

**The Use of Force Model and its Application to Operational Law Enforcement – Where have we been and where are we going?**  
**A/Inspector Chris Butler**  
**Calgary Police Service**

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In Canada police officers are empowered and mandated to maintain the public peace. In doing so, an undeniable fact of law enforcement is that the use of force is sometimes required and in fact, the law authorizes police officers to use force under certain conditions. Sir Robert Peel, the father of the philosophy of modern policing understood the critical balance for the proper application of force by police on the citizenry. Peel stated that,

*'Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen in the interests of community welfare and existence'<sup>1</sup>*

Clearly, the underlying philosophy of the use of force on citizens by the police is that force should only be used when absolutely necessary. Policing in this fashion will assist officers in respecting the Constitutional guarantee of all Canadians to life, liberty, and security of the person as provided under s. 7 of the *Charter of Rights and Freedoms*. When force is used excessively or unnecessarily, the relationship of trust between the public and the police can be severely damaged. Peel stated that *'The degree of cooperation of the public that can be secured diminishes proportionately to the necessity of the use of physical force'*. Aligned with this philosophy is the mandate that,

*'Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient'<sup>2</sup>*

Therefore, it is imperative that police officers work in ways that minimize the necessity to use force whenever possible. The goal of obtaining voluntary compliance should always be the preferred option whenever possible. The unfortunate reality is that an ever-increasing number of citizens that police officers are brought into contact with are under the influence of central nervous system drugs or are experiencing an emotional disorder which oftentimes precludes the possibility of a peaceable outcome. The concept of utilizing 'persuasion, advice and warning' as a deterrence can only be attained when the subject who's behaviour the officer is attempting to influence is capable of rationalizing and understanding the consequences of their actions. These

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<sup>1</sup> Seagrave, J. (1997) Introduction to Policing in Canada. Scarborough, ON. Prentice Hall

<sup>2</sup> *Ibid*

subjects, who often display unpredictable and violent behaviour are typically only restrained or controlled by means of physical force.

“Critical to the appropriate understanding of anticipated harm or risk from the application of any particular use of force modality, is the parallel understanding that use of force incidents are typically dynamic, rapidly-evolving and often extremely violent in nature. In this regard, no use of force technique available to police officers can be considered ‘safe’. The theoretical notion of safety with respect to force intervention techniques and devices used by police is not well understood by the lay-public in Canada. Far from Merriam-Websters dictionary definition of ‘Safe’ as ‘free from risk or harm’ and ‘secure from threat of danger’ or ‘security from risk’, it must be understood that when police officers undertake their duty to preserve the public peace it may become necessary to use force. The application of force by police and the concept of ‘safety’ must therefore be viewed in a contextual framework. This framework is based on the balance between the degree of risk of harm or resistance faced by the police and the use of force options that are reasonably available to the officer and proportionately appropriate at the time force was used. As a result of these dynamic and uncontrollable variables, every use of force encounter between the police and a citizen carries with it the possibility for injury for one or all of the participants however unexpected that injury might be. In this regard, no use of force technique available to police officers can be considered ‘safe’.”<sup>3</sup>

It must further be understood that the objective of law enforcement intervention is not to fight with people, but to control their unlawful and frequently violent behaviour through the reasonable application of force. Having said this, despite popular opinion, it is important to understand that police use of force is a rare occurrence when compared to the overall number of public-police contacts and even remains infrequent when compared to the number of arrests made. For example in one large urban Canadian police agency a two-year retrospective study found that police use force in only 0.07% of all public encounters. When compared to the number of arrests, officers were able to complete the arrest using communication skills (advice, persuasion and warning) in 99.5% of incidents.<sup>4</sup>

To assist with training officers how to assess risk and employ reasonable force, agencies developed a conceptual decision-making tool known as the use of force framework. The use of force framework (also sometimes referred to as a ‘model’ or, incorrectly, as a ‘continuum’) is a graphical representation that describes appropriate and reasonable officer responses based upon subject behaviours in conjunction with the totality of circumstances in which the officer finds himself.<sup>5</sup>

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<sup>3</sup> “Public Police Interaction and its Relation to Use of Force by Police and Resulting Injuries to Subjects and Officers”. Dr. Christine Hall. A/Sgt Chris Butler. Law Enforcement Executive Forum, December 2008.

<sup>4</sup> *Ibid*

<sup>5</sup> Throughout this report the masculine will be used for ease of reading and interpretation. This is no way intended to minimize the outstanding contributions made by women in law enforcement.

The model was intended to provide a framework for police officers, administrators, policy makers and the public to interpret and understand the process by which an officer assesses a situation and then takes action to ensure public and officer safety. Although use of force frameworks have existed, in one form or another, for almost 40 years in North America, recently some use of force experts have questioned the utility of the framework and whether or not they still serve a valuable function within the law enforcement training paradigm.<sup>6</sup> Other concerning trends have been observed respecting the application of use of force models which will be discussed later.

<b>Individual's Actions</b>	<b>Officer's Responses</b>
<b>Weapons used against officer Attempting to disarm officer Life-threatening weaponless assaults</b>	<b>Deadly force</b>
<b>Striking or kicking officer</b>	<b>Baton techniques Lateral vascular neck restraint</b>
<b>Wrestling with officer Pushing officer</b>	<b>Striking, punching, kicking Aerosols or electrical devices Baton restraints</b>
<b>Pulling away from officer Refusing to move—dead weight</b>	<b>Striking muscle groups Take downs, joint manipulations or pressure points</b>
<b>Not responding to commands Verbal or physical danger cues</b>	<b>Balance displacement Escort position Assistance from other officers Verbal or physical commands Officer presence</b>

Example of a linear use of force model  
Sinclair College Criminal Justice Training Academy

## History of Use of Force Models

Use of force models in North American Policing are believed to have evolved from U.S. Army Military Police training programs from the 1960's. At least one police researcher believes that these early models were in fact based upon use of force models developed in France in the 1940's<sup>7</sup>

These early models depicted a linear-progressive decision making process whereby officer responses were guided by a direct correlation to observed subject behaviour category. This gave the impression that officers must escalate use of force response in a measured and graduated process. Of course research

<sup>6</sup> Bostain, John. "Use of Force: Are Continuums Still Necessary"; FLETC Journal Fall 2006.

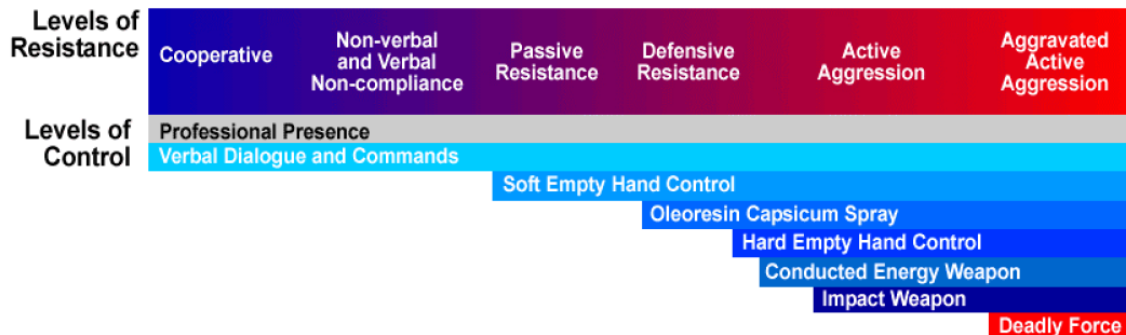
<sup>7</sup> *ibid*

and the real-life experience of dynamic and unpredictable violent encounters demonstrate that a strict application of a stepped or linear progression of force fails completely. In addition, many of these models were so complex that police officers found them difficult to understand even in a non-stress environment and even more difficult to apply under the demands of real-life policing.



## Charlotte-Mecklenburg Police Department

### Interactive Directives Guide



#### Linear use of force model

In response to these concerns, many agencies developed second-generation models known as 'situational' frameworks. Situational frameworks attempted to more clearly define how an officer observes a situation, considers all the objective and subjective factors (totality of the circumstances) and then chooses an appropriate response. Situational frameworks were a step forward because they focused upon how the numerous influencing factors unique to each and every event impacted the officers risk assessment. These situational models were consistent with existing case law in the United States (Graham v. Connor) which states:

*“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. Moreover, 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....thus we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day”<sup>8</sup>*

Situational use of force frameworks are also consistent with Canadian case law governing police use of force. In Cluett v. The Queen, the court stated:

<sup>8</sup> Graham v. Connor, 490 U.S. 386, 388 (1989)

*Police officers are authorized to use such force as is reasonable, proper and necessary to carry out their duties, providing that no wanton or unnecessary violence is imposed. What is reasonable and proper in the particular circumstance, and in the particular case, will depend upon all the circumstances. It is not possible to lay down any hard and fast rule, except the test of reasonableness. If the police officer in carrying out his authority acts on reasonable and probable grounds, he is justified in doing what he is required to do and in using as much force as is necessary for that purpose.<sup>9</sup>*

In Canada, use of force models first starting appearing in various agencies in the 1980's. In 1994 Ontario developed a provincial use of force model and a number of provinces as well as the RCMP have followed suit.<sup>10</sup>

In 1999, the Canadian Association of Chiefs of Police (CACCP) endorsed an initiative to develop a National use of force model. In April of that year, 65 use of force experts and trainers from Canada and the United States were brought together to undertake the development of the National framework.<sup>11</sup> In developing this National framework, the experts quickly agreed upon four guiding principles:

- That the model be easily understood by viewing it
- That it not imply linear progression of options
- That the public should be able to grasp the basics
- That it use consistent language

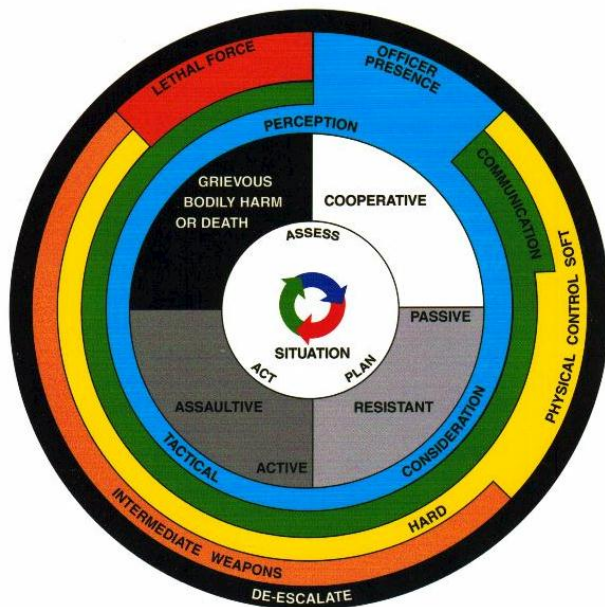
The resulting National initiative was endorsed in November of 2000 by the CACCP and became the official framework for developing use of force training and understanding by police officers and many agencies across Canada.

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<sup>9</sup> Cluett v. The Queen (1985) 2 SCR 216

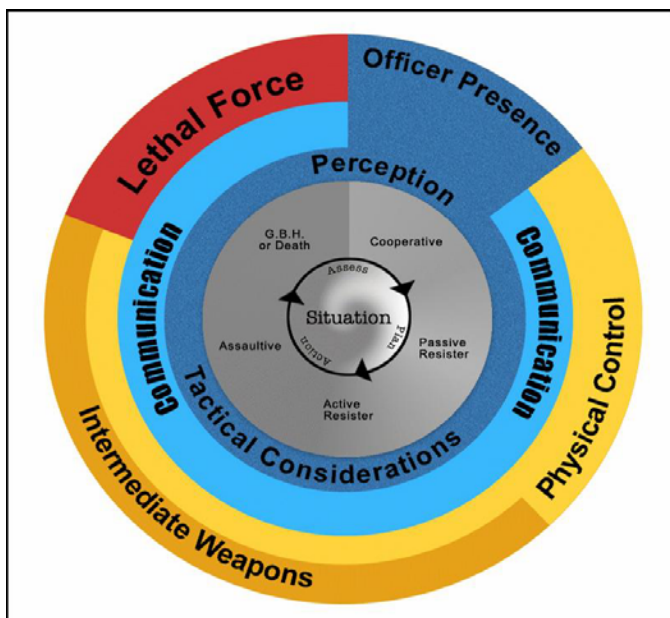
<sup>10</sup> The RCMP utilizes a use of force model called the IMIM. "Incident Management Intervention Model". In Alberta, municipal police agencies use the Alberta Association of Chief's of Police Use of Force Model.

<sup>11</sup> The participants in the development of the National Use of Force Framework attended a working conference at the Ontario Police College April 8-10, 1999.



National Model as it existed in 2000

This model became officially known as the “National Use of Force Framework” (NUFF). The framework represents how an officer enters into or is confronted with a situation, and how he assesses, plans and responds to incidents that threaten officer or public safety. It assists with training officers and provides a reference for decision-making and articulating their actions respecting use of force. The model also implicitly acknowledges that officers do not apply force options in consecutive steps or stages from the lowest force option to the highest, but rather they must select the an appropriate force option or combination of options available in the circumstances based upon their objectively-held (reasonable) perception.



Alberta Association of Chief's of Police (AACP) Situational Model

## Use of Force Framework – Key Principles

Irrespective of the specific 'model' or framework embraced by police agencies, there are six guiding principles with respect to the application of the visual model:

1. The primary responsibility of a peace officer is to preserve and protect life.
2. The primary objective of any use of force is to ensure public safety.
3. Police officer safety is essential to public safety.
4. The use of force framework does not replace or augment the law; the law speaks for itself.
5. The use of force framework embodies principles found in federal statute law and current case law.
6. The use of force framework is not intended to dictate operational policy.

The use of force model and its theoretical application is a concept that both police officers and the public can understand. The entire 'theory' of the model is based upon the principle of 'control' – the principle that police officers must use force that is proportionate to the perceived threat they are facing and yet employ the measure of force that will ensure they are able to obtain, and maintain, control. It is important to understand that, despite common misconception, police officers are not required to use the 'minimum' amount of force which might achieve their objective.

Irrespective of which model is observed, they must recognize that the officer is always involved in a continuous state of assessing, planning and acting. It is stressed that this process takes place from the earliest stages of an incident and continues until the situation is resolved.

This process of continuous assessment helps to “explain how a behaviour (and response option) can change from cooperative to assaultive (or from communication to lethal force) in a split second without passing through any of the other behaviour or force options.”<sup>12</sup>

The model consists of an outer area or ring which represents the officer's force response options. These options range from officer presence and communication skills through physical control the use of intermediate weapons and ultimately lethal force.<sup>13</sup> As an offender's level or degree of resistance increases creating an increased potential risk, officers may escalate the type and nature of force applied to ensure they are able to control the risk.

The process of an officer's evaluation of the incident involves three closely related processes:

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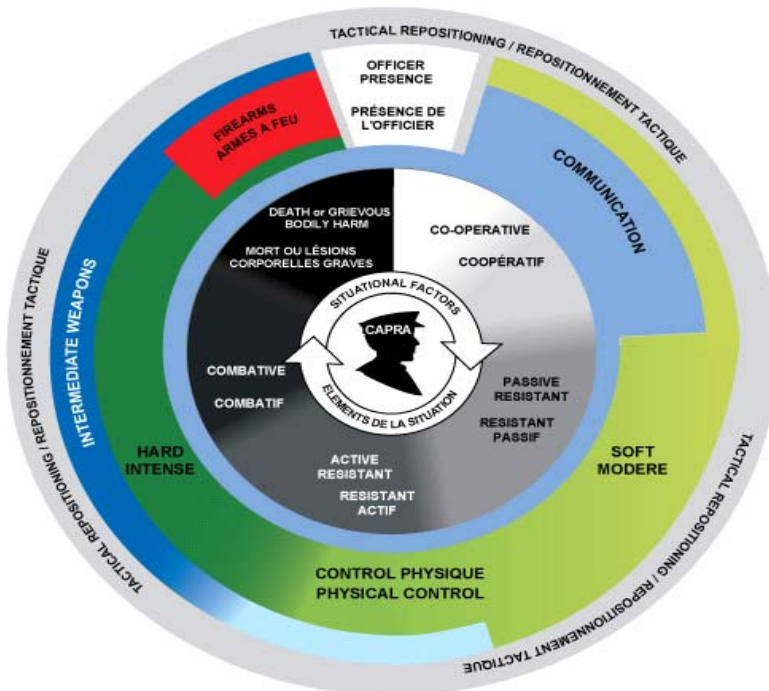
<sup>12</sup> National Use of Force Framework, 2000

<sup>13</sup> As defined by the Criminal Code of Canada, lethal force is any force that is likely or intended to cause death or grievous bodily harm.

1. the situation itself,
2. the subjects observed or known behaviour, and
3. the officer's perception and tactical considerations.

As the officer integrates all of these factors into the totality of circumstances in which he finds himself, he is enabled to undertake a reasonable use of force response and be able to articulate to others how the situation was perceived, assessed and responded to. Remember that this process typically occurs in seconds or fractions of seconds and much like the driver of a vehicle facing a sudden emergency the courts recognize that allowances must be given for errors officer might make in the exigency of the moment.

### RCMP 'Incident Management Intervention Model' (IMIM)



### The Unintended Consequences of Good Intentions

As previously mentioned, recently some use of force experts have raised concerns about the practical application of use of force models in the policing environment. More specifically, the main concern centers on the fact that in many cases, police officers well-indoctrinated in the 'model' have failed to consider the most important 'situational factors' and have unilaterally applied force in consideration only of the subject's behaviour. Take the following real incident report for example;



“The subject was advised he was under arrest, when I grabbed him by the arm he pulled away from me. As he was now an active resistor as per the AACP use of force model I delivered knee strikes to his leg in order to get him on the ground. He went down onto his stomach and pulled his arms underneath him. Despite repeated verbal commands, he refused to release his arms and place them behind his back. As he was still an active resistor, I delivered a series of head stuns to the back of his head at which time he released his arms allowing me to apply the handcuffs.....”

The above example highlights a serious failure in understanding and applying the situational model. For example it is critical to know that the officer was accompanied by two other officers, that the subject was a 77 year-old frail mental health patient and that no weapons were known or suspected to be present. I expect your opinion of the officer’s conduct to be vastly different than if the officer was alone at two o’clock in the morning attempting to arrest the subject for housebreaking after a foot chase down an alley and the officer had no knowledge of whether or not the subject might be in possession of a weapon. In both cases the subject behaviour could rightly be defined as ‘active resistance’ and a rigid linear application of the model could lead an officer to conclude that that the force used was appropriate. What this analysis fails to consider however is the ever-important standard of proportionality in consideration of the vastly different situational factors or ‘totality of circumstances’ present in each of these examples.

Despite, or perhaps because of, use of force trainers efforts to indoctrinate officers to memorize the visual image of the ‘model’ some officers clearly have not been implicitly taught to understand how to apply the model. Under the stress of a violent encounter, decision making can become linear and obviate the critical ‘unique situational factors’ that must be evaluated to survive the test of reasonableness as set out by the Supreme Court of Canada.

In several court cases officers have attempted to articulate their authority to use force and to explain why their actions were reasonable by touting the use of force model and implying a linear relationship between the subject’s behaviour and the officer’s response. This is dangerous ground and must be strongly discouraged. As previously stated, the authority to use force is derived from and bounded by the Criminal Code of Canada and related common law and case law principles – not by any use of force model or similar framework. Several of these unfortunate events over the past few years has underscored the fact that some agency trainers are either unclear of the philosophical purpose of the ‘model’ or perhaps apply it incorrectly in the training environment.

As a direct result of these concerns, several agencies across North America are re-considering the manner in which they utilize use of force models and others have completely abandoned their use.<sup>14</sup>

## **Solutions?**

When one observes an undesirable result following the use of a decision-making tool such as the use of force framework there are several questions that must be asked:

1. Is the observed outcome systemic? In other words, do all agencies that use a situational model experience the same outcome? If the problem is systemic then the tool is not producing the desired theoretical result trainers had hoped for.

The answer to the question is unequivocally that this problem is not systemic. Many agencies across Canada who utilize the situational model are experiencing the consistent results of officers being able to think critically through an incident and use lawful and necessary force. Furthermore, because these officers have been properly trained in how to think critically about the unique situational factors, they are then able to professionally articulate why their actions were reasonable after the event.

2. If then, agencies using the same tool (use of force framework) are experiencing widely variable results, what can explain the different results?

When the situational model was first introduced in Canada and indoctrinated into the police training paradigm, it was done so by trainers who had an invested and thorough understanding of the philosophy of the framework and how to apply it within the training environment. Over time, it has been my observation that a shift has occurred in the way in which police officers are trained in the framework. Originally, the training focus was on ensuring officers understood how to observe and evaluate the numerous situational factors that could be present. Further, officers understood how to marry these factors with their understanding of case law and societal expectations to formulate a considered analysis of the risk. From this point officers could demonstrate how to employ force options proportionate to the circumstances with which they were faced. In certain agencies that are experiencing the negative outcomes, the focus of training has shifted with minimal focus on the situational factors. When this happens, officers are cheated of the opportunity to develop an implicit understanding and the uniqueness of each event which should underpin the risk evaluation. Officers without this understanding may (and often do) select a response based only upon the linear relationship to subject

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<sup>14</sup> For example the Federal Law Enforcement Training Center's Firearms Division and Physical Techniques Division has completely removed any reference to the use of force model.

behaviour. As the example mentioned previously highlighted, this is intolerable. .

### **Summary**

#### 3. What to do?

Pilots are taught how to recover from an in-flight emergency condition known as a 'flat spin'. Uncorrected a flat spin will result in the forces exceeding the design tolerances and the aircraft will literally come apart in the air. Now, if a certain number of pilots were crashing because they could not recover the aircraft, yet many other pilots who were trained from the same instructional framework demonstrated they could successfully recover, one would not expect the NTSB to throw out the flight training manual. Naturally, an investigation would endeavour to uncover how those pilots were trained and why they failed to be able to properly apply their training under the stress of real life conditions. Like-wise, the use of force framework should not be abandoned because of its improper application amongst a few agencies. The investigation should reveal the differences between how the framework is indoctrinated in those agencies whose officers apply it properly and thus perform properly versus those agencies who have struggled to apply the same principles. Many agencies quick to abandon the current framework have perhaps sought out solutions without first ensuring they have identified the correct problem.

**Addendum**  
**UNDERSTANDING THE USE OF FORCE FRAMEWORK**  
**A/Inspector Chris Butler**

**THE SITUATION**

When managing an incident, the officer is required to assess a number of critical variables with respect to the situation. There are, at minimum, six different impact factors that characterize the risk of a situation and must be evaluated:

1. Environment

The actions of the officer may be in part dictated by the environmental considerations. For example, weather conditions (wind, rain, cold, etc) as well as daylight or darkness can significantly affect an officer choice of response. In addition, the physical location (residential, rural, indoors or outdoors) play heavily into the assessment process. Further, the physical position of the situation (highway, bridge deck, etc) as well as the availability of cover and concealment must be considered.<sup>15</sup>

2. Number of Subjects

The number of officers versus the number of subjects is a critical factor that must be taken into consideration. A review of incidents involving officers being assaulted and killed has shown a consistent increase in the number of multiple assailant attacks against law enforcement officers. Interestingly, many individuals have the belief that more officers equates to less risk. Research on this is quite clear in that there really is no direct correlation between officer numbers and risk of harm. In the 2004 Department of Justice, Federal Bureau of Investigation review of officers assaulted and killed, it is clear that in the events where officers were slain, whether they were alone or with another officer, had no impact on the outcome. Out of the 57 officer feloniously killed in 2004, 15 officers were alone, 35 were accompanied or assisted by other officers and 7 were off duty.<sup>16</sup>

During use of force training, officers are cautioned against a belief that simply because they have backup visible an offender is less inclined to attack. This may be so in some instances, however the statistics clearly indicate a reliance on this belief can be deadly.

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<sup>15</sup> Cover is generally accepted to mean a physical barrier that prevents the penetration by gunfire. Concealment is the use of objects and/or darkness to prevent the officer from being observed but does not stop gunfire.

<sup>16</sup> Law Enforcement Officers Killed and Assaulted 2004, Federal Bureau of Investigation, U.S. Dept. of Justice, Washington D.C.

In a recent case from Alberta (March 2005) four uniformed members of the RCMP were guarding a rural hydroponic marijuana grow operation when the owner of the farm returned. The lone offender was able to ambush and murder all four officers with a firearm. A fifth officer arriving on scene exchanged gunfire with the offender striking him at least once with rounds from his pistol. The offender retreated into a farm building and committed suicide utilizing his firearm.<sup>17</sup> This case clearly illustrates that an increased law enforcement presence, in and of itself, does not eliminate the risk of deadly assault.

### 3. Perceived Subjects' Abilities

The officer's perception of a subject's various characteristics will affect his assessment of the situation and the appropriate level of force that might be reasonable to control the subject or resolve the confrontation. Some examples of these considerations are whether or not the subject is under the influence of drugs or alcohol, the subject's physical size, strength and skills as well as the emotional condition of the subject. The availability of weapons or weapons of opportunity must be considered.

### 4. Knowledge of the Subject

In some situations prior knowledge about the subject may affect the officer's assessment and response. The officer may be aware of the subject's criminal history, reputation or the officer may have had prior contacts with the subject. In some situations officers are able to obtain critical information from police computer systems such as CPIC, other law enforcement databases, previous history with the subject or the subject's demonstrated behaviour.

### 5. Time and Distance

The concept of time and distance refers to those conditions that determine whether or not an officer must respond immediately or whether a delayed response may be utilized. For example, in situations where there is a pressing threat to public safety, an immediate response may be unavoidable, agency policy to the contrary notwithstanding. In other situations however, the officer may be able to employ time and distance to allow them to delay their response. For example, the availability of cover, the imminent arrival of backup or increasing the distance between

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<sup>17</sup> The four RCMP officers from Mayerthorpe and Whitecourt detachments were murdered at Rochfort Bridge by James Rosko. This incident is still under operational review and many details have not been made public at the time of this report. For an excellent overview of the incident, see 'The Fifth Estate – Freeze Frame' November 2005.

themselves and the subject may allow the officer to reduce the threat and possibly delay employing force until additional resources can be utilized.

The officer's ability to utilize time and distance to delay a response is called 'disengagement' (NUFF) or 'tactical repositioning' (IMIM)<sup>18</sup>. The underlying philosophy on police use of force is that officers must work in ways that avoid the necessity to use force, and when force is required that only the minimum amount of force required is used, having consideration for the circumstances.

In situations where an officer's assessment of the situation leads him to believe that continued law enforcement presence seriously increases the danger to anyone, disengagement and the use of other tactics and resources should be considered.

The officer's ability to undertake a considered risk assessment assumes there is adequate time to do so. In many situations disengagement is not possible or appropriate under the circumstances. There are three reasons why an officer may not employ disengagement as a tactic and be compelled to use force to control the subject or resolve the incident. First, an officer may be prevented because of the physical environment from disengaging. This could be as a result of physical barriers or other individuals that prevent or limit the officer's movement. Secondly, the officer may be compelled by law to use force immediately if there is an imminent risk of harm to another person (a member of the public under the officer's protection). Lastly, an officer may not be able to disengage or tactically reposition because the subject or offender does not permit the officer to do so (i.e. the subject is actively involved in assaulting the officer).

When being instructed in the theory of use of force, it is critical that such lesson plans and course training standards include the reasons when disengagement is not possible or appropriate. Failure to do so could lead an officer to erroneously believe that disengagement is always a possibility. This belief could (and has) resulted in officers entering into situations they should not have because they believed they could simply 'tactically reposition'. This unrealistic belief results directly to a complacent attitude and over-confidence; two of the prime reasons officers find themselves assaulted, injured and killed.

Most agencies and institutions that instruct officers in the application of the use of force model utilize realistic scenario-based training to allow the officer to understand and apply when the tactic of disengagement is possible and appropriate and when it cannot be considered.

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<sup>18</sup> NUFF refers to the 'National Use of Force Framework. IMIM refers to the RCMP's 'Incident Management Intervention Model'

Indeed, the teaching of time and distance considerations, specifically relating to the limitations of disengagement is addressed in use of force lesson plans and course training standards at the Justice Institute of British Columbia<sup>19</sup>, the Atlantic Police Academy<sup>20</sup>, the Ontario Police College<sup>21</sup> and numerous municipal agencies throughout Canada

## 6. Potential Attack Signs

It is important for officers to understand that a subject may give clues as to his or her intentions. For example, a subject may exhibit a number of physical signs, either intentionally or unintentionally, that may give an officer insight into impending behaviour. Some of these signs include:

- Ignoring the officer
- Repetitious questioning
- Aggressive verbalization
- Emotional venting
- Refusing to comply with lawful request
- Ceasing all movement
- Invasion of personal space
- Aggressive stance or posturing
- Hiding or fleeing
- Target glancing
- Wringing or rubbing of hands
- Perspiration incongruent with the situation
- Tensing or tightening of facial muscles
- Pupil dilation

It is also critical to understand that despite an officer's best observations and assessment, a subject may not give clues of an impending attack, and in these circumstances an assault may come at the officer seemingly unprovoked.

In these circumstances, it is recognized that there is insufficient time to disengage and the officer is compelled to take immediate action to eliminate the risk of personal jeopardy. The National Use of Force Framework echoes this reality where it states, "It is also recognized that due to insufficient time and distance or the nature of the situation, the option to disengage may be precluded."

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<sup>19</sup> 'Justice Institute of British Columbia – Police Academy' National use of force training and force options theory manual.

<sup>20</sup> 'Atlantic Police Academy – Holland College' Use of Force Training Manual. By Inspector Kelly Keith

<sup>21</sup> 'National Use of Force Framework' as instructed at the Ontario Police College, reference Chris Lawrence, senior defensive tactics and use of force instructor.

This is further reinforced at the Atlantic Police Academy by the following:

“The use of force used must be based upon the evolved risk assessment, as a result of information gathered by the officer(s) during any or all stages of risk assessment. Of course, not all stages of risk assessment may be available during every confrontation. Spontaneous confrontations, by their very nature, allow for very little risk assessment.”

The necessity of officers being compelled to use force for self defense or defense of persons under their care has also been recognized and confirmed in case law from numerous criminal and civil proceedings.<sup>22</sup>

## **SUBJECT BEHAVIOURS**

Central to the Assess-Plan-Act process is the observed behaviour of the subject. Both the NUFF and the IMIM record five different categories of subject behaviour in a circle adjacent to the *SITUATION*. Where a subject falls within these categories is dependent upon the officer’s perception. The following describes each of the categories of subject behaviour.

### **Co-operative**

The subject responds appropriately to the officer’s presence, direction and control.

### **Passive Resistant**

The subject refuses, with little or no physical action, to cooperate with the officer’s lawful direction. This can take the form of verbal refusal and/or physical inactivity either consciously or unconsciously contrived.

### **Active Resistant**

The subject uses non-assaultive physical action to resist, or while resisting an officer’s lawful direction or attempts to control the subject. Examples would include such actions as pulling away or holding onto fixed objects in an attempt to prevent or escape an officer’s control. Other examples include walking directly at an officer or away from an officer counter to the officer’s lawful direction. Attempting to escape custody by fleeing would be an example of active resistant behaviour.

### **Assaultive**

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<sup>22</sup> For an excellent review of current case law with respect to police use of force, see Paul Ceysens “Legal Aspects of Policing”



The subject attempts to apply, or applies physical force to any person; attempts or threats by act or gesture to apply force to another person or causes the officer to believe upon reasonable grounds that the subject has the present ability to effect an assault upon the officer or someone under the officer's lawful care. Examples include punching and kicking but may also include aggressive or threatening body language or verbal cues that signal the intent to assault.

### **Death or Grievous Bodily Harm**

The subjects exhibits actions that the officer reasonably believes are intended to, or likely to, cause grievous bodily harm or death to the officer or any other person. Examples include assaults with weapons such as cutting, stabbing or slashing instruments, attacks with firearms, attacks with personal weapons such as hands and feet if the officer reasonable perceives such attack will cause grievous harm or death.

## **PERCEPTION AND TACTICAL CONSIDERATIONS**

Perception and Tactical Considerations are two separate but inter-related factors that impact the officer's overall assessment of the Situation. Both factors need to be thought of as a group of conditions that mediate between the observed subject behaviour and the force/response options available to the officer.

This mediating effect of the Perception and Tactical Considerations explains why two different officers may respond completely differently facing the same situation and subject. Two officers, both faced with the same tactical considerations may assess the situation differently and therefore respond differently. Each officer's perception draws upon the individual values, morals and belief systems the officer possesses. Further, each officer may perceive different strengths and weaknesses both in themselves and the options available to them at the time. Lastly, the policing culture the officer comes from may weigh into the differences in how an officer from one agency may respond differently from an officer from another agency.

### **Perception**

How an officer sees or perceives a situation is, in part, a function of the personal characteristics he brings to the event. These personal characteristics affect the officer's beliefs concerning his ability to deal with the situation. For a multitude of reasons, one officer may be confident in his ability to effectively manage the incident and the resulting assessment and choice of tactics will reflect this fact. In contrast, another officer, for equally valid reasons, may feel the situation to be more threatening and demanding a different response. The following list includes factors unique

to each individual officer. These factors interact with situational and behavioural factors to affect how the officer perceives and, ultimately assesses and responds to the situation.

Factors that may be unique to each individual officer include but are not limited to:

- Strength / fitness level
- Personal experience
- Skills/ability/training
- Fears
- Gender
- Fatigue
- Injuries or illness
- Critical incident stress symptoms
- Cultural background
- Sight / vision

### **Tactical Considerations**

An officer's assessment of a situation may lead to one of the following tactical considerations. Conversely, these factors may also impact the officer's risk assessment of the situation.

- Disengagement and consequences
- Officer appearance
- Uniform and equipment
- Number of officers
- Availability of backup
- Availability of cover
- Geographical considerations
- Practicality of containment, distance and communications
- Agency policies and guidelines
- Availability of specialty units and equipment
- Presence of incident command

As mentioned, an officer's primary duty is to protect life and preserve the public peace. However, when a situation escalates dangerously, or when the consequences of continued law enforcement intervention seriously increase the danger to anyone, the option to disengage may be considered appropriate. The National use of Force Framework also recognizes that due to insufficient time and distance, the imminence of the risk of harm or the nature of the situation, the option to disengage may be precluded.

## USE OF FORCE OPTIONS

The situation, subject's behaviours and the officer's perception and tactical considerations drive the *Assess-Plan-Act* process. Following the risk assessment, the officer must develop a response plan that he feels is reasonable and appropriate under the circumstances. In this regard officers are always guided by the philosophy that the most successful police intervention is the one that results in the least harm.

This section discusses the categories of force response options that are available to the officer.

In the graphical outer ring of the NUFF model there are five response options. (In the IMIM model the graphic represents six response options). These range from the simple professional presence of the officer all the way up to the use of lethal force. Unlike the categories of subject behaviour, there is a great deal of overlap between the response options available to the officer. For example, *Communication* overlaps with physical control (empty hand control), intermediate weapons, and lethal force options. This indicates that the officer may employ more than one force response option at the same time.

The force response options may be used alone or in combination to enable the officer to control the incident using the least amount of force reasonably necessary given the circumstances. The premise of the graphic is that an officer's perception and tactical considerations are specific to the situation. The dynamic nature of the situation requires continual assessment and this guides the officer in determining whether to escalate, de-escalate or, when possible and appropriate, to disengage from the situation.

The following provides a brief discussion of the force response options available to the officer in both the NUFF and the IMIM models.

### Officer Presence

While not strictly a physical force option, the simple presence of a uniformed officer at the scene can affect both the subject and the situation. Visible signs of social control and authority, such as uniforms and marked law enforcement vehicles can change the subject's behaviour either positively or negatively. The majority of individuals respond positively to the presence of law enforcement personnel. In these situations, the simple presence of officers is often all that is needed to obtain compliance.

However, in some situations where the subject responds negatively to the presence of law enforcement, the officer must be prepared that simply their arrival at the scene may be the catalyst to cause the situation to suddenly escalate.

There exist numerous examples of officers being assaulted or killed at very early stages of intervention. In fact, in many of these cases the subject initiated the assault on the officer before the officer even had an opportunity to verbally interact with the offender. (More will be discussed on this topic in the section on the spontaneous nature of human aggression and its implications for law enforcement officers).

## **Communication**

An officer should use professional verbal commands and dialogue aimed at obtaining subject compliance. The use of congruent body language consistent with the objectives must also be utilized in an effort to gain voluntary subject compliance.

## **Physical Control**

The model identifies two levels of physical control: soft and hard.

Generally speaking, physical control (or empty hand) means any physical technique the officer uses to control the subject that does not involve the use of a weapon.

Soft techniques are control-oriented and have a lower probability of causing injury. These techniques typically rely upon pain compliance such as restraining techniques, pressure points and joint/arm locks. Handcuffing would also be included in this category. These techniques are roughly applicable to a subject exhibiting passive resistant and active resistant behaviour.

Hard techniques are intended to stop an aggressor's behaviour or to allow for the application of a control technique. These physical tactics include such techniques as empty hand strikes, knee strikes, punches, kicks and neck restraints. These techniques are roughly applicable to a subject exhibiting behaviour that the officer perceives as being active resistant to assaultive.

## **Intermediate Weapons**

The use of intermediate weapons includes such devices as the conducted energy weapon, oleo-resin capicum, and batons. This category also includes options available from specialty units such as kinetic energy rounds and the use of canine.

The use of these devices typically has a statistically higher probability of injury although by design, they are not intended to cause serious injury or death.

The use of intermediate weapons corresponds roughly to a subject exhibiting assaultive (combative) behaviour.

### **Lethal Force**

These force options involves the use of any weapons or empty hand techniques that are designed or intended to or are likely to cause death or grievous bodily harm.

