



## National Use of Force and De-escalation Trends

**matrix**   
consulting group

## Columbus Community Safety Advisory Commission

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- ◆ 26 years Law Enforcement Experience (Retired Captain).
- ◆ Defensive Tactics Instructor
- ◆ Firearms Instructor (Patrol Rifle)
- ◆ In-service Coordinator
- ◆ Sergeant's Academy Coordinator
- ◆ Mid-management Academy Coordinator and Instructor
- ◆ Conducted OIS (Officer Involved Shooting) training reviews
- ◆ Former Military Instructor
- ◆ Member IACP, PERF, and ASEBP (American Society of Evidence Based Policing)

# Presentation Resources

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- ◆ PERF – Police Executive Research Foundation (30 Principles)
- ◆ IACP – International Association of Chief's of police
- ◆ AELE - Americans for Effective Law Enforcement
- ◆ COPS – Community Oriented Policing Services -DOJ
- ◆ NIJ – National Institute of Justice
- ◆ MCCA – Major Cities Chiefs Association
- ◆ NACOLE- National Association of Civilian Oversight of Law Enforcement
- ◆ National Consensus Policy and Discussion Paper on Use of Force- October 2017
- ◆ Interviews and Workshops

# Use of Force



# Use of Force Defined

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- ◆ There is no single, universally agreed-upon **definition of use of force**.- NIJ 2016
- ◆ The International Association of Chiefs of Police has described use of force as the "**amount of effort required by police to compel compliance by an unwilling subject.**"

# Use of Force

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- ◆ Training
- ◆ Tactics
- ◆ Policy
- ◆ Documenting /Monitoring
- ◆ Supervision
- ◆ Investigation
- ◆ Boards



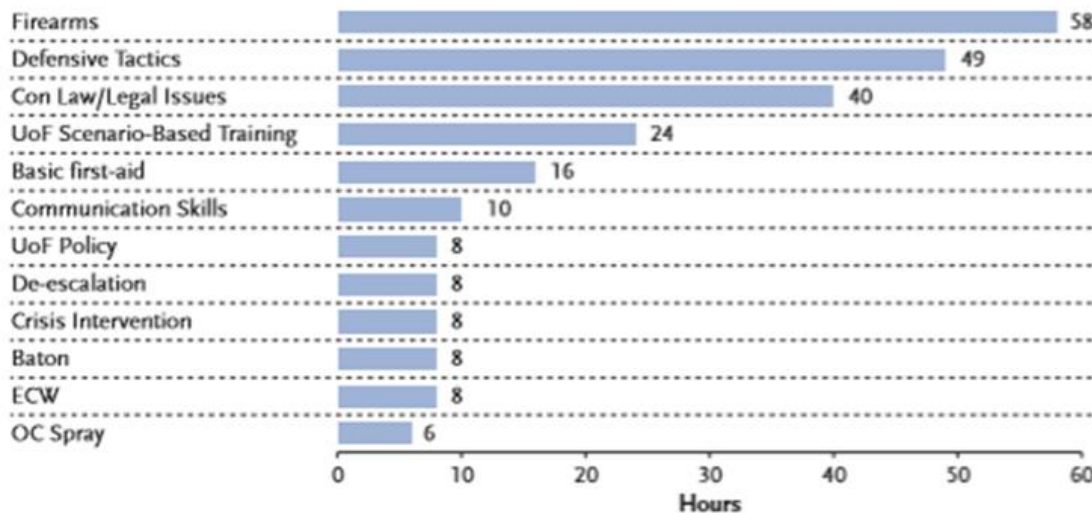
# Training



# Training

- ◆ Basic / Recruit Academy
  - ➔ More hours for Scenario Based Training / Simulators

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



Source: Police Executive Research Forum



# Training

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- ◆ Basic / Recruit Academy (continued)

- Focus of Training

- ★ Trend- Situational Awareness, adapt to your situation, de-escalation, options

- Winnable scenarios, many scenarios do not require force

- Training Debriefs

- ★ Trend – Discussion focused on tactics and options

- De-escalation

- Distance = Time = Options

- Training Hours

- ★ Seat time

- ★ Skill Demonstration and Scoring

# Training

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

# In-Service Training - Trends

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- ◆ Update on case law
- ◆ Update on Use of Force Policies / Trends
- ◆ State Mandated Training
- ◆ Scenario Based Training / Simulator
  - Scenarios developed to stress De-escalation and identified risks
    - \* Lawsuits
    - \* Improper Technique
    - \* From use of force reviews

# Tactics

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# Tactics

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- ◆ The tactics used at an incident can impact the need to use force and therefore tactics should be considered when looking at use of force incidents
- ◆ Lawful but Awful (No policy or Law Violation)
  - Officer Positioning
  - Governmental Interest (Suicidal, Drunk, Type of Crime or Threat to others)
- ◆ Tactical Decision Making
  - Pre-planning
  - Post Incident Debrief (regardless of outcome)



# Tactics

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- ◆ De-Escalation
- ◆ Crisis Intervention
- ◆ Walk Away

# Policy

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# Policy

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## ◆ Garner v. Tennessee

- Fleeing subject- The court ruled that apprehension by the use of deadly force is a seizure subject to the Fourth Amendment's reasonableness requirement. Thus, even where an officer has probable cause to arrest someone, it may be unreasonable to do so through the use of deadly force.

# Policy

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## ◆ Graham v. Conner

- The court ruled that claims of law enforcement excessive use of force must be analyzed using an “objective reasonableness” standard. Specifically, the court stated “[t]he Fourth Amendment ‘reasonableness’ inquiry is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation

# Policy

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- ◆ The Graham decision offers little guidance, other than the four sentences quoted above, on how police agencies should devise their policies, strategies, tactics, and training regarding the wide range of use-of-force issues. The entire Graham decision is less than 10 pages, and nearly all of the opinion is devoted to detailing the facts of what happened in the case, the alternative legal arguments and approaches to considering use-of-force issues that the Supreme Court considered but rejected, and a concurring opinion by three justices-PERF 2016



# Policy

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- ◆ Use of Force Continuum – illustration only

<b>Level 1</b>	<b>Officer Presence</b>
<b>Level 2</b>	<b>Tactical Communication</b>
<b>Level 3</b>	<b>Physical Control</b>
<b>Level 4</b>	<b>Use of Impact Weapon, Chemical, Electronic Control Device</b>
<b>Level 5</b>	<b>Deadly Physical Force</b>

# Policy

- ◆ Use of Force Continuum-Mechanical Model – Illustration only

Subject Action	Possible Officer Action
Argumentative	Verbal Control
Pulling away, attempting to flee, resisting handcuffing	Physical Control – Take downs, control holds
Threatening attack (capable) or attack.	Use of Impact Weapon, Chemical, Electronic Control Device
Use of or threatened use of Deadly Physical Force	Deadly Physical Force

# Policy

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- ◆ “Some agencies still rely on rigid, mechanical, escalating continuums of force, in which levels of resistance from a subject are matched with specific police tactics and weapons. While the models themselves have become more complicated over time, continuums suggest that an officer, when considering a situation that may require use of force, should think, “If presented with weapon A, respond with weapon B. And if a particular response is ineffective, move up to the next higher response on the continuum.” PERF 2016

# Policy

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- ◆ Some agencies are moving away from a mechanical use of force continuum to a options model (NYPD) Emergency Services Unit
  - ➔ Decision based / options model
    - ✱ Just because you can doesn't mean you should (Axe handle example) – Lawful, but awful
  - ➔ “Depending on their assessment of the threat, officers are expected to make decisions based on the range of options available to them. For example, if the person appears to be mentally ill, possibly suicidal, and acting defensively, not offensively, officers may call in additional personnel and resources in order to contain the person safely while trying to talk to him, ask him questions about what is going on in his mind.” 2016 PERF

# Policy

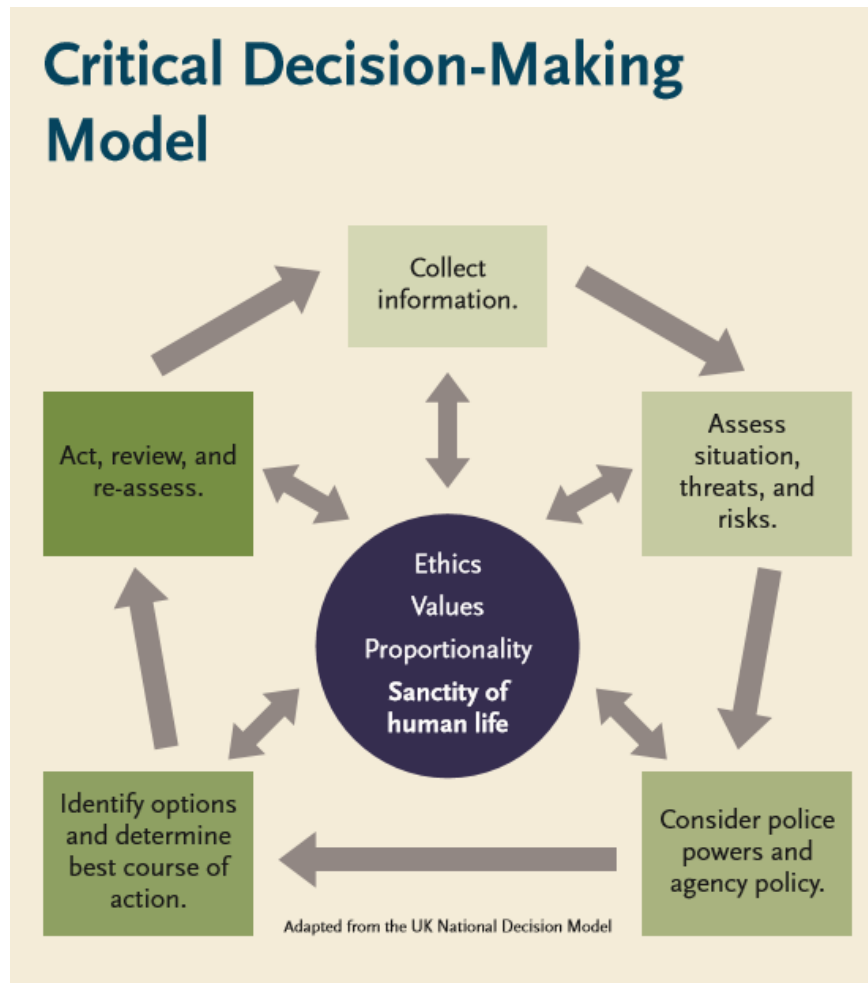
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- Is the subject an immediate threat (Bathroom barricade example)
- Are there other options
- Force-If option A doesn't work, go to option B or C (Taser, Strike examples)
- ◆ Sanctity of Human Life, De-escalation clauses in policy
  - Affirmative obligations to de-escalate prior to using force, when reasonably safe and feasible to do so, and to assess and modulate force as resistance changes. Seattle PD



# Policy

- ◆ PERF's Critical Decision-Making Model



# Critical Decision- Making Model

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- ◆ What do I know about the person I'm responding to?
- ◆ Have they been the subject of previous calls to the police?
- ◆ What was the nature of those calls?
- ◆ What exactly is happening?
- ◆ How can I communicate with this person to get an idea of what is going on in his mind?
- ◆ Is this person presenting a threat to me or anyone else?
- ◆ If so, what is the nature of the threat, and how serious is the threat?
- ◆ Do I need to take action immediately?

# Critical Decision- Making Model

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- ◆ If I do not need to take action immediately, are there additional resources that could help resolve this situation? Additional police or crisis intervention personnel?
- ◆ Should I ask a supervisor to respond? Is there special equipment such as less-lethal tools that could be helpful?
- ◆ What are my legal authorities and what are my department policies governing this situation?
- ◆ What am I trying to achieve?
- ◆ What options are open to me? PERF 2016

# Documenting / Monitoring

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# Documenting / Monitoring

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- ◆ Use of Force Reporting
  - All Force Documented
  - Contributing Factors
  - De-escalation attempts noted - Type
  - Other options considered
  - Supervisor Review / Administrative Investigation
- ◆ Early Intervention System
  - Patterns / Comparisons
  - Thresholds by unit, shift, assignment
  - Tracks Other Variables

# Documenting / Monitoring

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- ★ Complaints
  - ★ Overtime
  - ★ Crashes
  - ★ Lawsuits
  - ★ Critical incidents
- ◆ If threshold is met, immediate assignment to supervisor to conduct preliminary analysis.
- How many other incidents
  - Prior Incidents – justified, Questionable?
  - Tactics
  - Other Factors

# Supervision

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- ◆ Are they arriving on critical incidents or incidents that have the potential to become violent?
  - San Diego Police Chief (Ret.) William Lansdowne: Getting a Sergeant to Critical Incidents Within 15 Minutes Reduces the Chances That Deadly Force Will Be Used
- ◆ Supervisor ratio is important
- ◆ Mentoring
  - Approximately 50% of complaints come from officers with 5 years or less experience.

# Supervision

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- ◆ Assists with making a plan
- ◆ Coordinating resources
- ◆ Post Incident Debrief
  - SWAT does it, so should patrol
- ◆ If not on scene during use of force, quick response afterward to document
- ◆ Administrative Review



# Administrative Review

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- ◆ Sergeant / Supervisor must respond to scene
- ◆ Required for force above mere “hand cuffing” or arm manipulation for hand cuffing. (ECD, Strikes, etc and any injury complaint)
- ◆ Interview subject of force if possible
- ◆ Document injuries (or lack of injury), photos

# Administrative Review

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- ◆ Interview witnesses- both community members and officers
- ◆ Narrative written by officer and supervisor, reviewed by chain of command

# Deadly Use of Force

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- ◆ Handled by Detectives
  - Sometimes all “in house” with DA assist
  - Sometimes by outside jurisdiction
  - Hybrid model (Multi-jurisdictional team)
- ◆ Administrative review (Policy)
- ◆ Training review (Tactics and Training)

# Civilian Oversight Boards

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# Civilian Oversight Boards

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- ◆ Some Departments have Civilian Oversight Boards. The boards vary in scope and authority\*
- ◆ The exact number of oversight bodies in the United States is not known; NACOLE lists 125 jurisdictions that are part of their membership and 79% of MCCA survey respondents stated they had some form of Civilian Oversight.
  - Three Main Types
    - ✱ Investigation-focused model
    - ✱ Review-focused model
    - ✱ Auditor/monitor model

*\*Civilian Oversight of the Police in Major Cities-2018*

# Civilian Oversight Boards

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- ◆ The **investigation-focused** model involves routine, independent investigations of complaints against police officers, which may replace or duplicate police internal affairs processes, though non-police civilian investigators staff them. Civilian Oversight of the Police in Major Cities-2018

# Civilian Oversight Boards

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- ◆ The **review-focused** model concentrates on commenting on completed investigations after reviewing the quality of police internal affairs investigations. Recommendations may be made to police executives regarding findings, or there may be a request that further investigations be conducted. A review board composed of citizen volunteers commonly heads this model, and they may hold public meetings to collect community input and facilitate police-community communication. Civilian

Oversight of the Police in Major Cities-2018

# Civilian Oversight Boards

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- ◆ The **auditor/monitor** model focuses on examining broad patterns in complaint investigations including patterns in the quality of investigations, findings, and discipline rendered. Further, in some cities that use this model, auditor/monitors may actively participate in or monitor open internal investigations. This model often seeks to promote broad organizational change by conducting systematic reviews of police policies, practices or training, and making recommendations for improvement. Civilian Oversight of the Police in Major Cities-2018



# Civilian Oversight Boards

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## ◆ Cities with Investigative Model

- Atlanta, GA\*
- Chicago, IL\*
- Honolulu, HI
- Long Beach, CA
- Montreal, QC
- New York, NY
- Philadelphia, PA\*
- Salt Lake City, UT
- Seattle, WA\*

# Civilian Oversight Boards

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## ◆ Cities with Review Model

- Baltimore, MD
- Boston, MA
- Charlotte – Mecklenburg, NC\*
- Detroit, MI
- Houston, TX
- Las Vegas, NV
- Milwaukee, WI
- Oklahoma City

- Omaha, NE\*
- Orlando, FL
- Phoenix, AZ
- Prince George's County, MD
- San Antonio, TX
- San Diego, CA\*
- Tampa, FL\*
- Tucson, AZ

# Civilian Oversight Boards

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## ◆ Cities with Auditor Model

- Calgary, AB
- Fresno, CA
- Los Angeles County, CA\*
- Wichita, KS\*

# Civilian Oversight Boards

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## ◆ Cities with “other” Model

- Los Angeles, CA
- Louisville, KY
- Memphis, TN
- Minneapolis, MN\*
- Ottawa, ON
- Peel Region, ON
- Portland, OR
- St Louis, MO\*
- Toronto, ON
- Vancouver, BC

# Civilian Oversight Boards

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- ◆ No Empirical Evidence that they work (Need to study)
- ◆ Large Time Commitment
- ◆ Training
- ◆ Trust - Internal and External
- ◆ Expense
- ◆ Timeliness

# De-Escalation

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# De-Escalation

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- ◆ De-escalation is defined as “taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. National Consensus Policy on Use of Force

# De-Escalation

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- ◆ Not a new concept
- ◆ Not thoroughly researched for what actually works, but intuitively we have experience to know some techniques appear to work
- ◆ Some concepts from CIT (Crisis Intervention Training)



# De-Escalation

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## ◆ Crisis Cycle

- Temporary
- The introduction of authority (police) can escalate it
- Almost everyone experiences a crisis at some point

# De-Escalation

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## ◆ Techniques

- Tactical repositioning, officer positioning- Distance = Time = Options
- Slow, lowered voice, non-threatening commands, positive reassurance, designate one talker (not five people giving commands or talking)
- Build rapport and trust
- Slow things down

# Questions?

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# Further Reading

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- ◆ Civilian Oversight of the Police in Major Cities-2018
- ◆ PERF 30 Guiding Principles -2016
- ◆ National Consensus Policy on Use of Force-2017