings, other situational factors must be considered.

RESEARCH METHODS AND DATA

The approach used to investigate what individual, situational, and community-level factors believe contribute to the perceived threat in police-citizen encounters was a factorial analysis. The factorial method is a proven measure to reveal critical points in complex decision making that influence outcomes or decisions. The factorial method uses a series of scenarios or vignettes comprised of elements drawn at random and placed in a paragraph that is like a standard situation in which an officer may be involved. The officer is given a randomly drawn scenario and asked to respond to it. This type of method allows researchers to overcome prior limitations of providing respondents with a format that may have shaped, altered, or biased their opinion.

The survey used in this study was administered to 662 officers attending routine or in-service training on the use of force, defensive tactics, or weapons retention courses at the Ohio Peace Officer Training Academy in London, Ohio. The reason for choosing officers from Ohio is the similarity of the population of the state of Ohio to the United States as a whole (Tuchfarber, 1988, p 15). This view was reinforced by Faulkner (1991), who found little differences in the opinions of citizens and the law enforcement community of Ohio from those in any other state concerning issues relating to appropriate use of force.

The survey began with a list of demographic information about the officers and their department. They were then given a randomly constructed scenario depicting an encounter with a resisting subject. Within each scenario, the values of 15 independent variables that the literature on police force has found affected the likelihood that the police will use force was rotated in to comprise a situation that officers could easily relate to and understand. The use of the factorial method allows a police-citizen encounter to be modified in several dimensions. This allowed the researchers to simulate actual field conditions while avoiding undue time and expense. Furthermore, by controlling for all of the included variables, this approach allows researchers to determine which of the factors or dimensions actually do influence the police officer's response.

This method is preferred to the current practice of asking court-appointed expert witnesses to render opinions about the appropriate use of force. Its superiority rests in the fact that the opinions presented are not those of one person, but of the 662 officers who were surveyed.

In this study, no survey form was identical to any other survey form. This eliminated any chance of bias or manipulation. The following is an example of the survey instrument that was used – the computer randomly changed every word that is italicized in the scenario.

The following coding scheme was offered for the officers to choose from. It follows the *Action – Response Use of Force Continuum*, which was validated by the previous research. The officers were requested to indicate first, the level of force or the technique they would attempt to control the following scenario situation; and second, the greatest amount of force the officers felt any officer should use in this type of encounter.

CODING SCHEME

1. Balance Displacement
2. Joint Manipulations or Pressure Points
3. Baton Techniques (No Strikes)
4. Striking Motor Points, Muscle Masses
5. Mace, Tear Gas, and Electrical Device
6. Empty Handed Striking, Punching, or Kicking
7. Baton Strikes or Neck Restraints
8. Deadly Force

SAMPLE SCENARIO OR VIGNETTE

1. 163 - Note: This number was for computer recognition and analysis.
2. You are dispatched to a **disorderly conduct** incident in a **middle class** area, where calls for service are frequent.
3. It is **9:00 a.m.** and **one other officer is present**.
4. Prior to getting out of the cruiser, you are able to determine who the main suspect is. **Six or more** persons are assembling around the suspect in front of the doorway of a **commercial office** building.
5. Upon close inspection, you determine that the suspect is a **small-sized, Hispanic, male** believed to be in the **early fifties**.
6. You move within five feet of the suspect and engage in conversation. The appearance of the suspect's clothing is **clean and neat**. In general, the suspect's demeanor toward you is best characterized as **belligerent and threatening**. There are also indications of **cocaine use**.
7. Finding probable cause, you attempt to place the suspect under arrest. The suspect pushes you away each time you step close enough to gain control.

THE DEPENDENT VARIABLES

Measuring the level of threat that an officer perceives or attempting to identify when officers perceive an actual threat is a challenging exercise. In order to acquire the data, it is important that the researcher define what the concept of "threat" is supposed to mean. *Merriam-Webster's Collegiate Dictionary* (1996, p. 1228) defines threat as "an expression of intention to inflict evil, injury, or damage." According to this definition, threat must involve some type of intention on the part of the suspect to injure the officer or those around him or her.

One dependent variable asked officers directly to rate how serious the situation was. The question representing the direct presentation of threat was worded as follows: "As the responding officer, how much of a threat does the situation or suspect described in the scenario present to you?" Responses to this question were coded as a limited range dependent variable (range of 1-5), with the higher scores denoting higher levels of threat. The direct wording of this question allows officers to interpret, on their own, how they define threat.

Another dependent variable used in these analyses measures the amount of force that officers believe should be applied in this situation. It was anticipated that threat contained in a situation should predict rather well the amount of force that officers believe is appropriate in a given police-citizen encounter. This measure was operationalized using Faulkner's (1991) *Action-Response Use of Force Continuum*. Faulkner's continuum consists of eight differing force alternatives that may be applied to a resisting suspect. The use of this particular continuum is important because it is the one adopted and used by the Ohio Attorney General's Peace Officer Training Academy, and it is the basis on which many of the respondents' prior training on the use of force has been built.

The questions were divided into two parts. The first asked "What move or technique would you attempt in this situation?" This allowed an open-ended response from the officer to be sure it was truly the belief of the officer who was being captured. The second part stated, "Since all officers were not trained or equipped equally, what is the greatest amount of force you think any officer should use?"

THE INDEPENDENT VARIABLES

Some of the independent variables included in this study are comprised of the key elements that Kappler (1997) denotes as essential in determining the appropriateness of an officer's use of force (the threat that the elements of the situation present to the officer, the level of suspect resistance, and seriousness of the offense). The other variables used are the ones that the literature has found to be related to situations in which force is most frequently used. In this study, the severity of the original offense to which the officer is called is measured in a 10-item variable consisting of the offenses of shop-

lifting, disorderly conduct, burglary, domestic violence, aggravated assault, robbery, rape, drive-by shooting, arson, and homicide.

The level of resistance offered by the suspect (or in Kappler's terms, if the suspect is attempting to escape custody or if he or she is actively resisting) is measured using nine categories. The first level represents situations in which the suspect is using only body weight to resist. The second represents those situations in which the suspect pulls away to resist the officer's control measures. The third category stands for those situations in which the suspect pushes the officer away each time the officer attempts to take control of the suspect. The fourth presents situations in which there is a push-pull match after the officer has touched the suspect. The fifth represents a situation in which the suspect squares up, clenches his or her fists, and makes verbal threats to the officer. The sixth entails an encounter in which the suspect starts resisting by punching and kicking. At the seventh level, the suspect viciously attacks the officer and attempts to choke or gouge the eyes of the officer. The eighth is comprised of situations in which the suspect attempts to take the officer's weapon away. The final resistance level is reached when the suspect produces a weapon and is intent on using it.

Another three categories of independent variables include individual attributes of officers, suspects, and situational elements. Individual-level attributes of officers include the following: age, gender, race, years of service, education, years of residence, weight, height, hours of defensive tactics training, number of physical confrontations, and number of times the officer had been injured in physical confrontations. The individual-level characteristics of suspects who were entered were suspect's age, race, gender, size, appearance, emotional stability, and whether the officer suspected the suspect was under the influence of alcohol or drugs. The third category of independent variables included are the situational elements that are present from the area and social situation in which the encounter occurs. These variables include the time of the encounter, whether the encounter occurs in a public or private place, the call frequency of an area, the socioeconomic status of an area, the number of officers present, and the number of citizens present. The codes and frequency distributions of these variables are contained in Table 1.

TABLE 1
Frequency Distributions and Codes of Independent Variables

		N	Percent
Level of Resistance			
1	Dead weight	76	11.5
2	Pulls away	76	11.5
3	Pushes away	84	12.7
4	Push-pull match	62	9.4
5	Squares off	74	11.2
6	Punching and kicking	59	8.9
7	Viciously attacks	81	12.2
8	Grabs firearms	<u>75</u>	<u>11.3</u>
9	Produces weapon	662	100.0
Suspect Gender			
0	Female	347	52.4
1	Male	<u>315</u>	<u>47.6</u>
		662	100.0
Offense Severity			
1	Shoplifting	58	8.8
2	Disorderly conduct	71	10.7
3	Burglary	64	9.7
4	Domestic violence	68	10.3
5	Aggravated assault	75	11.3
6	Robbery	62	9.4
7	Rape	52	7.9
8	Drive-by shooting	64	9.7
9	Arson	70	10.6
10	Homicide	<u>70</u>	<u>10.6</u>
		662	100.0
Demeanor			
1	Calm and collected	129	19.5
2	Non-responsive	130	19.6
3	Nervous and agitated	132	19.9
4	Belligerent and threatening	130	19.6
5	Abusive and violent	<u>141</u>	<u>21.3</u>
		662	100.0
Suspect Size			
1	Small	230	34.7
2	Medium	220	33.2
3	Large	<u>212</u>	<u>32.0</u>
		662	100.0

Continued - TABLE 1
Frequency Distributions and Codes of Independent Variables

Mobilization Type

1	Proactive	322	48.6
2	Reactive	<u>340</u>	<u>51.4</u>
		662	100.0

Officer Carry OC Spray

0	No	39	7.0
1	Yes	<u>518</u>	<u>93.0</u>
		557	100.0

Number of Other Officers Present

1	None	148	22.4
2	One	182	27.5
3	Two-three	161	24.3
4	Four or more	<u>171</u>	<u>25.8</u>
		656	100.0

Officer Black

0	No	616	93.9
1	Yes	<u>40</u>	<u>6.1</u>
		662	100.0

Emotionally Disturbed

0	No	469	70.8
1	Yes	<u>193</u>	<u>29.2</u>
		662	100.0

Alcohol or Drug Use

1	None	135	20.4
2	Alcohol	131	19.8
3	Marijuana	128	19.3
4	Cocaine	136	20.5
5	Mixed	<u>132</u>	<u>19.9</u>
		662	100.0

Time of Day

1	6 a.m.	93	14.0
2	9 a.m.	80	12.1
3	12 p.m.	81	12.2
4	3 p.m.	89	13.4
5	6 p.m.	72	10.9
6	9 p.m.	89	13.4
7	12 a.m.	71	10.7
8	3 a.m.	<u>87</u>	<u>13.1</u>
		662	100.0

Continued - TABLE 1
Frequency Distributions and Codes of Independent Variables

Years Lived in Community*

Less than 5 years	92	14.2	
6 to 10 years	70	10.8	
11 to 15 years	54	8.3	
16 to 20 years	22	3.4	
21 to 25 years	60	9.2	Mean = 24.3
26 to 30 years	121	18.6	
31 to 35 years	87	13.4	
36 to 40 years	59	9.1	
40 years or more	<u>85</u>	<u>13.1</u>	
	650	100.0	

Call Frequency of Area

1 Rare	219	33.1
2 Infrequent	243	36.7
3 Frequent	<u>220</u>	<u>30.2</u>
	662	100.0

Number of Citizens Present

1 None	131	19.8
2 1 person	129	19.5
3 2-3 persons	133	20.1
4 4-5 persons	142	21.5
5 More than 6 persons	<u>127</u>	<u>19.2</u>
	662	100.0

SES of Encounter Area

1 Lower class	137	20.7
2 Lower to middle class	144	21.8
3 Middle class	138	20.8
4 Middle to upper class	111	16.8
5 Upper class	<u>132</u>	<u>19.9</u>
	662	100.0

*Data in models were run at actual values. Data area collapsed here for presentation only.

Table 2 presents the characteristics of the sample. The officers surveyed were predominately from small to medium-sized departments that serve mixed urban/rural communities. Over 90 percent of the respondents were white males and two thirds (67.6 percent) of the officers surveyed were from departments with 50 or fewer officers. This may on the surface seem to be an overrepresentation of small to medium-sized departments, but it should be remembered that more than 75 percent of all police agencies employ fewer than 25 sworn personnel (Langworthy & Travis, 1994).

The typical respondent was not a rookie or law enforcement agent fresh out of a training academy. The typical respondent was 34 years old and had been an officer for a little less than 10 years. The majority of the respondents were patrol officers (68 percent) or first-line supervisors (19.9 percent). The group of officers that held higher rank comprised only 10 percent of the group. Finally, half of the officers had knowledge of a suit that had been filed in the past against their departments for the use of excessive force.

TABLE 2
Characteristics of Officers and Departments Included in Sample

	N	Percent	
Officer Age			
20-25	58	8.8	
26-30	184	27.9	
31-35	158	23.9	Mean = 34.5
36-40	105	15.9	
41 and over	<u>155</u>	<u>23.5</u>	
	660	100.0	
Department Location			
Urban	179	27.2	
Mixed	359	54.6	
Rural	<u>120</u>	<u>18.2</u>	
	658	100.0	
Officer Gender			
Female	44	6.6	
Male	<u>618</u>	<u>93.4</u>	
	662	100.0	
Department Size*			
25 and under	222	33.6	
26-50	226	34.2	
51-75	34	5.2	Mean = 223.6
76-100	40	6.1	
101-125	16	2.4	
126-150	10	1.5	
Over 150	<u>114</u>	<u>17.3</u>	
	660	100.3	
Years of Service *			
5 and under	238	36.1	
6-10	185	28.0	
11-15	95	14.4	
16-20	85	12.9	
21 and over	<u>57</u>	<u>8.6</u>	
	660	100.0	

Continued - TABLE 2
Characteristics of Officers and Departments Included in Sample

Officer Race			
White	596	90.9	
Black	40	6.1	
Hispanic	12	1.8	
Asian	<u>8</u>	<u>1.2</u>	
	656	100.0	
Rank in Department			
Patrol officer	450	68.0	
Sergeant	132	19.9	
Trainer	10	1.5	
Detective	26	3.9	
Lieutenant	26	3.9	
Captain	12	1.8	
Chief	<u>6</u>	<u>0.9</u>	
	662	100.0	
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Trainer	10	1.5	
Detective	26	3.9	
Lieutenant	26	3.9	
Captain	12	1.8	
Chief	<u>6</u>	<u>0.9</u>	
	662	100.0	
Department Sued			
No	333	50.3	
Yes	<u>329</u>	<u>49.7</u>	
	662	100.0	

Sample size may not equal 662 due to missing data.
 Percentages may not total to 100 due to missing data.

* Data in models were run at actual values. Data are categorized here for presentation purposes only.

FINDINGS

TABLE 3
Comparison of the Models Predicting Situational Threat

	Model 1: Predicting Level of Threat Situation Presents			Model 2: Depicting the Number of Appropriate Verbal Warnings		
	Beta	t	Sig.	Beta	t	Sig.
<i>Resistance</i>	.697	20,698	.000***	.525	13.204	.000***
<i>Suspect Gender</i>	-.116	-3,389	.001***	-.043	-1.072	.284
<i>Carry OC</i>	-.005	-.152	.879	.005	.122	.903
<i>Years of Service</i>	-.064	-.900	.368	-.160	-1.932	.054
<i>Years of Education</i>	-.007	-.207	.836	-.052	-1.285	.199
<i>Years in Community</i>	.001	.025	.980	-.039	-.742	.458
<i>Offense Severity</i>	.061	1,806	.072*	.004	.093	.926
<i>Suspect Demeanor</i>	.065	1,927	.055*	-.002	-.044	.965
<i>Officer Black</i>	.063	1,826	.069*	.024	.589	.556
<i>Officer Weight</i>	-.046	-1,024	.307	.036	.679	.498
<i>Mobilization</i>	.029	.863	.389	.107	2.714	.007**'
<i>Suspect Size</i>	.058	1,733	.084*	-.039	-.974	.331
<i>Emotionally Disturbed</i>	.046	1,370	.172	-.040	-.996	.320
<i>Age of Officer</i>	.051	.794	.428	.094	1.235	.218
<i>Alcohol or Drug Use</i>	.042	1,235	.217	-.010	-.240	.811
<i>Building Type</i>	.004	.133	.894	-.048	-1.180	.239
<i>Call Frequency of Area</i>	-.007	-.210	.834	-.051	1.297	.195
<i>Appearance/Dress</i>	-.043	-1,270	.205	-.021	-.513	.608
<i>Defensive Tactics Year</i>	-.010	-.300	.764	.021	.508	.612
<i>Injured in Physical Year</i>	.009	.254	.799	-.048	-1.161	.246
<i>Time of Day</i>	-.002	-.059	.953	.040	1.027	.305
<i>Gender of Officer</i>	.027	.735	.463	-.055	1.247	.213
<i>Height of Officer</i>	.023	.535	.593	.017	.344	.731
<i>Number of Citizens Present</i>	-.020	-.597	.551	-.042	-1.043	.297
<i>Officers Present</i>	-.059	-1,732	.084*	-.025	-.621	.535
<i>Physical Confrontation</i>	-.047	-1,336	.182	-.021	-.506	.613
<i>Year</i>						
<i>SES</i>	.014	.401	.689	.047	1.180	.239
<i>Suspect Age</i>	-.018	-.516	.606	.043	1.076	.283
<i>Officer Asian</i>	-.033	-.928	.354	.008	.201	.841
<i>Officer Hispanic</i>	.004	.116	.908	-.031	-.627	.531
<i>Suspect Asian</i>	-.052	-1,254	.211	-.021	-.422	.673
<i>Suspect Black</i>	.033	.791	.429	.055	1.119	.264
<i>Suspect Hispanic</i>	-.016	-.383	.702	-.031	-.627	.531
	R ₂ = .531			R ₂ = .345		

Table 3 presents the results of the model predicting the level of threat that officers perceive. When the model predicting threat is examined, seven independent variables distinguish their unique influences over all the other variables. These seven indicators are level of resistance, gender and size of the suspect, severity of the offense, suspect demeanor, whether the officer was black, and the number of officers on the scene. This model notes that large, abusive, and violent males suspected of committing more serious offenses and who more actively resist are more likely to be perceived by officers as a more serious threat than passive females suspected of committing less serious offenses. Furthermore, non-black officers who respond to situations alone are more likely to rate a situation as less threatening than black officers responding with backup.

TABLE 4
The Condensed Model Comparing Suspects' Presentations of Threat and the Officers' Perceptions of the Appropriate Amount of Force

	Model 1: Predicting Level of Threat Situation Presents			Model 2: Predicting the Appropriate Level of Force		
	Beta	t	Sig	Beta	t	Sig
<i>Number of Warnings</i>	***	***	***	.175	5.494	.000
<i>Threat Level</i>	***	***	***	.451	11.744	.000
<i>Resistance</i>	.700	22.892	.000	.287	7.844	.000
<i>Suspect Gender</i>	-.139	-4.540	.000	-.109	-	.000
					4.231	
<i>Offense Severity</i>	.075	2.442	.015	.046	5.494	.000
<i>Suspect Demeanor</i>	.054	1.759	.079	.014	.533	.580
<i>Suspect Size</i>	.058	1.885	.060	.002	.070	.944
<i>Mobilization</i>	.018	.605	.545	-.035	-	.168
					1.381	
<i>Carry 0. C</i>	-.007	-.216	.829	.055	2.189	.029
<i>Officers Present</i>	-.055	-1.786	.075	-.016	-.635	.526
<i>Officer Black</i>	.059	1.899	.058	.017	.646	.519
<i>Years of Service</i>	.000	.007	.994	-.071	-	.032
					2.146	
<i>Years in Community</i>	-.015	-.369	.712	.067	2.039	.042
	R ₂ =.519			R ₂ =.675		

In examining Model 1 of Table Four, it is important to note that some of the traditional measures that the literature has found to be associated with situations in which police arrest or use other coercive techniques did not attain statistical significance. Thus, it is apparent that such factors as the race of the suspect, if they were mentally or emotionally disturbed, their physical appearance, and the suspected use of alcohol or drugs did not trigger the predicted response.

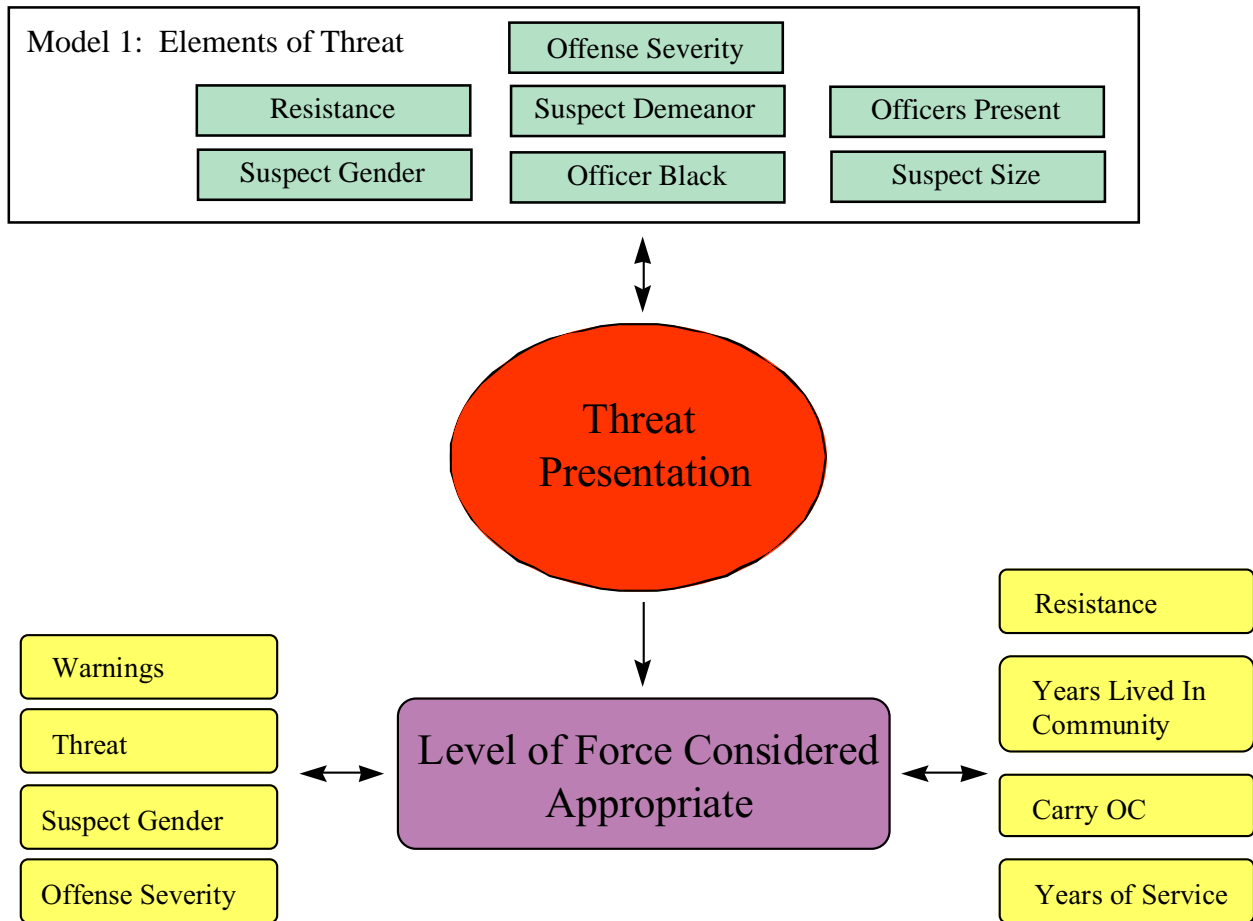
Model 2 in Table 4 notes the indicators of the level of force that officers consider appropriate for each of the fictitious police-citizen encounters. In this model, of the 14 independent variables entered, only two were not associated with the direct measure of threat. These two include the number of years an officer has lived in the community he or she polices and if the officer carries oleoresin capsicum (OC) spray. According to traditional wisdom, older officers who are well entrenched within their community should be less likely to use force, but these data indicate the opposite to be true. Officers in this sample who are longtime community residents are more likely to rate police-citizen encounters as deserving of higher levels of force than those who had lived in a community for fewer years.

Furthermore, these data indicate that officers who carry OC spray are more likely to state that a situation calls for higher levels of force than those that do not use or carry chemical agents. While OC and other chemical agents are designed to reduce the number of incidents in which officers become physically involved in encounters with suspects, this finding may be easily discounted since the continuum used as the dependent variable in this analysis counts OC and other chemical agents as level 5 (out of 8) force alternatives. Thus, if officers have come to count on using chemical agents as alternatives to physical force, it is likely that their answers will be higher than those who either do not approve of it, are not permitted to use it, or simply are not issued it as standard equipment will. Other factors that contribute to predicting the perceived level of force for the encounter include the level of threat, the number or warnings issued, the level of suspect resistance, suspect gender, offense severity, and the number of years the respondent has been a police officer.

Of these factors, two of the strongest indicators of the appropriate amount of force that officers believe to be reasonable are the level of threat they perceive and the number of warnings they would issue prior to using force. If officers perceive a situation as more threatening or they believe they should issue fewer warnings before using force, they are more likely to rate higher levels of force more acceptable. If there is a direct effect between these two measures and force, then it follows that the indicators of the two original dimensions of threat are likely to produce both a direct and indirect effect on the level of appropriate force. Out of the seven composite indicators of threat measured directly, only four variables (levels of resistance, gender of the suspect, offense severity, and number of officers present) also produce a direct effect on the amount of force that officers consider reasonable.

When all of the models in both the full and condensed models that significantly predict the measure of threat, only the level of suspect resistance retains its significance and has a direct effect on the level of force considered appropriate. Thus, in the opinions of these officers, the size of the suspect, whether the situation is reactive or proactive, and the years a respondent had been a police officer may put him or her on "alert," but this does not mean that his or her actual physical response would be influenced by these factors. The following model illustrates the elements that were found significant in predicting officer threat and the elements that influence the decision of the appropriate level of force.

ELEMENTS OF THREAT AND APPROPRIATE LEVEL OF FORCE

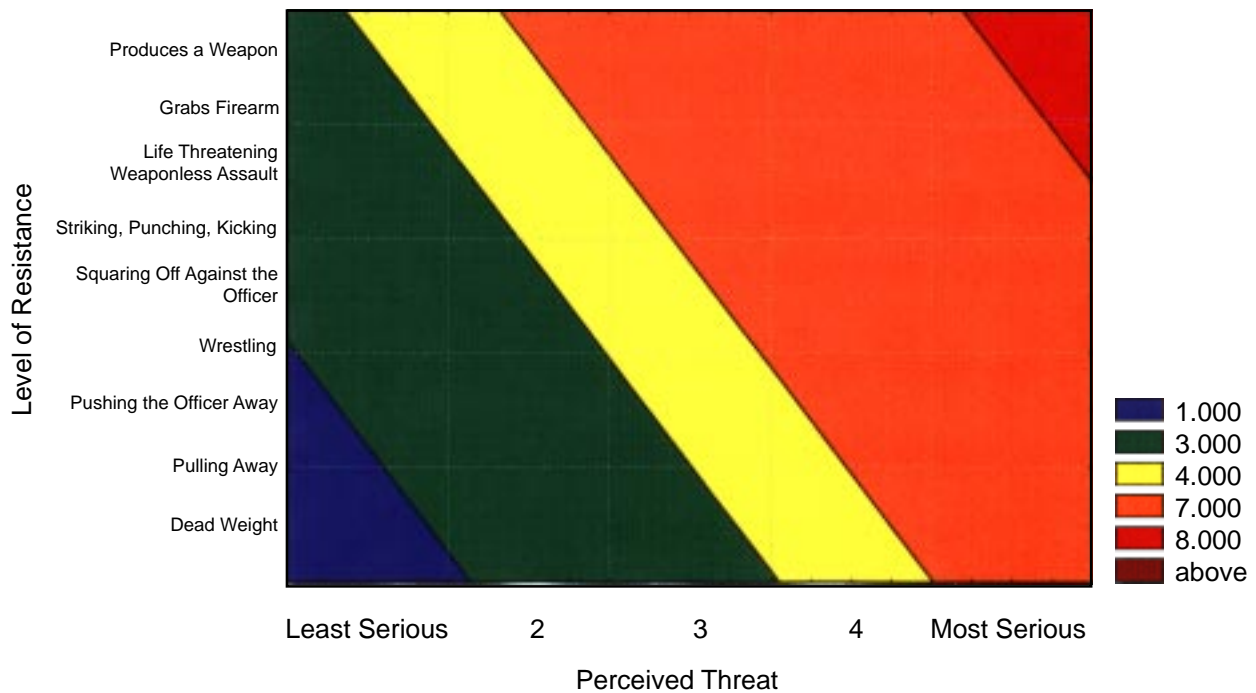


OFFICER'S CHOICE OF APPROPRIATE FORCE & GREATEST LEVEL OF APPROPRIATE FORCE

One of the questions respondent officers were asked after reading the scenario on their survey form was: "If verbal warnings are not effective, what level of force do you feel should be most appropriately applied." This represented the move, tool, or technique that the individual officer would choose to control the given level of resistance. The following graph titled 3D Contour Plot Level of Appropriate Force is color coded in the same manner as the *Action – Response Use of Force Continuum*. The Level of Suspect Resistance, on the right of the graph mirrors the levels of resistance on the continuum (dead weight; pulling away from officer; pushing officer; wrestling with officer; squaring off into a fighting stance against officer; punching, striking or kicking officer; life threatening weaponless assault; attempts to disarm officer; produces a weapon and is

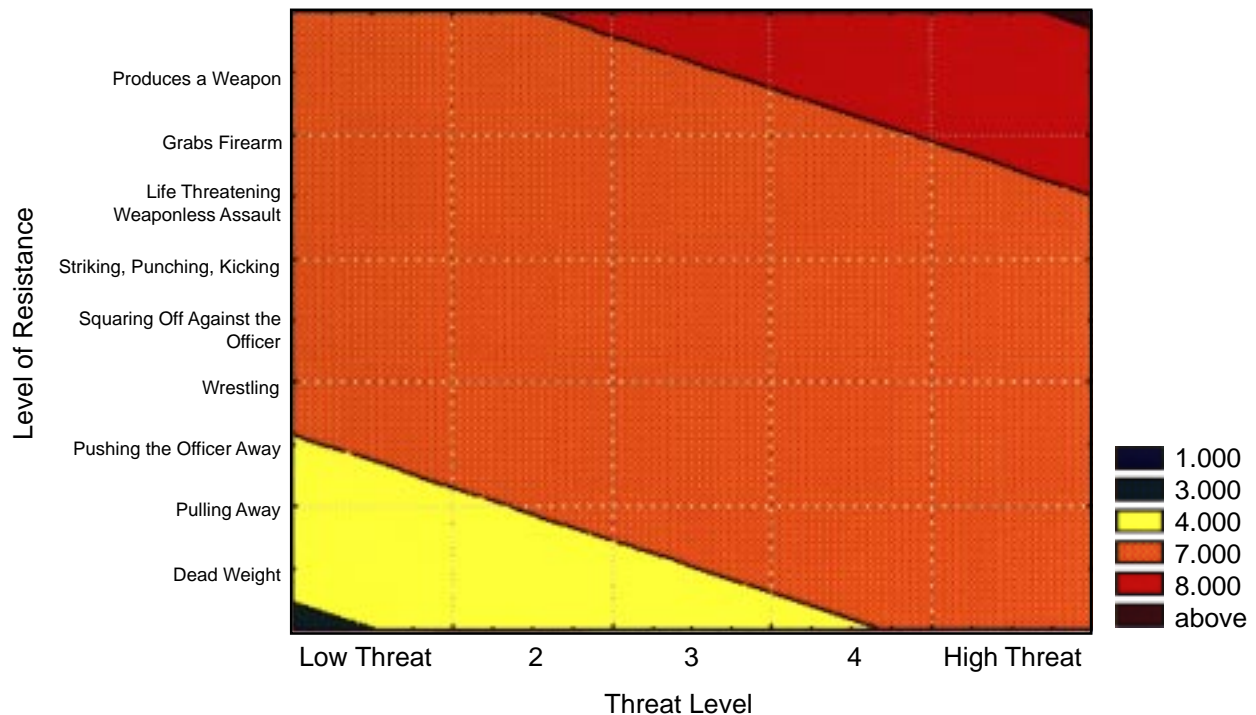
intent on using it). The bottom of the graph indicates Perceived Threat, with least serious threat on the left and most serious threat on the right. Remember, as stated previously, the *Action – Response Use of Force Continuum* represents the levels of force officers believe to be reasonable when all things are equal. The benefit of the factorial approach in this survey is that the Officer Subject Factors, Special Circumstances, and the Totality of the Circumstances is factored directly into the scenario. This graph depicts how the continuum of force varies, or is altered in the minds of the officers surveyed, when the totality of the circumstances is factored in.

3D Contour Plot of Level of Appropriate Force
Perceived Threat and Level of Suspect Resistance
Adult Sample



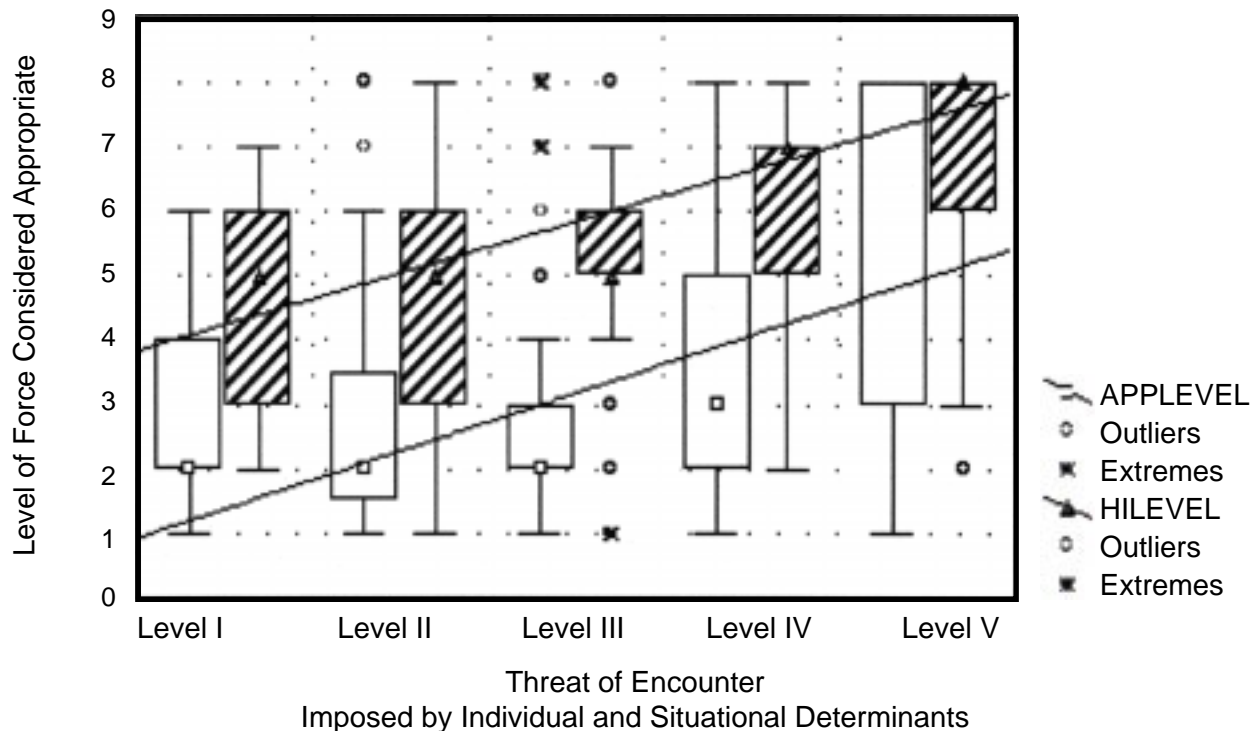
The thing that should be immediately evident is how closely this sample mirrors the *Action – Response Use of Force Continuum*. The real key to defining law enforcement’s use of force lies in the understanding of the threat the officer perceives. As the threat an officer is experiencing increases, the amount of force they believe appropriate to control the situation increases proportionally.

3D Contour Plot of Highest Level of Perceived Force
by Perceived Threat and Level of Resistance
Adult Police Officer's (Linear Smoothing Result)



This graph depicts the beliefs of officers when they were asked, “Since not all officers are trained or equipped equally, what is the greatest level of force that an officer should use in this situation?” First you will notice that the blue area of the continuum disappears. This means that in virtually any police-citizen encounter in which a suspect is exhibiting any type of verbal or physical danger cues or where a suspect is not responding to the officer’s commands, an officer is always reasonable in using any techniques from within the blue area of the continuum. The second thing that is evident is that the color codes have moved significantly to the left. This indicates that officers routinely attempt to control a situation by using less force than the highest level of force that would be reasonable to control the situation.

Box Plot of Level of Force Considered
 Appropriate by Threat of Encounter Imposed by Individual and Situational Determination
 Median; Box: 25%, 75% Whisker: Non-Outlier Min, Non-Outlier Max



In this graph, the bottom diagonal line represents the move, tool, or technique that the officer survey said would be used to attempt to control the situation. The upper line represents the greatest amount of force the officers believe appropriate against that specific level of resistance. It is easy to see from this graph that officers attempt to use significantly less force than they could to control resistive subjects.

Another point of importance is the rather large variance in beliefs at the lower level and at the upper level of the continuum, with a rather narrow variance in beliefs in the middle levels of the continuum. The variance at the upper level could be due partly to the reluctance of any officer to shoot another human being. It could also be a function of the shoot – “don’t shoot training” that many officers receive. The relatively low variance for the middle level of resistance is reflective of the officer’s training. The officers surveyed were relatively sure of the proper and correct ways to handle these types of resistance. Although officers routinely face police-citizen interactions dealing with the lower levels of suspect resistance, those surveyed had a rather large variance of what was the correct or preferred manner of handling those encounters. This large degree of non-consensus at the lower levels of resistance should stimulate the minds of trainers and offer insight into training issues for the year 2000 and beyond.

DISCUSSION AND CONCLUSION

The findings of this study indicate that when dealing with police-citizen encounters, there may be at least three distinct stages that need to be analyzed. We call the first stage the introduction. In this stage, the officers arrive at the scene and gather some preliminary intelligence based on their experience and cues from the environment and surroundings. They may or may not have firsthand knowledge of the offense to which they have been called or the level to which the suspect is involved. They are able to ascertain from the situation who the main suspect is, and if their own official position or physical characteristics affect how they will be perceived by the suspects with whom they are interacting. Officers may issue verbal instructions or commands to which the suspect is expected to comply, but there has been no actual physical engagement between the officer and the suspect in this stage.

The second stage we call reflection. In it, the officers are ready to or already have fully engaged the suspect. The officers have some baseline information on the type of suspect with whom they are dealing, are aware of their opinion, and have a good idea of how best to proceed. The initial plan of action at this stage is not set. The final determination of the officers' response is based on the suspect's response to their formal intervention. During the reflection stage, officers fully engage the suspect and if the suspect resists or fails to pay heed to the officers' authority, force may be used to gain compliance.

The third stage is the stage of last resort. Officers in this stage have exhausted all means within reason to subdue the suspect in a peaceful manner. Based on the cues already collected and on the physical prowess of the suspect, officers will move to subdue the suspect in the quickest, most effective manner without causing injury either to themselves or the suspect. In this stage, more experienced officers may be better fit and more adept at defensive tactics techniques so that they do not feel the need to escalate force to levels at which either permanent or visible physical injury to the suspect is likely.

In respect to the main goal of this research, we were able to measure the amount of threat that officers experience when dealing with citizens in situations where force may be required. As indicated in both tables 3 and 4, we are able to account for over half of the variation in responses by asking officers directly how much of a threat this situation or suspect presents to them. We are thus confident that the level of suspect resistance, severity of the offense, demeanor of the suspect, mobilization type, number of officers present, and the race of the officer each play a role in determining the level of perceived threat.

Knowing the determinants of an officer's perception of threat is not enough. We can take into account all the factors noted by Kappeler and the "objective reasonableness" standard as handed down by the *Graham* decision. However, these elements do not

reconcile with the findings of this study that threat, the number of warnings an officer would issue, and preferred levels of physical force have different predictive elements. It is also necessary to consider other individual and situational elements that account for the officer's reaction to the suspect when the officer officially intervenes. These include the following: (1) the suspect's ability to cause potential injury to the officer or others, (2) the officers' experience with the tools they have on hand designed to de-escalate potentially volatile situations, (3) the officers' experience with such encounters, and (4) any inherent biases toward others acquired either through experience or socialization.

The multiple ways we used to measure experience of officers were very crude at best. It is important to know how long officers have been on the job, as well as the amount of training and the number of physical confrontations they have been involved in the past year. Not all officers experience the same type and number of physical confrontations. Hence, it is likely that the measures employed in the sample to denote the experience of officers do not fully address the interplay between experience, training, and other situation or individual factors.

While the basic findings of this endeavor support the factors mandated by the Supreme Court in the *Graham* decision, and later clarified by Kappeler (1997), there is still much more to learn. Subsequent studies should strive to be more creative in exploring new ways to measure and learn about the intangibles of police-citizen interactions. Further studies are needed that avoid the shortcomings of much of the past efforts. For instance, Lundman (1994) attempted to define demeanor using a series of binary coded variables looking only at arrests for public drunkenness and juvenile encounters with the police. These types of measures, while empirically correct, do not portray the feelings and beliefs of officers in the variety of situations that officers face. Instead, we are left with a fractured view of when and how the demeanor and resistance of suspects affect law enforcement officers.

In this study, we have violated some of the basic assumptions of ordinary least square regression by presenting models with a limited range of dependent variables and discussing their results. This violation is easily justified since the focus here is to provide officers with a real world "totality of the circumstances" approach in order to determine which factors contribute to the escalation of threat and appropriate levels of officers' forceful responses. While we could have easily collapsed categories and run logistic regression, this approach would curtail the focus that certain key indicators act in a linear fashion affecting how officers rate differing levels of force based on individual and situational elements. In this case, if we have erred, we have done so by providing a more accurate picture of use of force encounters.

POST SCRIPT

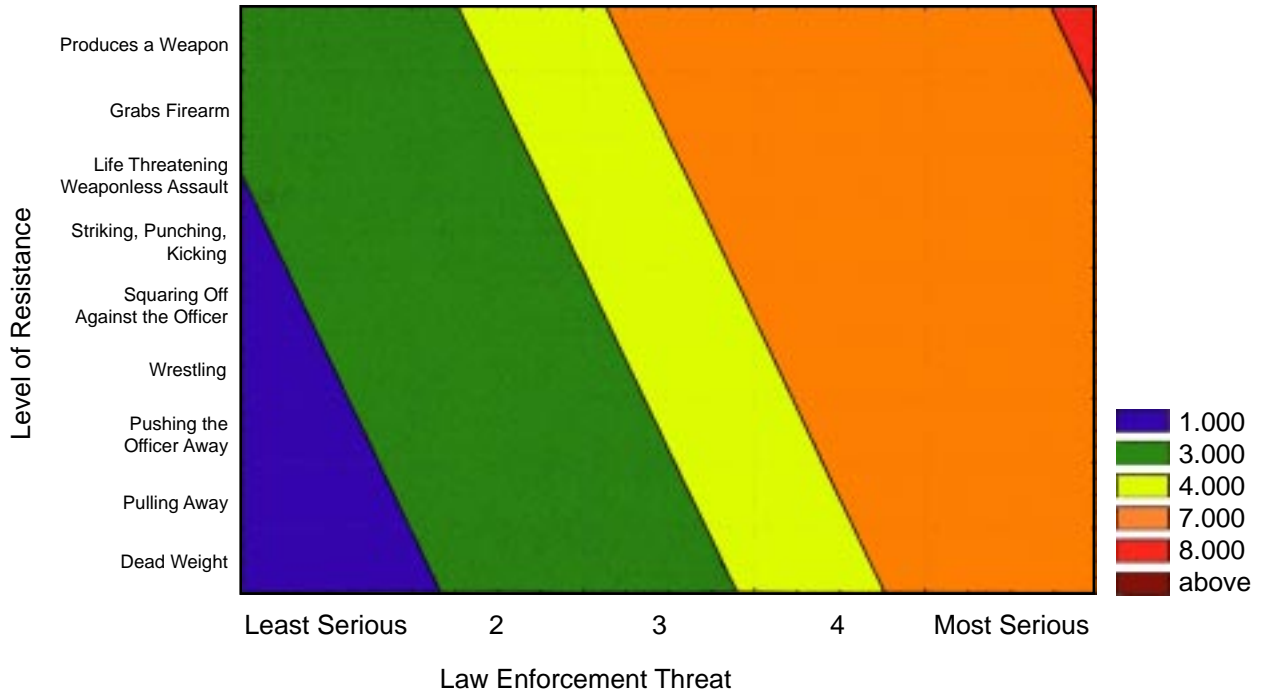
REASONABLE FORCE WHEN DEALING WITH JUVENILE OFFENDERS

It is all too well known that the United States is experiencing a tremendous problem with youth violence. The Hamilton County Security Division adopted the Action – Response Use of Force Continuum a number of years ago. They have a very active, 11-officer division that handles all security matters of the courts and the transporting of prisoners. In 1998, these 11 officers processed 11,934 juvenile offenders and transported 16,019. All officers receive a significant amount of initial training and a number of days of in-service annually. The judges and administrators of Hamilton County Juvenile Court are very pleased with the performance of their security division.

In some of the surrounding juvenile detention facilities, there have been many incidents of correctional officers and case workers being assaulted and injured by the juveniles they supervise. Because of the number of attacks and injuries, there have been a relatively high turnover rate of employees. A use of force training class was conducted in Cincinnati that explained the *Continuum* and its corresponding survey process. It was decided that we would conduct a statewide research product with the aid of the Ohio Department of Youth Services, to measure beliefs of what was reasonable force as it related to juveniles. I immediately contacted my associate from the National Institute of Justice survey project, Stephen T. Holmes. At that time, he was no longer with NIJ, but had received his doctorate and accepted a position as professor at the University of Central Florida. Dr. Holmes was intrigued by the concept of expanding our research into the juvenile arena and agreed to accept the project.

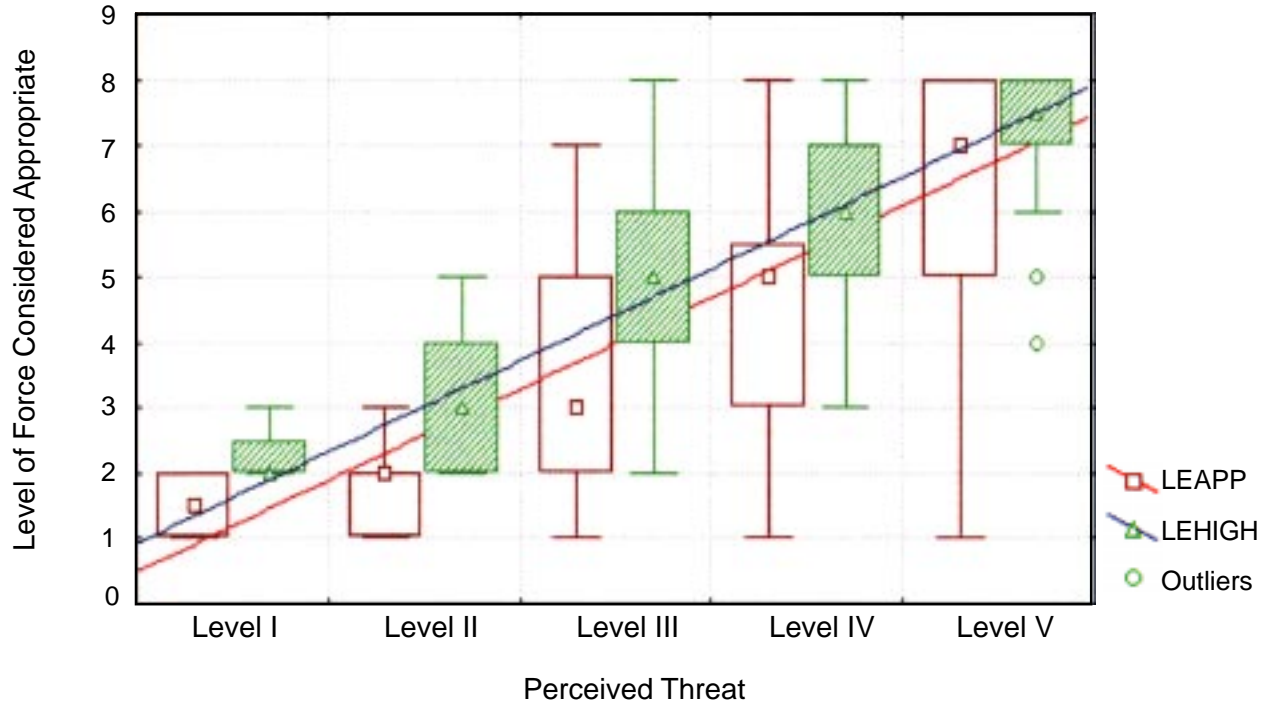
A factorial survey instrument was constructed much along the lines of the NIJ model but tailored to juveniles. The scenarios were created using locations and situations that would be very familiar to the people being surveyed. The survey pool consisted of state juvenile correctional officers, state juvenile probation and parole officers, juvenile case-workers, and county juvenile correction officers. A small portion of the results are shown in the following two graphs. They will be presented in the same format as the previous research for ease of comparison. This is the first research anywhere in the United States examining the topic of reasonable force used on juveniles.

3D Contour Plot of Level of Appropriate Force
 Perceived Threat and Level of Suspect Resistance
 Youth 11-21 Subgroup



One thing to be noticed is how the continuum has shifted, especially the green area. Some officers, regardless of the threat, still could or will not escalate up the continuum, at least as quickly as they do with adults. If an 11-year-old, 85 pound juvenile attempted to strike an officer, the officer may remain in the blue area of response, based on the perceived threat of the attack. The graph also indicates that if the juvenile is capable of causing harm to the officer, all levels of response are available and reasonable.

Box Plot of Level of Force Considered Appropriate
 by Threat of Encounter Imposed by Individual and Situational Factors
 Median; Box: 25%, 75%; Whisker: Non-Outlier Min, Non-Outlier Max
 All Cases from All Age Ranges (11-21)



Much the same as in the adult sample, the technique or tool that officers would attempt to control the resistance of the juvenile is lower than the greatest amount of force that officers would consider to be reasonable. It should be noticed that the variation of opinion increases with the perceived threat. It can be said, that since we do not specifically train to deal with juveniles, officers respond to situations based on perceived cues of threat. Once again, we find that threat or perceived threat is directly linked to the thought process of officers deciding reasonable force.

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