# A Quantitative Method for the Analysis of Constitutional Factors in Police Use of Force

By Greg Stewart

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Contact: greg.stewart@portlandoregon.gov

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## Introduction

The police are in the unique position of being authorized to use force in the service of civil society.  Bittner's (1970) insights into how this authority impacts the police and community remain as relevant today as when he initially made those observations.   The ability to use force is not unconstrained.  While bounded by a number of legal decisions and departmental policies, which will be discussed later, the authorization for police use of force can be broadly described as being dependent upon the need to safeguard the public, to accomplish some purpose for which the government has a legitimate interest in (for instance apprehending an individual with a warrant) or in self-protection. Even with this broad range of potentially authorized uses, research has repeatedly demonstrated the infrequency with which police use force (Adams, 1999; Baley & Garofalo, 1989; Hickman, Piquero, & Garner, 2008).

Use of force which is perceived as unnecessary, regardless of its constitutionally,  has negative consequences for police.  Sunshine and Tyler (2003) highlight the benefits of gaining compliance from resitant individuals without resorting to the use of force.  In particular Tom Tyler's work (while not complete see: Sunshine & Tyler, 2003;Tyler, 2004; Tyler & Fagan, 2008) has highlighted the necessity of legetimacy if the police are to effectively manage crime and disorder in the communities they serve.  Additionally, this work demonstrates the importance of both trust in the motive of the police (motive-based trust) and an approach which is viewed as being fair (procedural justice).  This research suggests that simply managing force to a the level recognized by the courts may not be sufficient if those being policed have higher expectations .

Use of force by police has consequences which extend beyond considerations of legitmacy and effective policing.  These incidents can result in the injury or even death of individuals.  A 2010 study involving multiple agencies found rates of suspect injuries ranging from 17 to 64 percent and officer injuries from 10 to 20 percent in cases involving the use of force (Smith, et al., 2010). A second study (examining Charlotte-Mecklenburg, Colorado Springs, Columbus, Fort Wayne, Portland and St. Petersburg) found officer injuries in roughly 8 to 15 percent of cases involving force and suspect injuries in approximately 16 to 74 percent of cases involving force (Terrill, Paoline III, & Ingram, 2012).  While the vast majority of these injuries are minor in nature there is the potential for serious injury or even death.

The damage caused by these incidents can extend for years, impacting not only the individuals themselves, but their families, friends and even entire communities.  While it may not be possible to eliminate such incidents entirely, the police have a moral obligation to attempt to reduce these incidencts to the greatest extent possible.  They also have an obligation to analyze these incidents and utilize such analysis to develop better strategies and tactics.

The injuries sustained in these encounters are more than just physical. Gearson (1989), examined 37 police officers involved in serious shooting incidents.  Nearly half meet the criteria for Post-

Traumatic Stress Disorder (PTSD) at some point following the shooting and all but 3 (approximately 92%) had symptoms associated with PTSD. Other studies (McCaslin, et al., 2006) analyzed officer narratives of stressful events. Their analyses revealed that situations involving high personal threat put officers at greater risk for subsequent distress than situations with low personal threat. Given the implications for long-term officer health it is in the best interest of police agencies to resolve situations, if possible, in such a way that use of force (which inherently places an officer at additional risk) is decreased. Clearly avoiding unnecessary conflict would be in the best interest of the public, the police and the subjects or suspects interacting with police.

Civil lawsuits also provide a fiducial reason for reducing force. Serious police miscoduct and inappropriate use of force can create enormous costs to police agencies. For instance, as of March 3rd, 2013 the city of Chicago has already spent the over $27 million set aside for settling lawsuits related to police misconduct and is anticipating the use of bond sales to cover the costs of other anticpated settlements (Babwin, 2013). While serious misconduct by police can result in spectacularly expensive settlements, a little understood cost is the potential for enormous lawyer's fees that result from relatively minor mistakes, such as improperly documenting the disposal of photographs or handcuffing the incorrect person.

The Civil Rights Attorney's Fees Awards Act of 1976 was enacted to provide for the private enforcement of civil rights statues. This legislation enables attornies in civil rights cases to seek reimbursement for their time and costs when prevailing in a civil suit. They need not prevail on the primary issues of the suit (for instance the primary focus of the suit can be around use of force but they can prevail over a relatively small procedural mistake) and can potentially seek payment in fees many times larger than the award[1]. The impact of this legislation is that even low levels of force, if used inappropriately, can lead to large costs. As mentioned above the purpose of this law was to provide private  attornies a financial incentive to enforce civil rights violations. The potential liability provides police administrators and city leaders an impetous to manage not just deadly force but also effectively monitor and manage force at all levels.

If all the above reasons did not provide police administrators with sufficient reason to place an increased emphasis on the management of force, the United States Department of Justice (DOJ) is engaged in an upricidented campaign focusing on changing police policies, regulations, analysis, and management of force. Since 2010 the DOJ has placed an increased emphasis on enforcement of its civil rights mission (United States Department of Justice). This led to increased funding and a prioritization of civil rights cases (United States Department of Justice). Among other important civil rights issues the DOJ Civil Rights Division focused its enforcement efforts on various police agencies across America. This emphasis is reinforced by the President

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[1] There are maneuvers where a defendant (i.e. usually a city or other non-federal governmental entity) can take to protect themselves from such awards but it is not unheard of for relatively small awards to lead to fee payments of tens of thousands to dollars to the prevailing attorney.

of the United States, who promised to "restore professionalism to the Civil Rights Division and reinvigorate federal civil rights enforcement" (United States Department of Justice).

The Civil Rights Division has not only refocused efforts on civil rights issues generally but has also significantly increased funding and embark on an unprecedented campaign of civil rights enforcement focusing on policing agencies.  In 2010 alone, an additional $22 million was requested to fund additional lawyers tasked with investigating possible civil rights violations (Savage, 2009).  As of September, 2011 the Department of Justice had conducted probes of 17 policing agencies (including both municipal police and sheriff's departments).  This is the largest number of such investigations in the history of the DOJ Civil Rights Division (Markon, 2011).

These investigations have met with mixed reviews (Police Exective Research Forum, 2013).  Many agencies have said that the investigations have helped spur useful reforms and increased resources for programs which would otherwise not be available.  Other agencies have felt the reforms imposed were too costly and/or found DOJ "experts" wanting in relevant expertise.  Complaints have arisen around having to educate experts hired by the DOJ as well as the use of experts who may be inappropriate.  Examples of this include claims that the DOJ is using "experts" whose experience is in smaller jurisdictions and were unfamiliar with issues associated with running large departments (Police Executive Research Forum, 2012).  An example of how inappropriate expertise may lead to problematic policy was the DOJ demand that Seattle hire up to 54 new sergeants in four to six months to increase the ratio of sergeants to officers (Thompson & Miletich, 2012).  The proposal, called "wildly unrealistic", did not account for the fact that promotional process must be announced a year in advance.  Perhaps more importantly agencies the size of Seattle will rarely have that many individuals qualified to become sergeants at the same time.  Promoting individuals to sergeant on an abreivated process, when they are not ready, could lead to long term issues for an agency.

A review of the Department of Justice website demonstrates the increased vigilance on the part of the Civil Rights Division.  Since 2008, this has led to the investigation and/or legal notification related to civil rights issue of the following police agencies: the Alamance County Sheriff's Office of North Carolina (2011), East Haven Police Department, Connecticut (2011), Escambia County Sheriff's Office, Florida (2012), Montgomery County, Maryland (Statement of Interest, 2013), the Harvey Police Department, Illinois (2012), The Inglewood Police Department, California (2009), the Lorain Police Department, Ohio (2012), the Los Angeles Police Department, California (2009), the Maricopa County Sheriff's Office, Arizona (2010), the University of Montana Office of public Safety, Montana (2013), the Missoula Police Department, Montana (2013), the New Orleans Police Department, Louisiana (2011), the Orange County Sheriff's Office, Florida (2008), the Portland Police Bureau, Oregon (2012), the Puerto Rico Police Department, Puerto Rico (2011), the Seattle Police Department (2011), the Baltimore City Police Department, Maryland (2012), the Suffolk County Police Department, New York (2011), the Town of Colorado City, Arizona (2012) and the Yonkers Police Department, New York (2009) (United States Department of Justice). This list does not include

other law enforcement agencies which are being investigated primarily for issues related to corrections, juvenile justice or investigations primarily focusing on corruption as opposed to civil rights violations (see http://www.justice.gov/crt/about/spl/ for additional information).

A web-based search also finds additional agencies being investigated or reviewed by the Civil Rights Division.  This includes: the Albuquerque Police Department (NBC News staff and wire services, 2012), the Austin Police Department (George, 2011), the Cleveland Police Department (Freiden, 2013), the Denver Police Department (ABC 7 News, 2011), the Miami Police Department (Hamacher, Tester, & Orkin Emmanuel, 2011), the Milwaukie Police Department (Associated Press, 2013) and the Newark Police Department (Star-Ledger Staff, 2011).

These investigations often result in "Consent Decrees" or other forms of settlement.  The costs associated with the reforms required by the DOJ are often in the millions of dollars and can be difficult to implement.  For instance, the New Orleans Police Department has estimated that the reforms associated with its settlement with the DOJ will require $55 million and just the expense associated with monitoring the decree will cost $7 million (Martin, 2013).  The Seattle Police Department called the DOJ's initial reform proposals "wildly unrealistic" and estimated that the initial reforms proposed by the DOJ would cost $41 million a year (Miletich & Thompson, 2012), while the Portland Police Bureau has reported that complying with the proposed settlement between the city and the DOJ will cost over $5.8 million in the first year alone (Reddin, 2012).  Police agencies wishing to avoid the costs of these reforms and the potential for having ineffecient or even counter productive reforms imposed upon them should focus on developing systems to avoid attracting federal attention.


## Current Efforts at Monitoring Use of Force

Given the above considerations police agencies must do a better job of documenting, analyzing and ultimately managing their use of force.  There has been a growing realization of this on the part of police leaders.  This is illustrated in "Emerging Use of Force Issues" (IACP/COPS, 2012).  Among other issues, this report highlights the importance of using use of force data and analysis to inform police practices.

While there is growing recognition regarding the necessity of improving how force is analyzed and ultimately managed, as of yet there is no national consensus on how force is collected, recorded or what tools are appropriate for examining force.  On the contrary, where the DOJ has intervened they have explicity refused to provide an indepth explanation of their methodolgy to researchers wishing to replicate their work (Hickman & Atherley, 2012).  Interestingly, the DOJ, which aggressively advocates for evidence-based practices in law enforcement, has failed to provide guidance in the area of data collection and analysis involving police use of force. The department's Civil Rights Division has refused to publicly detail the methodology they use in

judging cases to involve 'excessive force'. Similarly, the DOJ has not presented data on the reliability of their evaluation process.

As mentioned above the DOJ "methodology" does not provide any direction or basis for local agencies in this regard. Firstly, little is known of how they go about making their assessments. This makes any attempt at replicating it (even if the intent is only to better abide by the standards they wish agencies to adopt) impossible. When attempts at replicating the DOJ's findings have been made the results have been inconsistent. For instance, in the DOJ's review of the Seattle police they found that when force was used by the Seattle Police Department, it was unconstitutional 20% of the time (United States Department of Justice Civil Rights Division, 2011). Hickman and Atherely (2012) used the same cases and attempted to replicate DOJ findings and found that potentially 3.5% of these cases were potentially unconstitutional.

Since this finding the DOJ, cites case law which they believe allows them to establish a "pattern and practice" of civil rights violations using "anecdotal" as opposed to "statistical evidence":

> *Consistent with this definition, courts interpreting the term in similar statutes have established that anecdotal evidence is sufficient; statistical evidence is not required. Catlett v. Mo. Highway & Transp. Comm'n, 828 F.2d 1260, 1265 (8th Cir. 1987) (interpreting "pattern or practice" in the Title VII context and citing Hazelwood Sch. Dist. v. United States, 433 U.S. 299, 307-08, 97 S. Ct. 2736, 2741 (1977) (for statistical evidence) and Briggs v. Anderson, 796 F.2d 1009, 1019 (8th Cir. 1986) (noting that "statistical evidence is not essential in proving" pattern or practice Title VII claim," and anecdotal evidence may be relied upon)). For a court to find a pattern or practice, it does not need to find a set number of incidents or acts. See United States v. W. Peachtree Tenth Corp., 437 F.2d 221, 227 (5th Cir. 1971) ("The number of [violations] . . . is not determinative . . . . In any event, no mathematical formula is workable, nor was any intended. Each case must turn on its own facts"). (Department of Justice, 2012 p. 8)*

The DOJ may not need statistical analysis to establish a "pattern and practice" of civil rights violations in the context of a letter of finding or legal proceeding. However, relying on "anecdotal" evidence may not be sound public policy. Additionally, for agencies which disagree with the DOJ, statistical evidence may be their only defence. Ideally, this evidence would account for constitutional factors and provide agencies a better way to measure force relative to constitutional factors. The DOJ investigation of the Portland Police Bureau is an excellent example of how simply reducing the total number of force cases and demontrating systemic issues around mental health will not protect an agency from an adverse DOJ finging. For instance, in the case of the Portland Police Burea the agency was able to demontrate a long term downward trend in force usage:

- The total number of force cases fell from 1677 in 2008 to 1116 in 2011.

- The percentage of arrests involving force fell from 4.73% in 2008 to 3.86% in 2011.
- The percentage of contacts involving the use of force fell from 0.42% in 2008 to 0.29% in 2011.
- The agency also demonstarted a measurable increase in demand for police services related to mental health issues (Stewart, Gerritsen, Covelli, & Henning, 2012).

The Portland Police Bureau could show training initiatives to improve the Bureau's reponse to mental health issues (including training every officer in the patrol division in Crisis Intervention Training) and could also demonstrate that force uses such as the number of ECD/Taser applications were declining substantially. Despite this the agency could not quantify force relative to constitutinal factors. Agencies should be aware that demonstrating a reduction in aggregate police use of force and identifying systemic issues driving police contact with persons with mental or behavioral health issues may not be sufficient for to disuade DOJ attornies from issuing a negative finding regarding the constitutionality of an agency's use of force.

Even more importantly, statistical evidence will be needed for police agencies to develop strategies aimed at improving how they manage use of force. If an agency wishes to use data to measure improvement in not just the total number of force incidents but also in how force is used relative to constitutional factors, simply counting the number and types of force while using a qualitative review of individual reports may not provide sufficient nuance to identify trends as they develop. This may be even more important in evaluating the programs being implemented. If an agency trains officers to utilize more de-escalation techniques or if the agency increases changes around how it trains use of force relative to constitutional factors, it will be necessary to havesdata collection systems which reliabily capture this information.

Finally, there is research regarding consent decrees around the related issue of racial profiling which indicate that such decrees do not produce meaningful changes in agency behviors. Kupferberg (2008) examines consent decrees regarding racial profiling placed on the Los Angeles Police Department, the New Jersey State Troopers and the New York Police Department. He notes the effects of these kinds of decrees have not been tested and examines the available data to see if these decrees had measurable impacts on the demographic of police stops. His conclusion is that these decrees had no measurable effect. In light of this finding, Kupferberg argues that the focus of future actions should be on forcing openness and transparency on the part of law enforcement. Reliable coding of data is an essential component of transparency. If records are not consistently coded the utility of the data as a method for evaluating performance is limited or non-existant.

Kupferberg's emphasis on transparency aligns with theoretical work around the excessive use of force by police. Klockars (1996) identifies three theoretical mechanisms for controlling excessive force by police:

- Criminal Law, e.g. the use of criminal sanctions against police officers who engage in excessive force
- Liability, e.g. the ability of individuals damaged to receive civil compensation[2]
- Fear of scandal, e.g. the natural inclination to avoid behavior, which if exposed, would prove embarrassing

It is the last of these theoretical constraints on force which increased transparency would aid most (and to a lesser extent liability).

This project argues that developing more consistent and reliable use of force standards is an important component to improving how police use force. Such improved standards should be something that both police reform advocates and police leadership can support. To accomplish this goal this project proposes following:

1) Identify a preliminary set of key legal criteria that will be need to be considered in reviewing use of force by police[3].
2) Review and critque existing research and approaches to analyzing use of force incidents (Alpert & Dunham, 1997; Alpert, et al., 2004; Binder & Scharf, 1980; Garner & Maxwell, 2002; Garner, et. al., 1995; Hickman & Atherley, 2012; Klinger, 1995; Terrill, 2005; Terrill, et. al., 2003).
3) Propose a new system for coding use of force incidents which will improve upon existing systems by incorporation additional, legally relevant factors (i.e. control over subject when force is used, governmental interest, threat to officer) and explicity code information available to the officer at the moment force is used[4].
4) Provide a template or "check list" to improve collection of data relevant to the constitutionality of use of force.
5) Evaluate the reliability of the instrument developed.
6) Make improvements to the system based upon the results of this evaluation.
7) Finally, describe potential applications for this system which are consistent with current police practices.

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[2] However, from a practical perspective police officer are generally indemnified for all but the most egregious abuses of authority (Emery & Maazel, 2000).

[3] The author of this report, while a police sergeant, does not claim to be an expert in constitutional law. The factors developed should be submitted to a more robust legal analysis prior to deployment.

[4] The purpose of the methodology proposed in this project is not to provide a quantitative or definitive method of judging the "constitutionality" of a particular force usage. Instead it seeks to develop a coding system which incorporates constitutional standards into the use of force analysis so that police agencies can identify broad trends in their use of force more generally and highlight particular cases for more in-depth qualitative review, provide researchers a window into the possible excessive use of force by police, provide a consistent metric for evaluating use of force across policing agencies and flag potentially troubling force uses at the individual level for further review. This knowledge would afford agencies an opportunity to develop policy and training solutions to ensure force use remains well within constitutional limits. Furthermore, it could address issues of potential concern to the public and the DOJ preemptively, allowing agencies to avoid costly litigation and even more expensive reform packages.

## Key Legal Criteria

Prior to the last half decade police administrators maintained considerable control and discretion over how to manage use of force by their officers. In 1985, the Supreme Court's Tennessee v Garner (Tennessee v Garner 471 U.S. 1, 1985) limited police use of force and, in particular, prevented the use of lethal force against non-dangerous fleeing felons. This appears to have reduced the use of lethal force by police (Tennenbaum, 1994); however, other research has shown that police administrators have considerably more influence over police use of force than the courts (Fyfe & Walker, 1990; Fyfe, 1980; Reiss, 1980; Sherman, 1980; Waegel, 1984). Later court decisions such as Graham v Connor (Graham V Connor 490 U.S. 386 , 1989) added a reasonableness standard to use of force. These legal precedents have opened the door for the use of civil rights litigation to constrain police behavior. A simple web-search of police use of force settlements reveals hundreds of costly legal settlements leveled against police agencies for inappropriate use of force. In many ways, police behavior around use of force was contrained by creating a fiducial imperative for police administrators to manage force.

Post Graham v Connor, the reasonableness standard applied to police officers when using force against a free person (individuals not incarcerated or otherwise under state control) is based upon the "totality of the circumstance." The courts found the "totality of the circumstance" includes the following: 1) the severity of the crime, 2) the threat posed by the subject, 3) if the incident is tense, uncertain or rapidly evolving and 4) the level of resistance offered by the suspect (including both active resistance and resistance via flight) all help determine if force usage was objectively reasonable based upon the totality of the circumstances (Graham V Connor 490 U.S. 386; Department of Justice, 2012). Under this test of reasonableness, determining absolute differences in the amount of force an officer uses to overcome resistance will be necessary but not sufficient in any decision around the constitutionality of a particular use of force incident.

Finally, the courts have ruled that decisions regarding reasonableness should not be made with "20/20 hindsight" but instead should be made from the perspective of what "a reasonable officer" would have done had they had the same information an officer possessed at the time of the incident. Examining events after the fact are inevitably tinged with an element of "20/20 hindsight"; however, a structured process designed to capture what officers know at key points in an encounter may help overcome this limitation.

In summary, the courts have provided four specific factors, often called Graham Factors, which determine the reasonableness of a particular application of force (it is important to remember that this applies to each independent use of force, hence the need for sequencing). The factors are as follows:

- The severity of the crime (which may be related to government interest in the case)
- The immediate threat presented by the subject (again this may change as an encounter evolves)

- The extent to which the subject was actively resisting arrest (or other lawful action)
- The related concept of attempts by the subject to evade arrest through flight

It goes without saying that even though police agencies are constitutionally entitled to use force, they have a moral obligation to use it only in the amount reasonably necessary to safely perform their duties. In addition to this moral imperative there are both financial and functional reasons to manage force as effectively as possible. This project proposes a methodology to examine force in the hopes of better meeting these goals.

## The Analysis of Use of Force by Police

**The Impact of Policy on the Aggregate Use of Deadly Force by Police**

Initially, the analysis of police use of force focused on the use of lethal force and policy or legal impacts on deadly force. For instance, as early as 1973, Uelman comments on how policy can impact use of deadly force. In a similar vein, Fyfe (1980), examines how New York City's administrative rules impacted deadly force use, and Reiss (1980) explores methods for controlling police use of deadly force.

Similar to how the DOJ is currently using civil law to impact admistrative policies regarding the more general use of force, this early research examines how agencies use policy to limit officers' discretion in when and how they employed deadly force. This may not be surprising given that Waegel (1984) observes that deparmental policy appears to have a greater impact on police use of deadly force than statutory change. Additionally, Reiss (1980) and Sherman (1980) both observe that policy type mechanisms (including certain reviews of police shootings) impact use of deadly force.

While policy and legal precedentmay impact the use of deadly force, other research indicates that "cultural" factors such as leadership style or a culture which tolerates out-of-policy use of deadly force can mitigate the impact of policy. White (2001) examination of the Philadelphia Police Department finds that factors such as the elective or non-elective nature of shootings, policy considerations and the philosophy of individual leaders impact the use of deadly force.

While not an exhaustive list, other areas of early use of force research include theoretical research into conflict theory and the use of deadly force by police (Jacobs & Britt, 1979), how race impacts the use of deadly force (Goldkamp, 1976; Fyfe, 1982) and how higher education impacts use of deadly force decisions (Sherman & Blumberg,1981). Other early studies of more general force usage compare how individual, situational and organization determinants impact use of force by police (Friedrich, 1980). Prior to Freidrich's (1980) study, most analyses of force usage consist of descriptive statistics. Freidrich's study utilizes multi-variate regression to analyze use of force.

This research has lead to several methods for examining force. These include "Decision-Point Analysis", "Force Factor Analysis" and the as yet unnamed approach taken by Hickman and Atherely (2012) of using a modified "Force Factor Analysis" with additional constitutional factors. Though there are similarities between these systems, to be thorough and to demonstrate their distinct qualities it is important to analyze them individually, presenting them as separate but related systems.

**Decision-Point Analysis**

While it is popular term, there is actually a dearth of material describing how to effectively conduct "Decision-Point Analysis" as it relates to policing. In fact, the author, conducted several internet searches using terms such as: "decision point analysis and police use of force training" and was able to find only one person (Former Chief Charles Gruber, a DOJ "expert") offering such training. An attempt to find a book on this subject was similarly unsuccessful. A search for "decision-point analysis policing" yielded books on decision-making in health care and management but none on "decision-point analysis" as it relates to policing. A search of the National Institute of Justice found some studies examining the static decision-points used in prosecutorial and judicial decision-making but nothing which could be used to institute an agency-wide training on using this system. While undoubtedly some material exists which the author was unable to find, there appears to be no better readily available training material than this quote from "National Guidelines for Police Monitors" (Bobb, et al., 2008):

> *To fulfill such obligations, a monitor should preferably analyze a given incident from its inception rather than focusing narrowly on the ultimate use of force. An officer-involved shooting, for example, is best analyzed from the moment police officers are dispatched. Each key strategic or tactical decision by the officers thereafter should be subject to thorough review in which alternatives are considered. This methodology is called "decision point analysis" and was first formulated by the late James Fyfe. This methodology recognizes that a shooting is the product of a sequence of decisions, and it analyzes each component decision. Ultimately, the monitor and the monitored agency must ask themselves whether the shooting could have been avoided, without amplifying the risk of death or serious bodily injury to the officer or officers involved, by the reasonable adoption of different tactics and strategy at each "decision point."*

Mr. Bobb (one of the authors of this work) was assigned by the DOJ as an appointed monitor for the City of Seattle Police Department as part of a DOJ settlement with that agency (Murphy, 2012). As with the methodology employed in their other analyses, the material available for formal use of "Decision-Point Analysis" appears to be available only from a select group of individuals closely associated with the DOJ.

The DOJ Settlement Agreement with the Portland Police Bureau mandates supervisory investigations not only for the use of deadly force or even serious force (punches, tackling a subject, etc.) but for all force (United States of America v. City of Portland and Portland Police Bureau, Proposed 2013). While even minor use of force incidents were reviewed by a sergeant and potentially other command persons (dependent on the nature and severity of the incident), the agreement requires that supervisors respond to the scene of any incident where the suspect resists handcuffing and must also conduct a full investigation for additional review. The DOJ made a similar recommendation to the Seattle Police Department in its investigation of the SPD (United States Department of Justice Civil Rights Division, 2011). Given this mandate, the costs of adopting a more structured process (as is advocated for in this project) for capturing and recording the use of force is negligible. In fact, the adoption of such a process would protect the agency in question not only from civil lawsuits but also provide a scientific basis which could remove the debate regarding "patterns and practices" of excessive force from the DOJ's preferred realm of "anecdote" and place the argument onto a more evidence-based and empirically valid footing.

Additionally, the DOJ's proposed settlement requires the use of decision-point analysis. While the DOJ does not directly attribute this approach to them, Binder and Scharf (1980) advanced a similar "transactional" analysis on use of force (particularly lethal force). This "transactional approach" or "decision-point analysis" of force usage is the intellectual antecedent of Alpert & Dunham (1997), Terrill et. al.'s, (2003) and particularly Terrill (2005)'s force factor analysis.

*Limitations of Decision-Point Analysis*

"Decision-Point Analysis" was originally advocated for analyzing "deadly-force" or "police shootings." Accord to Bobb et. al., (2008) it entails analyzing each key decision-point preceding the use of force. While theoretically sound, by disaggregating extremely complex events into a series of individual pieces, the individuals reviewing these decisions from a comfortable, low stress perspective, and well after the event itself occurred, may violate the courts admonishment in Graham v Connor that events not be judged using "20/20 hindsight" but instead be viewed from the perspective of a "reasonable officer on the scene." This last point argues that without a structured assessment of what the officer in question was aware of at the moment of the use of force (and potentially at each key decision-point), this kind of analysis would be at risk of using the kind of "20/20 hindsight" prohibited by the court.

Given the lack of readily available training material, it is likely that those departments utilizing "Decision-Point Analysis" are doing so in an ad hoc manner and without the requisite structure to avoid intuiting more information to the officer (due to the benefit of near complete knowledge of events that would unfold after the fact) than the officer actually possess or could reasonably process.

Finally, the author could find no recent empirical work related to policing and "Decision-Point Analysis." Given the evidence-based approaches advocated by the DOJ it is important to develop some structured assessment of how this approach works and then develop material to train that approach with a high degree of fidelity. Unlike "Decision-Point Analysis", "Force Factor Analysis" and specifically the analysis of sequential interactions in the use of force seeks to provide more structure to the analysis of police use of force. This structure is especially important in the examination of aggregate force data.

**Force Factor Analysis**

In 1995, Garner, Schade, Hepburn and Buchanan piloted a "continuum of force" approach to use of force analysis. For this analysis, the authors developed three measures of police force. The first measure, physical force, was heretofore the standard metric for the evaluation of police use of force. It was a dichotomous variable. Force was either present or absent.

The second measure, "The Force Continuum" incorporates a range of officer and suspect actions. For the officers, this includes: No Force, Police Presence, Verbal Commands, Control and Restraing (handcuffs), Chemical Agents, Tactics and Weapons (other than chemical and firearms), and Firearms Use. For the suspect, this includes: No Resistance, Psychological Intimidation, Verbal Noncompliance, Passive Resistance, Active Aggression, and Firearms Use. While more refined than the first measure, the authors note that the scale was still ordinal and that this level of measurement may not be entirely reflective of the reality of force usage.

The third measure, "Maximum Force", consisted of a scale between 0 and 100. This scale was constructed via a convience sample of a small number of officers rating 80 different police and suspect behaviors. The authors are very clear that this scale may not be reliable or valid, but instead it is an exploration of different ways to examine force. This study stresses the importance of measurement of use of force by police and of developing new ways of examining it.

Studies continue to focus on police use of force as more than a dichotomous outcome. For instance, researchers examine both the prevelance of force and how force options are combined (Klinger, 1995), as well as continuing to develop more discrete methods for analyzing and measuring force.

Alpert & Dunham's (1997) development of the "force factor", which measures officer force relative to suspect resistance, was an early attempt to create a quantitative basis for the "reasonableness" of an officer's actions. This method focuses on the "highest level" of resistance or force in any given encounter between suspect and officer, but does not sequence the relative timing of those incidents. Thus, it would be possible for an officer to initiate an encounter with a very high level of force, have the suspect respond with a similarly high level and have the factor appear equitable. This was an imperfect method for assess the resistance of

a suspect.  Alpert, Duham and others added to this model, further refining it (Alpert, Dunham, & MacDonald, 2004; Crawford & Burns, 1998; Terrill, Alpert, Dunham, & Smith, 2003).

Terrill (2005), sequenced force encounters by creating dyadic force/resistance interactions between officer and suspect.  This allows for a quantitative analysis of force as it progresses through an encounter and addresses some of the issues created by simply examing the highest level of force used by the suspect and officer.  This system, based roughly on the use of force continuum used by police as a heuristic device to aid in force decision-making, allows for a test of reasonableness by focusing on the proportionality of force used (is the amount of force used by police similar to that of the suspect) and incramentalism (if prior levels are force are insufficient to obtain the desired result it allows for an escalation on the part of the officer).

This system operationalizes "reasonableness" as force applied proportionate to resistance and states that force should increase incramentally. While both these factors are important, the courts have additional considerations on how to define "reasonable" use of force by police.  Police use of force researchers recognize the importance of defining and measuring "excessive force." Engel (2008) noted in an editorial that scholars inability to measure "excessive force" has resulted in this important phenomenon being understudied.  By incorporating constitutional factors and better defining reasonableness the proposed methodology may provide an initial framework by which "excessive force" can be measured.

*Limitations of the Force Factor*

*Reasonableness*

The force factor incorporates only the level of resistance and ignores the nature of the crime (often associated with the government's interest in a particular situation), the threat an individual may pose and if the incident itself is rapidly evolving and/or uncertain.  Governmental interest can vary dramatically; it ranges from responding to violent crime, where the government may have significant interest in preventing the activity, to checking on someone's welfare, where the government may have very little interest, particularly if force is required to resolve the situation. Threat can be manifest in a number of ways such as potentially being armed, differences in size, strength or other important physical characteristics, the number of officers present etc. Uncertainty and/or the way the incident unfolds are largely ignored as well.  All of these factors can increase or decrease the acceptable differences between the levels of force an officer employs relative to the resistance offered by the suspect.

Furthermore, it is explicitly linked with the "The Force Continuum" (Garner, Shade, Hepburn, & Buchanan, 1995).  When this research arose the "Use of Force Continuum" was the dominant paradigm in training police use of force[5]. Ed Flosi has written an excellent series of articles on

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[5] The author was trained using a similar system in 1996.  On a personal note it was an excellent system for affording a structured decision-making process (basically a heuristic) under extremely stressful and rapidly evolving situations.

the use of force in policing (Flosi, 2011; Flosi, 2012a; Flosi, 2012b) which highlights the limitations of the "Force Continuum" in light of Graham v Connor[6]. Importantly, the factors which make it an excellent heuristic for rapid decision-making (it is mechanical, hierarchical and structures) do not meet the "reasonableness" requirements of Graham V Connor 490 U.S. 386. It measures resistance and to some degree threat but fails to embrace the "totality of the circumstance."

*Reliability*

While a number of studies have been conducted using a force factor analysis or similar methodology, the ability of multiple coders to successfully analyze police reports consistently has not been adequately tested. Additionally, incorporating constitutional factors, which may be inherently more subjective, could further reduce reliability. While an estimate of reliability does not guarantee the validity of the assessment, it is a necessary first step. To be useful for law enforcement agencies (as well as researchers) any method of coding and evaluating force would need to be consistent.

The ability to reliably code police use of force would have additional benefits. Focusing on specific behaviors on the part of suspects and officers would make it possible to analyze different patterns of force usage between police departments. The current lack of structure in how agencies measure force makes comparisons between agencies difficult (Hickman et al., 2008).

Garner & Maxwell (2002) use a force factor analysis to compare force across six police jurisdictions and note that such coding enables them to compare force despite potentially differing internal definitions. However, accomplishing this requires that the entire data set be coded specifically for this project. The development of a demonstrably reliable coding system, if used widely, could facilitate comparisons between data sets collected for different projects.

**Determining Excessive Use of Force**

Recognizing the first of these limitations, Hickman and Atherley (2012) set about examining use of force by the Seattle Police Department between January of 2009 and March of 2012. This research utilizes a static force factor analysis (highest level of force used by the officer minus the highest level of force used by the suspect), dynamic force factor analysis (coding officer/suspect force interactions for up to 10 iterations throughout a force encounter) and, importantly, develops a more robust filter to identify potential Graham Factors associated with the case.

Hickman and Atherley use incident details from the report to operationalize relevant Graham Factors. For instance, threat or intention to inflict harm is captured from both the narrative (in the form of a threat level) and from check boxes used to indicate the level of resistance or force the suspect used. This system also captures evidence of flight (via a check box on the report), governmental interest (via a checkbox on the report which indicated the type of incident i.e. was

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[6] This series of articles provide an excellent introduction to this complex topic.

it a felony, a violent crime etc.), as well as a set indicators to operationalize the suspect's level of impairment (via checkboxes on the report which recorded factors such as if the officer smelled alcohol, if the suspect appeared mental ill, if the officer had knowledge that the suspect was not taking medications, or had poor balance etc.). This last factor was determined to be present if two or more of the above indicators was checked on the officer's report.

All of the factors above, except the threat level, have the advantage of being a checkbox on a report form. This reduces the potential impact of a subjective coding system and places the responsibility for the reliability of the coding system on the officers filling out the reports and the police supervisors who approve the reports. The presence of Graham Factors could either increase or decrease the "reasonableness" of force.

To conduct their analysis the authors examined cases with a static force factor of plus 1 (meaning the officer used one level of force higher than the suspect) and that case did not have a compelling Graham Factor related variable. The cases were then excluded for various reasons (for instance the use of an ECD/ Taser or firearm against an animal). This left 43 cases, or 3.5% of the force cases examined, as being potentially excessive.

*Limitations*

Hickman and Atherely are very clear that their methodology needs additional research and concede that it may not be possible to capture indicators of excessive use of force from administrative police records. This author is in complete agreement as to the potential difficulties of conducting such assessments from administrative records.

**Determining Constitutionality from Administrative Records**

Despite these reservations, agencies have compelling reasons for developing better systems to examine force in a constitutional context. While it may be argued that such an analysis is impossible, the fact remains that DOJ investigations are using administrative records for just this purpose. Additionally, a recent court case regarding the New York Police Department's use of "Stop and Frisk" (David Floyd et. al., against The City of New York, 2013) used data designed for the administrative purpose of tracking stops to determine the constitutionality of such stops. In his expert report to the court, Jeffrey Fagan, Ph.D. (Fagan, 2013) developed a system where he assesses the constitutionality of stops based partially upon the nature of the activities the officers check in those boxes. Using this system he determined the following (p.55):

- 68.9% of all stops were "legally justified"
- 24.4% of stops were "indeterminate" (unable to determine constitutional justification)
- 6.7% were legally insufficient
- And, almost 30% were "facially unconstitutional, or lacking sufficient information to makes a complete determination."

In her ruling, Judge Shira A. Scheindlin, found that, "the analysis of the UF-250 database reveals that at least 200,000 stops were made without reasonable suspicion." This ruling should be an immediate wake-up call for agencies collecting administrative records on issues with significant constitutional import. Dr. Fagan's analysis, while thorough, is utilizing administrative records to make assessments regarding the constitutionality of 4.4 million stops. The court found this analysis very compelling and it appears to have played a major role in the courts findings against the City of New York. Police administrators should be aware that collecting insufficient or incomplete records regarding the constitutionality of significant police actions may result in adverse court outcomes. Police administrators should also be aware that possessing such records and failing to use them to address important constitutional issues, even if those failures stem from a lack of statistical expertise or the fact that primary purpose of such forms is not to evaluate constitutionality, may also result in adverse court outcomes.

The author of this system was trained to write reports in such a manner as to facilitate the recall of important facts as part of trial process. This is fairly standard training and is especially true for administrative systems (as opposed to investigative reports) such as those used in stops collection, whose **primary purpose is to collect demographic as opposed to constitutionally relevant data**. For instance the Portland Police Bureau Stops Collection system collects no information relevant to determining the constitutionality of pedestrian stops. This is not due to an oversight but because it was designed for a different purpose. If the courts and DOJ are going to use such systems to determine "constitutionality" it will be necessary to design systems for that purpose and then make the individuals using them aware that the intent of said systems is not simply to collect aggregate demographic data, but also to determine the "constitutionality" of such stops. Finally, researchers, who have an obligation to assess the validity of the measures they use, should advocate for systems which collect demonstrably reliable data as opposed to systems which gather data whose primary purpose is for reporting demographic information and presuming it can measure other constructs.

While there are legitimate questions surrounding the empirical validity of determining the constitutionality of force (or any police action) solely from administrative records, the fact that these records are being used in this manner is not arguable. Furthermore, these records are being used to justify police reforms with costs which can run into the tens of millions of dollars for individual agencies and potentially the hundreds of millions or even billions of dollars nationally. Given the financial and political costs, as well as costs to police legitimacy, it would behoove agencies to develop systems to capture better data, employ it earlier for more robust analysis and highlight potential concerns so that they can be addressed in a voluntary and, ideally, less costly fashion.

Finally, Smith (2008), provides an overview which highlights a number of issues with any proposed system of examing excessive use of force using administrative records. Despite Smith's reservation, he does accept the possibility of utilizing report narratives as a source of

data but questions how such large volumes of qualitative data would be analyzed. Smith's concerns are valid and get to the heart of what this project attempts to provide.

## Constitutional Force Analysis

In light of recent court cases and DOJ investigations it is necessary for police agencies to develop better systems for capturing force data as it relates to constitutional factors. The system proposed in this project is a first step towards addressing this deficiency. The system, "Constitutional Force Analysis" (CFA), utilizes legal criteria using a methodology similar to that employed by Hickman and Atherely (2012). However, where their work relied primarily upon attributing constitutional relevance to pre-determined administratively recorded factors, this project seeks to define and measure the reliable coding of a broad array of constitutional factors not captured by "Force Factor Analysis." This system builds on the approach used by Hickman and Atherely by adding more specific, constitutionally relevant variables. The available data will be greatly improved if a reliable and valid coding system can be developed that captures both the more qualitative narrative data associated constitutional factors and the quantitative administrative reports.

The initial review form was designed for both "Constitutional Force Analysis" as well as to capture administrative items which a police agency might be interested in. In this way, it was hoped that the form could meet the competing needs of data collection, quality control over use of force review and administrative records keeping. To accomplish this, the form (See Appendix A) was structured as follows:

**Section One - Information Available to the Officer**

Both Graham v Connor and "Decision-Point Analysis" take into account the information available to the officer at certain key points during encounters that result in police use of force. While "Decision-Point Analysis" could ultimately break down an incident into an infinite number of potential decision points, a practical and fair analysis would attempt to limit this to several key junctures. For this form we believed that two key points during an encounter presented themselves.

The following are examples of variables which are coded for these encounters (see Appendix A for the entire list):

- Whether a call was dispatched or the officer was on-scene
- Demographic factors such as race, age and gender
- Variables associated with the mental/behavioral health status of the individual such as if they are exhibiting signs of mental health or substance abuse issues

- Variables which may increase the threat of the call such as a history of violence, the presence of weapons or a history of non-compliance with police
- Variables associated with the governmental interest of the call (i.e. is the officer responding to a violent crime, a property crime, a welfare check etc.).

These variables are coded at two junctures:

*Information Available to the Officer Prior to Arrival On-scene*

This section analyzes the information available to responding officer at the first key "decision-point." If forces the evaluator to explicitly analyze the information available to the officer prior to arrival. This information will generally be relayed by dispatchers to the officer but may also include information known to officers other than responding officers (for instance an officer who has responded to a location in the past on a similar call may have pertinent information and relay this to the responding officer).

This is important for a number of reasons, including but not limited to the following:

1. Depending upon the information available, an officer may choose to request additional specialized units. These may consist of units such as Crisis Intervention Team officers who specialize in interacting with persons with a mental illness, tactical units such as K-9 (officers with trained dogs) or less-lethal weapons (often a shotgun or similar weapon firing blunt projectiles which cause trauma but are employed in such a way as to minimize the risk for serious injury).

2. Information available prior to arrival may impact subsequent tactical decisions. An example of this may include where an officer parks (for instance the presence of a weapon may call for parking a fair distance and out of sight of the location of a call) of the officer waits away from the call so that appropriate units (see above) can arrive with the officer.

3. Lack of information prior to arrival or a rapidly evolving situation may make higher levels of force acceptable under the calculus of Graham v Connor.

This is a structured assessment of the information available to the officer prior to arriving. Rather than merely reading reports and getting a "feel" or a "sense" of what an officer might know at a given point, this system complies with Graham and forces the evaluator to judge the information as it is known to the officer at this point in time. Without such structure it will be difficult for an evaluator with complete knowledge of what occurred to accurately assess how an officer responded at this "decision-point."

Finally, an additional benefit of collecting this data systematically is to improve and agencies tactical response. For instance, if responding officers are not provided with sufficient information it may necessitate changes to the dispatching process. If officers are regularly uninformed of constitutionally relevant factors prior to their arrival on calls (when time permits) it may be necessary to alter dispatch protocols.

*Information Available to the Officer from the Arrival On-scene to the Use of Force*

The next area of analysis for the information available to the officer occurs from the time of arrival until the use of force. This is a second key "decision-point." During this phase the officer may be able to learn important information from witnesses, observations or interviews with the subject upon whom force is used, or other sources. This information (or lack thereof) may impact plans, tactics, resources, or even the decision to remain at the location (an example of the latter would be the Portland Police Bureau's evolving practice of leaving the scene when presented with uncooperative, armed, intoxicated suicidal subjects who are alone in their home, if they do not present a threat to others in the area).

It is important to remember that the information initially associated with a call can be inaccurate. This period reassess what an officer may have learned prior to the force usage.

**Timing of Events**

The second section analyzed examines the timing surrounding events. Graham v Connor and related legal decisions on police use of force make allowances for the fact that decisions regarding use of force are often made under sub-optimal conditions. The court explicitly makes allowances for this fact:

> *...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.* (Graham V Connor 490 U.S. 396-397)

One of the variables used in this system to account for "circumstances that are tense, uncertain, and rapidly evolving" is the timing of events. Subjective bias can be moderated by explicitly forcing the individual examining an application of force to account for the timing of events. This does not mean that events which extend for long periods of time cannot be tense, uncertain or evolve rapidly. It is less likely that these situations would meet the criteria set forth in Graham. Similarly, it is very likely that situations which result in force shortly after the officer contacts the subject would be considered "circumstances that are tense, uncertain, and rapidly evolving."

**Sequential Interactions**

The concept of combining constitutionally related factors in force encounters with a sequential analysis of use of force is borrowed directly from Hickman and Atherely. Building on their work this system captures additional information which will be relevant to agencies when analyzing force both at the aggregate level and the level of an individual officer. This information can then be used to reduce unnecessary or constitutionally questionable use of force by the police.

To accomplish this goal requires the reliable coding of the sequential interaction between officer and suspect. Traditional analyses generally examined the level of force used by both the officer and subject, without fully considering other constitutionally relevant factors. This simplified these encounters and provided important data for research purposes but did not account for more complex factors which would be important for a policing agency seeking to use this system to better monitor and analyze force.

Examples of potentially constitutionally relevant factors often not explicity captured by "Force Factor Analysis" include the threat the subject posed to third parties or themselves. Officers in this analysis frequently employed force in the response to aggression against third persons. Examples include a police officer assisting a bouncer fighting with a patron. In this case the officer used force to get the subject away from the bouncer without the subject even being aware of his presence. Other examples included suicidal individuals threatening harm to themselves, a store security officer attempting to apprehend a shoplifter and one officer using force against a subject who was fighting with another officer. Officers are legally empowered to use force to protect third parties.

Another relevant variable added to the sequencing for this project is the level of control attained by the officer at the conclusion of each sequence. This may impact the appropriateness of the level of force employed at the next sequence by potentially reducing the risk a subject poses to an officer. For instance, force may be constitutionally employed to apprehend a subject who, after being handcuffed, manages to flee from an officer. However, the threat this person poses to the officer by virtue of their restraints is less than an identical but unrestrained subject. By capturing this variable we can further explore uses of force which test the bounds of constitutionality. Policing agencies have a vested interest in reducing force against restrained individuals in particular. One needs only review cell phone videos of police using force against restrained individuals to gain a sense of how damaging such force, even if constitutional, can be for an agency's legitimacy.

Appendix A provides a complete list of the variables coded, but broadly this section captures the following:

1. The *Subject's Response to the Responding Officer* which captures the level of resistance a subject is using to resist police authority.

2. The *Subject's Actions toward Third Parties or Themselves* which captures the danger or threat a subject poses to others or themselves.
3. The *Responding Officer's Actions toward the Subject* which captures the level of force (ranging from mere presence to the use of lethal force) an officer uses in response to the above variables.
4. Finally, this system captures the *Control Achieved of the Subject*. This last variable is exceptionally important. As discussed above the concept of resistance does not completely capture the constitutional concept of "threat." Additionally, it serves as a reminder about the purpose of use of force by police, namely, force is employed not only to overcome resistance but ultimately to gain control of dangerous situation or individual. An officer who repeatedly punches or uses an Electronic Control Device (ECD or Taser) against a subject without ever making attempts at controlling the individual may be using force unconstitutionally, regardless of the level of resistance[7].

The DOJ findings letter to the Portland Police Bureau highlights the importance of capturing the above variables:

> *In particular, we found that PPB officers use electronic control weapons ("ECWs", which are commonly referred to as "Tasers") in circumstances when ECW use is not justified or use ECWs multiple times when only a single use is justified in encounters with people with actual or perceived mental illness. We found instances that support a pattern of officers using multiple cycles of shock without waiting between cycles to allow the suspect to comply, or officers failing to utilize control tactics during ECW cycles to properly affect handcuffing without having to resort to repeated ECW shocks.* (Department of Justice, 2012; p.3)

The DOJ's concern appears to be the use of ECD's (Tasers) as an instrument to control a situation. Instead they appear to be advocating that Tasers be an instrument used not for control but to gain other, less invasive, types of control.

Another example of the importance of this variable can be found in the DOJ's findings letter for the Seattle Police Department. In the document the DOJ specifically point to use of force by police against individuals who are restraine:

> *4. SPD Officers Use Excessive Force Against Individuals Who Are Already Under Physical Control.*

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[7] The issue of repeated applications of ECD's is justifiably of particular importance to groups such as the DOJ, the American Civil Liberties Union and Amnesty International. This is of particular importance when interacting with individuals under the influence of intoxicants or experiencing a mental health crisis. While most agencies are able to capture incidents where mental/behavioral health issues are combined with the use of the Taser. The most current data collection on use of force uses a single static box for mental health and/or substance abuse. This system will also be able to disaggregate these incidents to determine what if the officer was aware of prior to using force. This is relevant in that officer may have little or no information regarding the individual mental health status until after force is used.

> *We find that SPD engages in a pattern or practice of using excessive force against individuals who are already under control. Under the "totality of circumstances" approach, it is more likely to be unreasonable to resort to force when a subject does not pose an immediate threat to the safety of the officer or the public. See Graham, 490 U.S. at 394. An officer should be extremely hesitant to use force against an arrestee who has already surrendered or who has been restrained or rendered helpless. LaLonde v. Cnty. of Riverside, 204 F.3d 947, 961 (9th Cir. 2001) ("[I]n a situation in which an arrestee surrenders and is rendered helpless, any reasonable officer would know that a continued use of the weapon or a refusal without cause to alleviate its harmful effects constitutes excessive force"); Blankenhorn, 485 F.3d at 480 (holding that an officer's punches were not reasonable where subject had stopped struggling). Our review of use of force reports identified multiple instances in which force was used against people who were handcuffed, prone, and/or otherwise under physical control.* (United States Department of Justice Civil Rights Division, 2011; pp.13-14 )

The last sentence of this finding should be of particular importance to police administrators. The DOJ states, "*Our review of use of force reports identified multiple instances in which force was used against people who were handcuffed, prone, and/or otherwise under physical control.*" In the real world physical control is not a dichotomous (yes/no) outcome. Instead there is a range of control, much as there is a range of force, which extends from no control and in the most extreme cases ends with a person fully restrained (handcuffs and leg hobble) in the secure section of a patrol car or holding cell. Force cannot be examined from a constitutional perspective without accounting for this variable.

The DOJ court cases cited by the DOJ deal with individuals who surrendered and are no longer struggling, which can be very different from an individual who is "handcuffed" or "prone" but may still be resisting. Regardless of the legal merit of their arguments, an adverse finding by the DOJ can cause incredible damage to community/police relations. Additionally, the DOJ has rarely needed to actually argue its findings in court but instead has been able to act through political pressure to engage agencies in the reforms they desire. For these reasons the DOJ possess tremendous practical power and this system treats DOJ findings as de facto legal rulings.

Operationally, each sequence will consist of an interaction where the subject's actions (even if that action is no resistance) toward the officer and subject are coded, followed by the officer's response to that action and culminating in the control achieved at the culmination of the sequence.

This section also includes an administrative section capturing the justification provided by the officer for each use of force. This is important as light of concerns around repeated applications of the ECD's. Again this section forces the reviewer to note if each specific application of force was justified. Such justifications protect bot the agency and the officer.

**Reliable Sequencing Not Possible**

There may be situations which unfold so rapidly that they cannot be sequenced. While none of the cases examined for this report rose to this level, it may be necessary, in rare instances, to simply code the highest level of force used by the officer and the level of resistance of the subject. If adopted by an agency the inability to sequence a police use of force encounter should flag these incidents for further review. It will be necessary to determine if issues surrounding sequencing are a result of deficiencies in report writing or instead a result of an exceptionally dynamic event.

**Miscellaneous Elements**

This section contains a mix of administrative variables such as injuries to the subject, injuries to other parties and injuries to the responding officer. It also documents the involvement of third parties, such as parole and probations, security, other persons or if the subject intended self-harm.

In light of recent DOJ findings this section captures one variable which deserves particular emphasis.

*De-escalation*

Programs designed to promote de-escalation have existed in law enforcement for a number of years. An example of this is "Verbal Judo." Verbal Judo also called Tactical Communications, "enables officers to further preserve law and order while maintaining their own and the public's safety by using Appropriate Presence and Words as force options" (Thompson, no date). Trainings around de-escalation have generally not received the emphasis of training related to specific force tactics or decision-making as it relates to use of force.

Perhaps as important, many agencies have not emphasized documenting attempts at de-escalation. Historically, the process designed at determining if use of force was constitutional revolved around a structured legal process in which testimony supplemented administrative records. While this process still exists, DOJ findings have generally relied upon review of administrative records. Such records often lack documentation of attempts at de-escalation.

Both DOJ findings and internal audits at various police agencies point to the importance of both training and documenting such attempts. In their findings against the Seattle Police Department, the DOJ quoted auditor reports that stated the following:

> *In addition to the shortcomings in training relating to use of force weapons (such as batons), use of force reporting, and sergeant training discussed above, we also find deficiencies in training relating to verbal de-escalation techniques. The incidents discussed in our findings, in Section IV.A, illustrate that force could*

*have been avoided in many cases if the officers had better strategies for using verbal commands before resorting to the use of force.*

*SPD's most recent Special Report on the Use of Force (2006-2009) emphasized the "command and control" culture at SPD. It states: "To put it bluntly, officers are not trained to fight fair. Instead officers are trained to take appropriate action to bring a situation under control as quickly as possible in order to minimize the risk of harm to everyone. There is no matching of action/reaction, and no requirement to try varying levels of force." In other words, officers are trained how to win conflict, but not how to avoid it. In response, OPA auditors have repeatedly recognized, since as early as 2004, the necessity of implementing training that assists officers in learning how to de-escalate situations to avoid "the escalation of minor street confrontations into situations involving forceful arrests" and to make "better early tactical decisions" to avoid forceful arrests. Many community members we spoke to also emphasized that they believe SPD officers should be doing much more to de-escalate confrontations.*

*We understand that SPD has committed to develop the LEED (Listen and Explain with Equity and Dignity) training, which will focus on respect, listening skills, and the use of verbal tactics as an alternative to the use of force. This is a positive step forward, and particularly important in terms of developing SPD officers' skills on communicating with the diverse communities and populations they encounter on a daily basis. We also encourage SPD to expand its training of officers, in conjunction with its CIT unit, on how to handle encounters with people who have mental illness or are under the influence of alcohol or drugs.*

*We urge SPD and the Training Unit to maintain its sense of urgency with respect to its priorities and implementation plans, and to make improvements swiftly. (United States Department of Justice Civil Rights Division, 2011; pp.23-24)*

In their letter to the City of Portland, the DOJ asked the city to "Revise policies, to place greater emphasis on de-escalation techniques and require officers to consider less intrusive alternatives before employing force" (United States Department of Justice, 2012; p. 41).

In the August of 2012 Critical Issues in Policing Series, the Police Executive Research Forum (PERF) released "An Integrated Approach to De-Escalation and Minimizing Use of Force" (Police Executive Research Forum, 2012).  This document summarized the results of PERF research, and also held a summit to present and discuss this research.  Among a number of other important issues this report discusses "The importance of training for officers in these encounters, and practicing strategies to de-escalate volatile situations" (Police Executive

Research Forum, 2012; p. iv). At the session a number of agency representatives discussed how DOJ CRD investigations helped move their agencies forward on this issue.

Finally, at this session Oakland Police Captain Ed Tracey pointed out, "If you're going to expect it, inspect it" (p.33). The de-escalation section aims to accomplish this. Without documenting attempts at de-escalation an agency cannot ensure that such attempts occur. If it is not explicity coded the assumption may be that de-escalation did not occur. Furthermore, by coding these events agencies can monitor trends over time and if necessary identify officers who are not employing attempts at de-escalaton.

This section examines the following types of de-escalation techniques:

- Dialogue – discussions where the officer explicty documents how dialogue was used in an attempt at de-escalation.
- Negotiation – While perhaps not the ideal form of negotiation, the author of this document is aware of officers who carry packs of cigarettes and lighters (but do not smoke). These are used to de-escalate tense situations (i.e. telling a person who is under arrest that they can have a smoke before going to jail if they do not resist custody).
- Problem-solving – examples of this include arranging to handcuff a subject away from their children. This entails working to resolve potential conflict points in a mutually acceptable manner.
- Explaining your actions – An example of this include explaining policies around searches or handcuffing a potentially resistive subject in the hopes of making them understand that the officer has limited discretion in certain cases. This can be helpful in resolving issues where problem-solving is not possible because of limitations imposed by policy or officer safety concerns.
- Communicating concern – Documenting attempts made to the subject that officers actions are not punative but instead the result of concern for their welfare. This can be helpful in cases involving medical/mental/behavioral health.

Agencies wishing to increase the use of de-escalation must document its occurrence or absense.

**Documentation**

This section is also administrative in nature. It documents whether officers provided a warning prior to using force or if a warning was not given. Furthermore, it documents if the reports explained the reason for this. It also notes if officers explained the influence of mental/behavioral health issues play in the call. Finally, it documents if officers explain how events in the call influences their perception of the threat associated with the call. This last item is important in that officers will often document resistance or the subject's actions but fail to elaborate on how those actions impacted the threat of the sitituaion. In an era where administrative records are used to assess constitutionality, it is essential for officers not only to

elaborate on a subject's specific actions, but also to include how such actions impacted the officer's perception constitutionally relevant factors such as threat.

**Graham Factor Review**

The final section of this review attempts to document the presence of "Graham Factors." This entails:

- The overall level of governmental interest for the incident
- The overall level of threat the incident presented the officer
- The overall level of resistance faced by the officer
- If the situation required the officer to act immediately

This last factor attempts to address the Graham related issues of "rapidly-evolving" situations and also the concept of "tactical disengagement." In the PERF report on de-escalation, one of the issues covered is "tactical disengagement" (Police Executive Research Forum, 2012). Officers must do a better job of "choosing their battles." Some situations require immediate action and therefor fall into the Graham definition of "rapidly-evolving", other situations can wait. This section seeks to identify trends where officers engage in the use of force in situations which did not require immediate action. By flagging such incidents agencies can identify both officers who may need additional training around "tactical disengagement" and situations which may make such disengagement difficult.

## Methodology

**Training**

This project utilizes a group of five students from Portland State University's Psychology Department (four undergraduates and one graduate student) and the author of this project as coders. Prior to coding, this group met weekly for ten weeks for one to three hours a week to help train for this project. Training included discussing police tactics, terminology and training, tours of police facilities, reviewing training materials on police use of force (including relevant Graham Factors), reviewing police reports, practical exercises utilizing the coding system, and for several of the students additional independent sessions with the author (a police sergeant and 18-year police veteran) to cover any questions. The students averaged over twenty hours of instructor based training and additional time out of class reviewing provided materials. While the training was robust, considering the project was unfunded and the coders were volunteers, one significant limitation of this project is the lack trained police professionals (or at least formally legally trained individuals such as attornies) to act as coders. None of the coders had police experience or were familiar with police practices, policies or nomenclature. This lack of familiarty both slowed the coding process and potentially reduced the reliability of the coders.

Coders were provided with a code book (see Appendix C for the revised version, the orignial is available upon request) which covered the relevant categories and provided a reference for specific issues they may encounter. They were also provided a structured form to aid in the assessment (see Appendix A for the initial version of this form and Appendix B for the final version). Because the coders would be evaluating police reports and work inside a police facilitiy they received background investigations. This work was complete for college credit as part of a two term lab on issues related to gender, race and sexual prejudice.

**Coding Sessions**

Coding sessions were conducted in a police facility under the supervision of a police sergeant. For the purpose of determining the sequencing of force incidents, pairs of coders met and agreed on the actual sequences (officer/suspect interactions) to be coded and then independently coded each report ($N = 50$). Coders were allowed to ask for clarification on specific police terminology (such as what a particular abbreviation or acronym means), as well as general questions regarding police tactics but were not provided feedback regarding the specific actions under review. In order to conduct the coding sessions, coders averaged approximately one meeting a week for two to three hours for a 10-week period.

Pairs of coders initially could only code an estimated two reports per session; however, as they gained experiene they eventually managed to complete approximately four reports per session. The ability to code reports in a timely fashion is important. Medium-sized police agencies such as those in Portland, Oregon or Seattle, Washington report averaging approximately one to three use of force incidents a day. Given the funding of most agencies, any force reporting system must be reasonable in the amount of time it takes to complete. Given that inexperienced coders could accomplish a review in perhaps 30-minutes to one hour per use of force incident, it is reasonable to believe that most medium to large agencies could code their use of force reports in one to four hours a day. For agencies that have sergeants who respond to use of force incidents and conduct investigations, this coding system could act as both a method of data collection as well as a potential checklist to highlight areas of potential concern for supervisors early in the investigative process.

Ideally, this form could be completed by the sergeant investigating a use of force incident and the officer involved in the use of force incident. While more time consuming, this process could serve as a debrief, ensure that relevant questions were documented and provide an opportunity for discussions around how future response could be improved.

**Data**

The unit of analysis for this methodology consists of an individual officer's use of force at the case level, excluding incidents where the only force used was pointing a firearm, was used as part of protest or crowd control action, was part of a confidential case, or where lethal force was

employed.  Thus, if two officers employed force in the same cases, the coders would review each officer's use of force independently.

As discussed in Hickman & Atherley (2012), including weapons drawn or pointed firearms in use of force research presents several potential problems.  Among other issues, pointing a firearm, while certainly coercive,  is arguabley not force (or perhaps it is better considered a threat of force).  Often data on pointing a firearm is not consistently collected (the Portland Police Bureau collects data on incidents where a firearm is pointed, but many agencies do not).  Perhaps most importantly, point a firearm is often not discretionary in nature.  While the Portland Police Bureau has revamped it training, both the Oregon Department of Public Safety and Standards (the body which certifies law enforcement officers in Oregon) and the Portland Police Bureau consistently taught techniques which involve pointing firearms in situations such as unknown risk car stops.  There is a general expectation that in certain instances officers point their firearms.  This expectation could be viewed as a matter of policy, reducing discretion on the part of officers.  Finally, unlike other force incidents, which require each officer using force to complete a use of force form, if multiple offices point firearms, Portland Police Bureau policy allows for a single officer to complete a report for everyone involed in the incident.  This makes tracking instance where firearms are pointed less reliable than other force types.  For these reasons reports where the only "force" used was pointing a firearm were excluded.

Past protests were also excluded due to the chaotic nature of these events, the lack of suspect data in many cases (officers did not make an arrest and the suspect fled, but the officer documented the force usage) and the fact that the infrequency of force at these events did not provide a sufficient sample to analyze seperately from other force types.  Had the coders examined these reports they would have coded three uses of force from one incident, when only one of which had an identifed subject.

Confidential reports (this amounted to one case in the initial sample) were excluded because the coders were not authorized to review these kind of cases.  Finally, reports of use of lethal force are handled through a separate and much more indepth  investigative process.  Cases involving deadly force generally consist of thousands of pages of investigative material and would take hundreds of hours to review.

The reports examined by the coders were written between January 1, 2012 and February 10, 2012.  At this time, the requirements for reporting force were dictated by Directive 1010.20 Physical Force from the Portland Police Bureau's Manual of Policy and Procedure (Portland Police Bureau, 2009).  This directive requires any officer who uses force to complete a use of force report with the exception of situations where multiple officers point firearms (as previously mentioned, in those situations one officer may complete the reports and list the other officers pointing firearms as present).  This directive defined physical force as "Physical contact that is readily capable of causing physical injury, as well as pointing a firearm" (pg. 529, Portland Police Bureau, 2009).  Physical injury  is defined consistently with the Oregon Revised Statue

161.015 (7) (State of Oregon, 2004), "the impairment of physical condition or substantial pain" (Pg. 529, Portland Police Bureau, 2009). This would generally include force incidents which range in severity from a control hold, which is readily capable of causing injury (this might include something like an armbar takedown where the individual is thrown to the ground but would not include a wrist lock where the subject does not resist to the extent where an injury is likely to occur), up to intermediate weapons use (such as baton strikes, the use of a Taser or the use of shotgun fireing beanbag rounds[8]).

The reports for this analysis were drawn sequentially from a list of 805 reports of uses of force which encompased 607 cases which occurred during 2012

For this analysis, the author prepared packets on incidents occurring between January 1, 2012 and  March 12, 2012.  Coders rated 50 reports (each reported rated by two individuals). The reports were presented sequentially by date.  Unfortunately the coders had to utilize three different rooms during the coding process and the reports were inadvertently moved out of sequence.  Due to this, the final cases consisted of 50 of the first 94 cases of 2012.

Each report was coded for up to 152 variables depending on the number of sequences each officer/suspect interaction consisted of.  As mentioned above, prior to coding each report the team of coders met, reviewed the report, agreed on if the officer was on-scene at the beginning of th incident or if the officer was dispatched, and agreed on the sequencing of the incident.  This was necessary for purposes of the reliability analysis.  If the coders did not agree on the sequencing exactly, it would not be possible to compare their ratings of each independent sequence.  For instance, if coder 1 thought the coded two sequences initially as being involving a verbal exchange and coder 2 thought that only one sequence was involved in the initial exchange all subsequent sequences would disagree, even if they subsequently rated those sequences identically.  The number of sequences ranged from 1 to 14 sequences with a mean of 3.5 sequenced interactions.  Similarly to Hickman & Atherely (2012), over half of the cases coded ($n = 26$) ended by the fourth sequence.   Only 16%  ($n = 8$) of the cases examined went past the $6^{th}$ sequence and only 4% ($n  = 2$) went bast the $9^{th}$ sequence.

In addition to sequencing force encounters, coders evaluated if the information related to the incident was clearly present, clearly absent, not available or if conflicing information existed on the variable both prior to the officers arrival on-scene (e.g. did dispatchers or witness provide this information prior to the officer contacting the subject on whom force was used) or if the information was developed by the officer between their arrival onscene and the time force was used.

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[8] The Portland Police Bureau uses "less-lethal" shotguns.  These guns fire beanbags travelling at several hundred feet per second.  It is very rare for these rounds to cause significant injuries and Bureau policy prohibits certain uses (such as aiming at the head) further reducing the chance of serious injury.  However, given the weight and velocity of these projectiles it is possible (although it has not happened in Portland) for an individual to sustain lethal injury from these rounds.  There has been an incident where a lethal (buckshot) shotgun round was accidentally loaded into one of these weapons and fired at an individual, causing serious injury.

**Analysis**

A variety of analyses designed to quantify the amount of agreement between different coders are used in this document. For nominal data, both the percent of observed agreement (how often two coders agree) and Cohen's *Kappa* are used. Cohen's *Kappa* or *k* corrects the chance agreement between two coders. Put another way, this statistic computes the proportion of agreement after controlling for amount of chance agreement expected to occur (Cohen, 1960). By supplying both values the reader can gain better perspective on the true level of agreement between coders. Some of the data herein can be considered either ordinal or nominal (e.g. use of force which proceeds from low levels of force to higher levels). In addition to Cohen's *K,* a variety of correlation coefficients (ICC, Kendal's *t,* Spearman's *rho*  and Pearson's *r*) are used to determine reliability for data which can be treated as ordinal. However, a word of caution is necessary in interpreting these results. Several variables included "could not determine" as a coded category. Those cases, when they occurred, were removed. In these instances the correlation coefficients actually measure agreement between raters when both raters were able to make a determination regarding the presence of the variable. This will over-estimate the true level of agreement. Readers should be careful to interpret these results in light of this limitation. Those sections have been noted for the reader. Finally, due to this issue the final analysis treat these scales as nominal values.

## Inter-rater Reliability

Reliability as a concept is important to any coding scheme, if such a scheme is to utilize multiple reviews. This section details attempts at determining the extent to which it is possible for multiple coders to consistently review the same material and make identical assessments. Overall, the inter-rate reliability exhibited by the coders was mixed. Some variables had relatively high levels of reliability while others exhibited low reliability. It is important to remember that this project was completed using unpaid volunteer coders with no police or legal training beyond that provided for the project. Ideally, this system would be deployed using professionally trained individuals with more extensive training. The final review sheet attempts to balance reliability and efficiency while capturing the information necessary for agencies to improve their responses to incidents involving police use of force.

## Information Available to the Responding Officer

Officers often respond to calls with limited information. This lack of initial information may limit an officer's ability to plan adequately and maximize advantages which might reduce the use of force. The courts recognize this fact, as is evidenced by both their reluctance to engage in "20/20 hindsight" and an explicit recognition of the uncertainty inherent in police work.

One possible dimension of this uncertainty is the information available to officers prior to arriving on a call.  Information obtained prior to arrival may allow officers to summon specially trained units (such as Crisis Intervention Team officers who have additional training in dealing with persons with mental illness), plan their response upon arrival or seek advice from supervisors.

To capture these elements, coders examined 23 variables related to constitutional and policy factors which might impact officer decision making.  These factors were only available on $n = 33$ of the reports because officers were not dispatched to the remaining 17 cases (in these cases officers observed behavior and took immediate action as opposed to having a person call 911 and provide information to them).  The variables were rated as "No Information Available", "Present", "Absent" or "Conflicting Information."  Table One details the findings related to these variables:

**Table 1. Inter-Rater Reliability on for Variables Prior to the Responding Officers Arrival On-Scene**

$n = 33$

| Variable | Observed Agreement | Cohen's $k$ | % Variable Present Coder 1 | % Variable Present Coder 2 |
|---|---|---|---|---|
| Demographics | | | | |
|   Age | 87.9% | 0.753 | 60.6% | 54.5% |
|   Gender | 87.9% | 0.672 | 78.8% | 72.7% |
|   Race | 87.9% | 0.764 | 60.6% | 54.5% |
| Incident Factors | | | | |
|   Specific Mental Health Problem/Sympton | 97.0% | 0.784 | 9.1% | 6.1% |
|   Non-Specific Mental Health Problem | 100.0% | 1.000 | 9.1% | 9.1% |
|   Alcohol Problem/Was Using Alcohol | 97.0% | 0.926 | 27.3% | 30.3% |
|   Drug Problem/Was Using Drugs | 100.0% | Constant | 0.0% | 0.0% |
|   Criminal Record | 93.9% | 0.476 | 6.1% | 3.0% |
|   History of Violence | 96.9% | 0.784 | 9.1% | 6.1% |
|   History of Weapons Access/Use | 100.0% | 1.000 | 6.1% | 6.1% |
|   History of Gang Involvement | 100.0% | Constant | 0.0% | 0.0% |
|   History of Non-compliance | 100.0% | Constant | 0.0% | 0.0% |
|   Known to Be Armed | 87.9% | 0.170 | 0.0% | 6.1% |
|   Suspected of Being Armed | 90.9% | 0.631 | 15.2% | 6.1% |
|   Subject Presents Unique Threat(s) to Resp. Ofc./3rd Party | 81.8% | 0.208 | 21.2% | 3.0% |
|   Location is High Crime or Dangerous | 97.0% | 0.000 | 3.0% | 0.0% |
|   Situation Presents Threat to Resp. Ofc./3rd Party | 90.9% | 0.369 | 12.1% | 3.0% |
| Governmental Interest | | | | |
|   Responding to Violent Crime | 87.9% | 0.739 | 33.3% | 39.4% |
|   Responding to Property Offense | 87.9% | 0.595 | 15.2% | 21.2% |
|   Responding to Public Disorder | 87.9% | 0.645 | 27.3% | 15.2% |
|   Pursuit Call/Subject in Flight | 90.9% | 0.678 | 12.1% | 21.2% |
|   Welfare Check | 75.8% | 0.494 | 36.4% | 42.4% |
|   Warrant | 97.0% | 0.000 | 3.0% | 0.0% |

Table One highlights the general lack of information available to officers when responding to these calls.  For instance, even basic variables, such as age, race and gender, are available in only ¾ of these cases.   Additionally, for many variables (Drug Problem, History of Gang Involvement and History of Non-Compliance) the high percentage of observed agreement is due to absences of the variable in question.  A review of the reports revealed that in nearly all cases the use of the "Absent" code for variables went unused.  This would imply that either the information in question is not being obtained (e.g. no one asks the person calling police if the incident involved gangs, drugs etc.) or if the question is asked it is not documented in call logs or reports.

The level of agreement between raters on these variables is mixed. Certain variables, such as alcohol problem/was using alcohol, have high levels of agreement ($k = .926$) and are present in at least a large minority of the calls examined (raters agreed on the presence of this variable in 9 of 33 cases examined with one case where one rater believed alcohol to be involved and the other did not). Other variables were less promising. For instance, the variable entitled "Subject Presents Unique Threats to Responding Officers or Third Parties" has a percent of observed of agreement of 81.8% of the time; however, this high level is driven almost entirely by both raters agreeing on the variables absence. Both raters agree only once on it being present but disagreed on six other occasions when one rater felt the variable was present and the other rater disagreed. Other issues arose when asking raters to make definitive assessments. This would include assessments such as "Known to be Armed" which has a low level of agreement, $k = 0.170$ as compared to "Suspected of Being Armed", $k = .631$. This difficulty in making definitive assessments is also seen in the variables, "Location is High Crime or Dangerous," and "The Situation Threat to the Responding Officer/Third Party." The unreliability of these variables limits their utility in assessments regarding the cases in question.

Table Two utilized the same variables to examine what information was available to the officer from the time they arrived onscene (at the call) to the point the officer used of force. As with the knowledge available prior to arrival onscene this variable helps capture the information an officer might have used to conduct the required calculus involving what level of force they should use.

**Table 2. Inter-Rater Reliability on for Variables Prior to the Responding Officers Use of Force**

| $n = 50$ | | | | |
| --- | --- | --- | --- | --- |
| **Variable** | **Observed Agreement** | **Cohen's** $k$ | **% Variable Present Coder 1** | **% Variable Present Coder 2** |
| Demographics | | | | |
| Age[1] | 100.0% | Constant | 100.0% | 100.0% |
| Gender[1] | 100.0% | Constant | 100.0% | 100.0% |
| Race[1] | 100.0% | Constant | 100.0% | 100.0% |
| Incident Factors | | | | |
| Specific Mental Health Problem/Sympton | 100.0% | 1 | 6.0% | 6.0% |
| Non-Specific Mental Health Problem | 94.0% | 0.634 | 8.0% | 10.0% |
| Alcohol Problem/Was Using Alcohol | 88.0% | 0.788 | 42.0% | 32.0% |
| Drug Problem/Was Using Drugs | 96.0% | 0.645 | 6.0% | 6.0% |
| Criminal Record | 94.0% | 0.696 | 14.0% | 8.0% |
| History of Violence | 98.0% | 0.79 | 6.0% | 4.0% |
| History of Weapons Access/Use | 100.0% | 1 | 4.0% | 4.0% |
| History of Gang Involvement | 100.0% | Constant | 0.0% | 0.0% |
| History of Non-compliance | 100.0% | 1 | 2.0% | 2.0% |
| Known to Be Armed | 84.0% | 0.337 | 2.0% | 6.0% |
| Suspected of Being Armed | 80.0% | 0.367 | 14.0% | 12.0% |
| Subject Presents Unique Threat(s) to Resp. Ofc./3rd Party | 76.0% | 0.198 | 24.0% | 4.0% |
| Location is High Crime or Dangerous[2] | 90.0% | Not Calcuable | 2.0% | 2.0% |
| Situation Presents Threat to Resp. Ofc./3rd Party | 82.0% | 0.477 | 24.0% | 14.0% |
| Governmental Interest | | | | |
| Responding to Violent Crime | 88.0% | 0.724 | 32.0% | 32.0% |
| Responding to Property Offense | 84.0% | 0.562 | 22.0% | 26.0% |
| Responding to Public Disorder | 84.0% | 0.604 | 30.0% | 26.0% |
| Pursuit Call/Subject in Flight | 86.0% | 0.504 | 16.0% | 18.0% |
| Welfare Check | 80.0% | 0.485 | 22.0% | 30.0% |
| Warrant | 86.0% | 0.291 | 14.0% | 8.0% |

[1]Demographic information such as race, age and gender was available in the reports provided and coders did not need to extract this from narrative reviews.

[2]This variable was contained one missing data point.

In reviewing the reliability of what the officers knew from the time of arrival on the call until the first use of force it becomes apperent that several extremely important variables lack the level of reliability necessary to make informed judgements using this system.  In particular the lack of reliable coding for the variables, "Known to Be Armed" and "Suspected of Being Armed" have low reliability ($k = 0.337$ and $k = 0.367$ respectively).  While there is some level of agreement (84% and 80% respectively) a closer review of these scores revealed that this agreement is largely the result of both coders agreeing there is no information available to make an assessment or if the information was available it was not documented in the reports.

To improve the reliability of these scores as well as shorten the coding process the final code sheet removed the section on information available to the officer prior to arrival onscene.  This new section takes into account the cumulative knowledge gained by the officer prior to using force and would include both information gained prior to arriving as well as information developed after arriving onscene but prior to using force.  Additionally, several variables were removed due to low reliability and several other variables were collapsed.  This includes the mental health variables which were collapsed into a new variable called "Possible Mental Health Problem/Sysmpton", the drug and alcohol variables which were collapsed into a new variable call, "Possible Drug/Alcohol Involved" and the "Suspected of Being Armed" and "Known to Be Armed" variables were collapsed into "Possibly Armed Currently."  By making this change the reliability of this variable was improved to $k = 5.45$.  While low, this improvement offers the possibly of coding this variable with sufficient reliabily to be of use in future analyses.

Table Three displays the reliability of the modified variables:

**Table 3. Inter-Rater Reliability on for Final Code Sheet Variables on Information Available to Responding Officer Prior to Use of Force**

*n* = 50

| Variable | Observed Agreement | Cohen's *k* |
|---|---|---|
| Demographics | | |
|    Age | 100.0% | Constant |
|    Gender | 100.0% | Constant |
|    Race | 100.0% | Constant |
| Incident Factors | | |
|    Possible Mental Health Problem | 94.0% | 0.765 |
|    Possible Drug/Alcohol Involved | 90.0% | 0.788 |
|    Criminal Record | 94.0% | 0.696 |
|    History of Violence | 98.0% | 0.790 |
|    History of Weapons Access/Use | 100.0% | 1 |
|    History of Gang Involvement | 100.0% | Constant |
|    History of Non-compliance | 100.0% | 1 |
|    Possibly Armed Currently | 82.0% | 0.545 |
| Governmental Interest | | |
|    Responding to Violent Crime | 88.0% | 0.724 |
|    Responding to Property Offense | 84.0% | 0.562 |
|    Responding to Public Disorder | 84.0% | 0.604 |
|    Pursuit Call/Subject in Flight | 86.0% | 0.504 |
|    Welfare Check | 80.0% | 0.485 |
|    Warrant | 86.0% | 0.291 |

The final form still has several issues related to reliability. The low reliability on both "Welfare Check" and "Warrant" status for the variables associated with governmental interest are particularly troubling. In reviewing the reports associated with these variables, it appears that the"Welfare Check" and "Responding to Public Disorder" variables can be confusing. There may be a need for better definitions and training to separate these two variables. Alternately, an agency may wish to combine them and improve reliability in this manner.

"Warrant" type calls were relatively infrequent appearing just seven times for coder one and four for coder two. This raises a general issue with this data set. With only fifty cases, the *k* of many variables was limited by the lack of sample size. In many cases high unweighted kappa scores were simply not possible due to the relatively low observed marginal frequencies. An example of this is the "Possibly Armed Currently" variable. While the *k* = .545 is less than one would hope for, the maximum possible unweighted kappa is 0.715 due to the observed marginal frequencies.

Overall, the final variable set contains sufficient information to determine constitutionally important factors related to the call and determine what information the officer had prior to using

force.  It also helps address the danger of employing 20/20 hindsight in use of force analysis by explicitly forcing the coder to review each of the factors and assess the knowledge available to the officer at the point force was used.  Finally, although the reliability of some these factors is sub-optimal it is important to remember that five of the six coders for this project had no police experience, minimal training (approximately 20 hours) and no background in constitutional law as it relates to policing and use of force.  Additional research using trained police sergeants and/or lawyers familiar with police work, with more training and using larger samples has the potential to improved reliability.

## Timing of Events

The timing of events related calls involving use of force by police can impact an officers range of options in these situations.  For example, if an officer is dispatched to a call which requires immediate intervention (a domestic assault for instance) and happens to be at the location, the amount of time that officer has to plan his/her response is necessarily reduced.  Similarly, if an officer uses force early in an ecounter (an example of this might be an officer being attacked immediately upon contacting a person), the officer's ability to gain information, plan and/or de-escalate the situation is reduced.

Table Four examines the timing of events associated with this sample:

**Table Four. Inter-Rater Reliability For Timing of Events**

|  | Receipt of Call to Arrival | Arrival to Use of Force |
|---|---|---|
| *n* | 33 | 50 |
| **Percent Agreement** | 81.8% | 74.0% |
| **Cohen's *k*** | 0.741 | 0.570 |
| **Unclear to At Least One Coder** | 27.3% | 66.0% |

The difference in reliability between "Receipt of Call to Arrival" and "Arrival to Use of Force" is not surprising.  Coders had access to call logs which often provided the times of arrival and occasionally provided the time which force was used (if the officer was able to and  remembered to broadcast this information).  However, when this information was not available coders were unable to make a determination for a high percentage of these calls (66% of the calls from arrival to use of force were coded as unclear by at least one coder and 46% were unclear to both).

These calls were coded as "Short" or zero to three minutes, "Medium" or four to nine minutes, "Long" or 10 or more minutes, or "Unclear."  Coding the timing of these calls to this degree of specificity does not appear possible.  Additionally, in reviewing the cases the value of coding receipt of call to arrival (which is already available to most police agencies in a more reliable format from their dispatch centers) does not appear to add value.

To over come these limitation the final form use a dichotomized version of this variable which asks coders to specificy if the use of force appeared to be immediate (a yes or no response) or if

it is unclear.  Officers may not be able to remember and/or document the exact timing of these events but they should be able to document generally how much time they interacted with the subject, witnesses etc. prior to force being used.  Likewise, coders should be able to discern this more general variable with greater reliability.  Unfortunately, the data was not structured in such away as to assess the reliability of this change.  Future studies should examine how accurately this simplified assessment can be made.

## Sequences

The four sequenced variables in this report are: Subjects Response to the Responding Officer, Subject's Actions to Third Party or Self, Responding Officers Actions Toward the Subject and the Control Achieved Over the Subject.  Two additional variables related to how the officer justified the use of force are included for administrative purposes[9].  Sequences were coded as dyadic interactions where both subject and officer had to take one action to be considered a sequence.  If the officer used multiple actions, for instance tackling and punching a subject who had just attempted to punch them, both actions were coded as partof the same sequence.  For purposes of this analysis only the highest level of force was used, however, agencies may wish to capture both force types and this system is able to accomplish this.

**Subject's Response to the Responding Officer**

Table Five displays coders options when documenting The Subject's Response to the Responding Officer:

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[9] Agencies may find it valuable to explicitly track if officers are justifying each individual use of force.  One recommendation of the Department of Justice Civil Rights Division is use of decision point analysis.  This analysis, advocated initially by James Fyfe for examining deadly force situations, would focus on the justification for each individual force usage as opposed to a more general justification for the entire event.

| Table 5. Definitions for Subjects Response to Responding Officer | |
|---|---|
| **No resistance; verbal exchange** | The subject does not resist or otherwise refuse commands from the responding officer. The subject may argue as long as the subject follows directions. For instance, the officer may order a person to turn-around and put their hands on their head. The subject may threaten to sue the officer or get them fired but the subject follows the officer's directions. This category would also be used for encounters where the officers and subject are talking or otherwise interacting in a non-hostile manner. For instance, if an officer responded to the domestic disturbance and was speaking with the subject prior to determining that an arrest would be made. The officer may develop probable cause to make and arrest and fight may ensue but the initial interaction was non-hostile. |
| **Verbal/Passive resistance** | The subject is refusing commands from the responding officer but not threatening the officer. For instance, the officer may tell the subject to place their hands on their head and the subject may say, "no." In the absence of other actions this would indicate verbal resistance. If the subject "goes limp", acts as "dead weight" or engages in passive resistance while refusing command code their actions in this category. However, verbal resistance is also often coupled with flight. If in the above example the subject said, "no" and began to back away from the officer or turn and run it would be categorized as "physical non-compliance." Code verbal resistance in instances where the subject is refusing to comply with an order but engaging in no other actions, including threats of violence. |
| **Use of posture and verbal threats** | The subject assumes a threatening posture or issues verbal threats against the responding officer. This may include over threats such as, "I'm going to kick your ass," or attempting to appear intimidating by cracking knuckles, "puffing up" or "chest thumping". Officers may document actions such as: "the suspect clenched his fists…" or "the suspect assumed a fighting stance" which would be included in this category. Attempts to actually fight the officer, even if unsuccessful do not qualify as posture (for instance if the officer documents that the subject attempted to punch or kick a person) but would instead constitute "Active Physical Resistance". |
| **Physical non-compliance** | The subject makes attempts escape or avoid custody which do not involve offensive actions against the officer. This would include refusing to provide their hands for handcuffing (by tensing up or physically preventing the officer from handcuffing), attempting to run from the officer or refusing commands to stop. It might also include pulling away from an officer so long as there is not an offensive action (such as pushing or punching) associated with the attempt at flight. Going "limp", acting as "dead weight" or engaging in passive resistance would not count as physical non-compliance. This can be coded as verbal resistance. Similarly, acts of civil-disobedience which do not involve offensive actions (such as linking arms together while seated to block an intersection) would not be included in this category. These would also constitute verbal/passive resistance. |
| **Act. physical resistance** | The subject makes attempts to avoid control which involve offensive actions such as violent struggles to escape, wrestling, striking, pushing or otherwise using vigorous physical actions designed to prevent custody which are not purely for designed to escape the officer. Simply pulling away from an officer would not constitute active physical resistance, however, wrestling with the officer on the ground while attempting to escape would. |
| **Use of non-lethal weapon** | This would include the use of a weapon (or object being employed as a weapon such as a pool cue) in a manner that it is unlikely to cause fatal injury. Examples might include throwing a chair at an officer or striking the officer in the leg with a blunt object. |
| **Use of lethal force** | This would include actions aimed at the responding officer capable of inflicting serious injury. Blows to the head with hard objects (this would not include a single punch but would include actions such as repeatedly punching an unconscious or defenseless person in the head). It would also include the use or attempted use of stabbing weapons, group assaults against a defenseless person, chokes or other maneuvers which have a reasonable possibility of cause death. |
| **Response Not Documented** | Use this option if the officer does not articulate the actions of the subject. |

Each sequence in this category was analyzed individually out to the fifth sequence. At sequence six the number of cases available for analysis fell beneath 20 ($n = 19$ at sequence six) so no further analysis of individual sequences was performed.

Table Six examines the reliability of coders for each of the first five sequences:

**Table 6. Inter-Rater Reliability for Sequence - Subjects Response to Responding Officer**

| Agreement | Seq. 1[1] | Seq. 2 | Seq. 3 | Seq. 4 | Seq. 5 |
|---|---|---|---|---|---|
| *n* | 50 | 44 | 36 | 28 | 24 |
| **Percent Exact Agreement** | 58.0% | 65.9% | 69.4% | 61.4% | 79.2% |
| **Percent Agreement within on Level** | 78.0% | 86.3% | 83.3% | 89.3% | 91.7% |
| **Cohen's *k*** | 0.437 | 0.537 | 0.575 | 0.577 | 0.689 |
| **Correlations** | Seq. 1[1] | Seq. 2 | Seq. 3 | Seq. 4 | Seq. 5[2] |
| *n* | 44 | 44 | 36 | 28 | 23 |
| **Intraclass Correlation Coefficient** | 0.720 | 0.730 | 0.675 | 0.792 | 0.869 |
| **Kendall's τ** | 0.664 | 0.671 | 0.647 | 0.729 | 0.869 |
| **Spearman's ρ** | 0.743 | 0.758 | 0.707 | 0.784 | 0.829 |
| **Pearson's *r*** | 0.724 | 0.736 | 0.683 | 0.792 | 0.872 |

[1] Correlations for this sequence exclude *n* =6 cases which were coded response not documented. Therefore this sequence correlation represent only the extent of agreement between raters when both individuals could determine the subjects response.

[2] Correlations for this sequence exclude n=1 cases which were coded response not documented. Therefore this sequence correlation represent only the extent of agreement between raters when both raters could determine the subjects response.

Coders ability to reliably analyze the individual sequences with exact accuracy was fair but certainly not ideal. In particular the first sequence suffered from low reliability. Reviewing the code sheets revealed that this disagreement was largely a function of one of the coders not being able to determine the subjects actions. This was the case in six of the fifty cases reviewed. This may not be an issue for agencies adopting this system. Were a sergeant making this assessment after reviewing an officers report s/he could require that a supplemental report be written clarifying the issue. Finally, it is interesting to note that this phenomina was, with one exception, only seen in the first sequence and was always associated with the second coder selecting either "No Resistance;Verbal Exchange" or "Verbal/Passive Resistance".

Additionally, this category suffered from lower reliability than the officer's response. This appears to be due to the fact that the subjects engage in a wide variety of resistive actions which were difficult to interpret exactly. The relatively high correlations are evidence of this trend. In a large majority of cases coders placed the subject's resistance within one level of each other.

Table Seven explores the overall reliability of coders for the first five sequences:

**Table 7. Inter-Rater Reliability for Sequence One to Five - Subjects Response to Responding Officer**

| | |
|---|---|
| *n* | 182 |
| **Cohen's *k*** | 0.552 |
| **Percent Exact Agreement** | 65.7% |
| **Percent Agreement within One Level** | 85.1% |

While the overall reliability is adequate, a review of the coders discrepancies reveal two issues. First, coders appear to have a difficult time distinguishing between the variable "No Resistance;Verbal Exchange" and "Verbal/Passive Resistance." This is a difficult distinction and the issue will re-occur when we examine the "Responding Officers Actions Toward the Subject" and "Subject's Actions to Third Party or Self" variables. To simplify this distinction

and improve reliability it is possible to collapses these two variables into a single variable for all three categories ("Subject's Response to Responding Officer", Subject's Action's Toward Third Pary/Self" and "Officer's Actions Toward the Subject"). This modification results in an improvement in reliability. Table Eight displays this:

**Table 8. Inter-Rater Reliability for First Five Sequences - Subject's Response to Responding Officer - Alternate Coding**

| | |
|---|---|
| *n* | 182 |
| **Cohen's Kappa** | 0.622 |
| **Percent Exact Agreement** | 75.7% |
| **Percent Agreement within One Level** | 85.1% |

While this adjustment improves the reliability of the overall analysis, the distinction between "No Resistance; Verbal Exchange" and "Verbal/Passive Resistance" variables is important. "Verbal/Passive Resistance" is the first juncture at which a subject willfully fails to comply. This distinction is worth sacrificing some degree of reliability.

However, for agencies wishing to focus on higher levels of force the analysis in subsequent sections will examine the reliability of this system with the variables collapsed and when presented separately. The final version of the form (presented in Appendix B) will leave the variables unchanged, however, depending on the priorities of the agency in question it is possible to realize improved reliability by collapsing these variables.

The second issue identified is more meaningful. Table Nine displays the crosstab for coders' responses to this variable. Coders agreed in only three out of the fourteen occasions where one or both of the coders used Active Physical Resistance.

**Table 9. Crosstab for Subject's Response to Responding Officer**

| | No Res./Verbal/ Passive Res. | Posture/Verbal Threats | Physical Non-Compliance | Active Physical Resistance | Use of Non-Lethal Weapon | Use of Lethal Force | Response Not Documented |
|---|---|---|---|---|---|---|---|
| **No Res./Verbal/Passive** | 66 | 0 | 14 | 0 | 0 | 0 | 6 |
| **Posture/Verbal Threats** | 1 | 12 | 2 | 0 | 0 | 1 | 0 |
| **Physical Non-Compliance** | 4 | 3 | 55 | 4 | 0 | 0 | 0 |
| **Active Physical Resistance** | 1 | 0 | 7 | 3 | 0 | 0 | 0 |
| **Use of Non-Lethal Weapon** | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Use of Lethal Force** | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| **Response Not Documented** | 0 | 0 | 0 | 0 | 0 | 0 | 1 |

Collapsing "Active Physical Resistance" and "Physical Non-Compliance" would resolve this issue and greatly improve reliability. However, this would also entail making similar adjustments to officer's force. These variables are much more important for the assessment of force than the "No Resistance; Verbal Exchange" and "Verbal/Passive Resistance" variables because the greater resistance on the part of the subject may lead to relatively high levels of force by the officer (including the potential use of impact weapons or possibly deadly force).

Increasing the reliability of coders to consistently distinguish physical non-compliance for active physical resistance will be essential is this system is to be adopted.

## Subject's Actions to Third Party or Self

As mentioned earlier officers may use force to protect a third person or even to protect an individual from harming themselves. Therefore, the actions of the subject upon whom force is used need not be directed at the officer. This category captures this distinction. Table Ten provides the variables in this category and their definitions:

**Table 10. Definitions for Subject's Actions to Third Party or Self**

| | |
|---|---|
| **Verbal/Passive resistance** | Indicates actions the subject engages in with a person other than the responding officer. The subject was engaged in argumentative but not threating behavior. This could include arguing with a bouncer about being kicked out of a bar, a verbal dispute with family members over the need to go to the hospital for mental health treatment or a dispute with shop owner over payment. Threats of violence would not count as verbal resistance but would be documented as "Postural or verbal threats". |
| **Postural or verbal threats** | Indicates actions the subject engages in with a person other than the responding officer. The subject was threatening or assuming a threatening posture as documented by the officer. Threats must reference violence (i.e. threatening to sue does not constitute a threat for purposes of this category). Officers will often document threatening postures such as "clenched fists" or "assuming a fighting stance". The posture or threats need to be directed at someone other than the responding officer. |
| **Resisting custody, flight** | Indicates actions the subject engages in with a person other than the responding officer. The subject was fleeing or resisting the custody of someone with legitimate authority to detain the subject (e.g. security guards attempting to apprehend fleeing shoplifters, the parent of a juvenile). This includes actions such as struggling, pulling away or other non-offensive acts but would not include actions such as pushing, punching or other offensive actions aimed at the 3rd party. The resistance or flight must be from someone other than the officer. |
| **Hitting, kicking, fighting** | Indicates actions the subject engages in with a person other than the responding officer. The subject was actively fighting the third party. This would include punching, wrestling, kicking or other offensive actions but would not include actions which are entirely focused on flight. For example, pushing a security guard to get past them would be fighting as the push was an offensive action. Running around a security guard and pulling way when the security guard grabbed a coat would be resisting custody/flight. Self-harm might include situations such as a person attempting to jump from a bridge, hitting themselves or banging their head against a wall. |
| **Using non-lethal weap.** | Indicates actions the subject engages in with a person other than the responding officer. The subject employed a weapon (including improvised weapons such as throwing a chair or using a bottle) in an offense action which could have caused harm to the 3rd party. Examples of this might include, throwing rocks, using a taser or chemical spray. Blows to the head with weapons (including bottles and other improvised weapons) would be lethal force. Stabbing instruments (even improvised ones such as a bottle which has been broken) would also be lethal force except in the instance of self-harm involving cutting (some individuals cut themselves repeatedly in the arm or leg in a non-lethal fashion due to mental health issues). The use of non-lethal weapons should include only items unlikely to cause serious injury. |
| **Used lethal force/actions** | Indicates actions the subject engages in with a person other than the responding officer. This would include actions aimed at someone other than the responding officer capable of inflicting serious injury. Blows to the head with hard objects (this would not include a punch but would include actions such as repeatedly punching an unconscious or defenseless person in the head). It would also include the use or attempted use of stabbing weapons, group assaults against a defenseless person, chokes or other maneuvers. Self-harm might include cutting one's neck, self-inflicted gun shots or overdoses of medication. |
| **No resistance; Not applicable** | Indicates actions the subject engages in with a person other than the responding officer. This category includes actions which would not be perceived as hostile or threatening. Examples of this could include the subject talking with a security guard or bouncer, a concerned bystander or family member. The interaction should be obviously non-threatening. The context of the information provided to the officer should be used to help evaluate this (for instance the dispatch log may state, "family members are with a suicidal subject. The family member says the subject is unarmed and non-violent"). |

Each sequence in this category was analyzed individually out to the fifth sequence. At sequence six the number of cases available for analysis fell beneath 20 (n = 19 at sequence six) so no further analysis of individual sequences was performed.

Table Eleven examines the reliability of the coders through the first five sequences.

**Table 11. Inter-Rater Reliability for Sequence - Subject's Actions to 3rd Party/Self**

| Agreement | Seq. 1 | Seq. 2 | Seq. 3 | Seq. 4 | Seq. 5 |
|---|---|---|---|---|---|
| *n* | 50 | 44 | 36 | 28 | 24 |
| Percent Exact Agreement | 74.0% | 63.6% | 58.3% | 67.9% | 75.0% |
| Percent Agreement within One Level | 81.0% | 75.0% | 69.4% | 71.4% | 79.2% |
| Cohen's *k* | 0.624 | 0.455 | 0.305 | 0.467 | 0.515 |
| **Correlations** | **Seq. 1** | **Seq. 2** | **Seq. 3** | **Seq. 4** | **Seq. 5** |
| *n* | 50 | 44 | 36 | 28 | 24 |
| Intraclass Correlation Coefficient | 0.657 | 0.571 | 0.486 | 0.713 | 0.632 |
| Kendall's $\tau$ | 0.603 | 0.523 | 0.401 | 0.647 | 0.606 |
| Spearman's $\rho$ | 0.648 | 0.575 | 0.450 | 0.723 | 0.637 |
| Pearson's *r* | 0.658 | 0.571 | 0.486 | 0.713 | 0.634 |

Sequences two through four exhibt low reliability. In the case of sequence three even the correlations are not particularly strong. This variable proved challenging for coders. Table Twelve displays the reliability for sequences one to five:

**Table 12. Inter-Rater Reliability for Sequences One to Five -Subject's Actions to 3rd Party/Self**

| | |
|---|---|
| *n* | 182 |
| Percent Exact Agreement | 67.6% |
| Percent Agreement within One Level | 74.2% |
| Cohen's *k* | 0.491 |

Reliability was improved by collapsing the "No Resistance; Not Applicable" and "Verbal/Passive Resistance" Variables. Table Thirteen displays this:

**Table 13. Inter-Rater Reliability for Sequences One to Five - Subject's Actions to 3rd Party/Self - Final Coding**

| | |
|---|---|
| *n* | 182 |
| Percent Exact Agreement | 74.2% |
| Percent Agreement within One Level | 87.4% |
| Cohen's *k* | 0.537 |

Interestingly, the lack of reliability appeared to the result of one of the two coders requently using the "No Resistance; Not Applicable" variable when the other coder believes the subject to be engaging in some kind of resistance. This is likely the result of an insufficient emphasis placed on coding this variable in training. Table Fourteen illustrates this phenoma:

**Table 14. Crosstab for Subject's Actions to 3rd Party/Self**

| | No Res./Verbal/ Passive Res. | Postural or Verbal Threats | Resisting Custody; Flight | Hitting, Kicking, Fighting | Using Non-Lethal Weapon | Using Lethal Force/Actions |
|---|---|---|---|---|---|---|
| No Res. Verbal/Passive Resistance | 91 | 5 | 8 | 1 | 0 | 0 |
| Postural or Verbal Threats | 12 | 6 | 0 | 1 | 0 | 0 |
| Resisting Custody; Flight | 10 | 3 | 34 | 3 | 0 | 0 |
| Hitting, Kicking, Fighting | 3 | 0 | 1 | 4 | 0 | 0 |
| Using Non-Lethal Weapon | 0 | 0 | 0 | 0 | 0 | 0 |
| Using Lethal Force/Actions | 0 | 0 | 0 | 0 | 0 | 0 |

As mentioned above the failure of this variable to be reliably coded is most likely a product of insufficient training. Furthermore, including "No Resistance" and "Not Applicable" creates a category which is difficult to interpret (i.e. did the subject offer no resistance or was their no third party). This was rectified by creating a "Not Applicable" category. This will allow coders to distinguish between situations where the subject is taking no action against a third party or himself and situations where a third party is potentially present but the subject is not acting out toward them. This addition impacts the reliability estimate provided in Table Thirteen but the author felt the value of this addition was worth the uncertainty it imposes on the reliability estimates. Finally, given the limited training time the focus of the majority of those sessions was on the officer's and subject's action as they related to each other. Future attempts at developing this system should focus more effort on assisting coders to accurately identfy the subject's actions toward third parties or themselves.

**Responding Officer's Actions Toward the Subject**

Tha ability to reliably code the officers level of force against the subject is essential for any analysis of police use of force. Thankfully several factors combine to increase the ease with which coders can make this assessment. First, officer generally use similar types of force (i.e. control holds, chemical spray, Taser's or baton's etc.). This can be contrast with the actions of the subjects upon whom force is used. As a group these individuals engage in a wide-range of differing types of resistance which can be difficult to fit into pre-defined levels. Secondly, these force types are generally used in a similar manner which makes the assessment easier. For instance, a susbject my hit a person with pool cue. This may be lethal force if the subject breaks the cue over a persons had or non-lethal if the strike a person across the back of the leg. In contrast officers, nearly without exception, will not use a baton for a lethal strike. Thus defining the level of force when an officer employs a baton requires fewer subjective judgements on the part of the coder. Lastly, officers typically use similar language in defining the force they use. Because they receive similar training the language the employ around their use of force easier to decipher. This can be contrast with descriptions of the subject's actions which may differ

slightly between officer, even when both officers were standing next to each other when they observed the subject's action.

Ultimately these factors result in improved reliability for coder's assessments of officer actions. Table Fifteen provides the definitions used to assess the officer's actions toward the subject:

**Table 15. Definitions for Responding Officer's Actions Toward Subject**

| | |
|---|---|
| **Presence;  Verbal exchange** | Officer arrives and is engaged directly with the subject.  Officer communication is non-directive (i.e. questions and statements but not commands or orders).  This can include getting basic information such as name, date of birth or asking about the situation.  Additionally, if the officer reports multiple actions by the subject (i.e. the officer reports, "the subject pushed me to the ground and then punched me in the side of my head") use this to code the officer response between suspect actions. |
| **Lawful orders** | Officer commands or directs the subject to perform an action.  This can include commands to, "stop", "turn around", "put your hands on your head" etc. |
| **Light contact** | This would include handcuffing, leading or "escorting" a subject or lifting a passively resistant subject.  It may include holds which are not used to inflict pain and do not cause injury.  An example of this might include a wrist lock which is used with handcuffing.  However, it would not include an arm bar takedown or a hold designed to use pain to gain compliance. |
| **Physical control tactic** | This would include joint manipulations, pain compliance or physical actions likely to cause pain and/or possible injury (tackling a subject, pushing them to the ground while running etc.).  Wrestling or struggling to take a suspect into custody which did not include strikes (punches, kicks, elbow strikes etc.) would fall in this category.  The use of the hobble (also phrased maximum restraint in police reports) would fall into this category. |
| **Advanced physical; Chemical** | This would include punches, knee strikes, elbow strikes and/or other blows which do not involve weapons (including improvised weapons such as striking a subject with a radio or other blunt object).  The use of chemical spray would also fall into this category. |
| **Intermediate weapon use** | This includes the use of less-lethal weapons such as asp baton, PR-24, Taser (electronic control weapon or ECW), less-lethal shotgun (beanbag gun) or a grenade launcher utilizing rubber dowels.  If these weapons are intentionally used against the head or neck of the subject it would constitute deadly force.  Officers should document where the body part of the subject against which the weapon was employed. |
| **Use of lethal force** | Shootings were not included in this data set but other uses of lethal force might include, intentional chokes holds, intentional strikes to the head with a weapon, or the intentional use of less-lethal shotgun to the head.  It is important to note that the officer must intend for the strike to be to the head or for the choke to occur.  If the choke or strike is unintentional it is an Intermediate Weapon Use. |
| **Response Not Documented** | Use this option if the officer does not articulate their actions sufficiently to choose one of the options provided below. |

Utilizing these definitions the coders assess the officer's actions.  Table Sixteen examines the level of agreement between coders for each of the first five sequences:

**Table 16. Inter-Rater Reliability for Sequence - Responding Officer's Actions Toward Subject**

| Agreement | Seq. 1 | Seq. 2 | Seq. 3 | Seq. 4 | Seq. 5 |
|---|---|---|---|---|---|
| *n* | 50 | 44 | 36 | 28 | 24 |
| **Percent Exact Agreement** | 90.0% | 86.4% | 72.2% | 67.9% | 66.7% |
| **Percent Agreement within One Level** | 96.0% | 95.5% | 94.2% | 89.3% | 83.3% |
| **Cohen's Kappa** | 0.864 | 0.825 | 0.636 | 0.597 | 0.572 |
| Correlations | Seq. 1 | Seq. 2 | Seq. 3 | Seq. 4 | Seq. 5[1] |
| *n* | 50 | 44 | 36 | 28 | 22 |
| **Intraclass Correlation Coefficient** | 0.950 | 0.939 | 0.891 | 0.849 | 0.662 |
| **Kendall's τ** | 0.938 | 0.906 | 0.816 | 0.757 | 0.604 |
| **Spearman's ρ** | 0.961 | 0.935 | 0.875 | 0.831 | 0.623 |
| **Pearson's *r*** | 0.952 | 0.939 | 0.892 | 0.849 | 0.662 |

[1]Correlations for this sequence exclude n=2 cases which were coded response not documented. Therefore these correlation represent only the extent of agreement between raters when both individuals could determine the subjects response.

At the level of individual sequences coders were able to assess the officer's actions toward the subject with adequate reliability. When differences arose they were normally within one level of force from each other. The first four sequences (in which none of the coders utilized the "Could Not Determine" variable) display a high degree of correlation. This is encouraging as the majority of training time was spent covering these variables. Had coders been unable to relibly assess the officer's actions the viability of this approach would be questionable.

The reliability of coders for the first five sequences combined is displayed in Table Seventeen:

**Table 17. Inter-Rater Reliability for Sequences One to Five - Responding Officer's Actions Toward Subject**

| | |
|---|---|
| *n* | 182 |
| **Percent Exact Agreement** | 79.1% |
| **Percent Agreement within One Level** | 92.9% |
| **Cohen's *k*** | 0.731 |

Coders were able to assess officer use of force within one level 92.9% of the time and were in complete agreement 79.1% of the time. These levels of agreement are improved by recoding the "Presence" and "Lawful Order" variables into a single variable. The difficulty indistinguishing between these two variables is understandable. The author has spent a number of hours testifying in different trials as the court tried to make this seemingly simple assessment[10].

While a number of force researchers have included some verbal component, generally threat of force, in assessments of force (a very incomplete list would include: Kop & Euwema, 2001;

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[10] The constitutionality of certain types of searches and request by the officer for a subject to allow the officer to search them is subject to the individual being free to leave, e.g. not being ordered to stop. The outcome of these court proceedings can rest on matters as relatively minor distinctions such as how the officer positioned her/his patrol car prior to stopping the individual, the inflection or demeanor used during the contact or the exact language. To further highlight just how difficult this can be the author recalls a heated discussion with a partner after a contact regarding a disagreement about whether the author ordered or asked an individual in a park after dark to stop. As an aside the author was convinced that he was incorrect in his initial belief that he had "asked" the subject to stop. This highlights the difficulty in making these distinctions from administrative records.

Norris, Birkbeck, & Gabaldon, 2006; Paoline III & Terrill, 2007;Terrill, Alpert, Dunham, & Smith, 2003) and several others influential researchers have advoacted for this approach ( (Alpert & Dunham, 1997; Klinger, 1995) it may not be ideal for purposes of this methodology. Including verbal "force" has the attractive property of causing an increase to the baserate of force[11] and generating additional instances of force to be analyzed. This would be particularly true for observational studies where it is likely that the force types this methodology is interested in examining would be extremely rare. This may make this distinction more important for research who wish to use more advanced analytic techniques such as regression analysis.

This methodology was not developed as a tool for researchers but is instead is a research tool for practioners. It is primarily interested in detecting force trends which may test the bounds of unconstitutionality and can be examined under the test established by Graham v. Connor. This would primarily be the more intrusive, higher levels of force. Because our sample consists of these high levels of force this methodology does not rely on the use of commands, abusive language or threats to provide a proxy for physical force.

Table Eighteen displays the improvements to reliability that are achieved by collapse the "Mere Presence" and "Lawful Order" variables:

**Table 18. Inter-Rater Reliability for Sequences One to Five - Responding Officer's Actions Toward Subject**

| | |
|---|---|
| ***n*** | 182 |
| **Percent Exact Agreement** | 83.0% |
| **Percent Agreement within One Level** | 93.4% |
| **Cohen's *k*** | 0.746 |

Ultimately, either version of the variables should provide suffcent reliability to conduct meaningful analysis. For agencies wishing to examine more closely how their officers employ "Lawful Orders" the variables can be seperated. Those wishing to more closely examine the application of force with the potential for injury can collapse the variables in question. Hopefully the development of this system and the use of trained professional police or attornies will further improve relability for both systems.

As with the subject's actions the relibility with which coders distinguish the "Physical Control Tactics" and "Advanced Physical; Chemical" variabes from other variables must be improved. Coders agreed on the "Intermediate Weapon Use" in thirteen of sixteen instances (81.25%) where it was coded. In contrast "Physical Control Tactics" and "Advanced Physical; Chemical" variabes were coded in complete agreement only 55.6% and 53.8% of the time respectively.

Table Nineteen displays these crosstab for "Responding Officer's Actions Toward Subject":

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[11] In this study nearly 1/3 of the examined sequences consisted of the "Lawful Order" variable. This is most likely under-representative of the true prevalence of commands as all the reports were selected specifically because they had high levels of force which included actual contact.

**Table 19. Crosstab for Responding Officer's Actions Toward Subject**

| | Presence/ Lawful Order | Light Contact | Physical Control Tactic | Adv. Physical; Chemical | Intermed. Weapon Use | Use of Lethal Force | Response Not Documented |
|---|---|---|---|---|---|---|---|
| **Presence/ Lawful Order** | 84 | 1 | 5 | 1 | 0 | 0 | 1 |
| **Light Contact** | 1 | 17 | 9 | 0 | 0 | 0 | 0 |
| **Physical Control Tactic** | 4 | 3 | 30 | 1 | 0 | 0 | 1 |
| **Adv. Physical; Chemical** | 0 | 0 | 1 | 7 | 0 | 0 | 0 |
| **Intermed. Weapon Use** | 0 | 0 | 0 | 3 | 13 | 0 | 0 |
| **Use of Lethal Force** | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Response Not Documented** | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

While the reliability is acceptable, when judged strictly on criteria such as percentage ageement or Kappa scores there are still potential problems with the coding of this variable. Agreement is between coders in the mid-range force options ("Physical Control Tactic" and Advanced Physical; Chemical") is less than ideal. Improving coders abilities to differentiate between these mid-range options is vital.

## Control Achieved Over Subject

The final category of variables examined sequentially is "Control Achived Over Subject." As mentioned earlier the level of threat a subject poses to an officer, third parties or themselves is a key component in determining if force is constitutional. All things being equal the less freedom a subject has to act the less threat that person will pose.

To illustrate this consider two situations. In the first situation a highly dangerous individual (large, muscular, with a background of fighting will authorities and a history of committing serious domestic assault) is confronted by two officers. The subject is standing and has unlimited use of his hands, complete mobility and is threatening his girlfriend as he advances on her hold a stick. Clearly officers would be justified in using a high degree of force to restrain such an individual as he posses a very immediate threat to all the involved parties. In the alternate situation the officers have handcuffed the subject with his hands behind his back and restrained his legs, however he is still able to walk by shuffling his feet in very small steps. This individual has also managed to get a stick but is unable to effectively use it with his hands cuffed behind his back. Officers would still be able use some degree of force to restrain this subject but clearly would not be justified in using as much force as the first hypothetical situation.

While this may seem fanciful the media is repleat with examples of officers using force, such as baton strikes or Taser applications, against individuals who have been restrained. In fact, the application of electronic control devices (Tasers) against handcuffed subjects is generally either strongly discouraged or forbiden outright.

Amensity Internation has documented a number of such cases (Amnesty International, 2008). Anecdotally, instances where officers employ relatively high levels of force against restrained subjects may also be particularly damaging to community police relations and police legitimacy.

While the author was unable to find research supporting this position, simply viewing video footage of these instances appears to be particularly disturbing. For all these reasons police administrators would be wise to examine force relative to control.

Table Twenty provides definitions for the variables associated with this category:

**Table 20. Control Achieved Over Subject**

| | |
|---|---|
| **None – Subject has Free Movement** | The subject is unrestrained and has complete freedom of movement. This would include Taser usage, pepper spray or control holds which fail to control the subject. |
| **Isolated, Blocked, Cornered** | The subject's ability to interact with others has been removed. This could occur via the subject being moved or by directing potential victims to leave the area. The officer may also position herself so that the suspect's ability to access victims is limited. |
| **Physical Hold – Single Limb Control** | The officer has applied a hold such as a wrist lock, san kajo or other technique to limit the movement of the subject. The subject may not be fully restrained and may still be resisting control but the officer indicates that the hold was used or that they control one limb. |
| **Pinned – Multiple Limb Control** | The subject is pinned and unable to move or his held on the ground. Note use this section if the officer indicates the subject is pinned or restrained even if it is not on the ground (i.e. pinned the subject in the door well of the vehicle or on their trunk). |
| **ECD or "Tasered" Effectively** | Subject is disabled by a taser. Officers will note if the taser was effective or not. Do not code this level as factor present if the officers indicate that the taser was either ineffective or only partially effective. Officers will normally indicate if the taser was effective in their reports. |
| **Handcuffed** | Officer has applied handcuffs to both of the subject's hands. Note the subject may still not be under control and may still be struggling but the handcuffs are secure and locked on both hands of the subject. |
| **In Vehicle or Hobbled** | The subject is placed in the officers secure prisoner compartment (not sitting in the front or in an car without a prisoner section). If the officer reports the subject was placed in their vehicle it is assumed that they are in the secure section. The officer will document if they are not. The subject may or may not be handcuffed. Officers have successfully applied a hobble to the subject. This can include a full hobble where the subject's feet and legs are both restrained and the hobble is latched to a bolt in the police car or a partial hobble where only the subject's feet are restrained. |
| **Not Documented** | The officer does not document the level of control (or lack of control) achieved by their last action. |

Coders used these definitions to assess the level of control an officer had over the subject at the end of each interaction. Table Twenty-One displays coders reliability for the first five sequences:

**Table 21. Inter-Rater Reliability for Sequence - Control Achieved Over Subject**

| Agreement | Seq. 1 | Seq. 2 | Seq. 3 | Seq. 4 | Seq. 5 |
|---|---|---|---|---|---|
| *n* | 50 | 44 | 36 | 28 | 24 |
| **Percent Exact Agreement** | 80.0% | 81.8% | 75.0% | 75.0% | 91.7% |
| **Percent Agreement within One Level** | 90.0% | 95.5% | 81.7% | 92.9% | 95.8% |
| **Cohen's *k*** | 0.612 | 0.729 | 0.666 | 0.679 | 0.891 |
| **Correlations** | Seq. 1[1] | Seq. 2[1] | Seq. 3 | Seq. 4 | Seq. 5 |
| *n* | 49 | 43 | 36 | 28 | 24 |
| **Intraclass Correlation Coefficient** | 0.866 | 0.881 | 0.891 | 0.878 | 0.869 |
| **Kendall's τ** | 0.757 | 0.903 | 0.797 | 0.806 | 0.864 |
| **Spearman's ρ** | 0.788 | 0.963 | 0.865 | 0.865 | 0.861 |
| **Pearson's *r*** | 0.863 | 0.886 | 0.897 | 0.879 | 0.869 |

[1] Correlations for this sequence exclude n = 1 cases which were coded response not documented. Therefore this sequence correlation represent only the extent of agreement between raters when both individuals could determine the subjects response.

This variable, similar to the Responding Officer's Action Toward Subject, benefit from well defined states and clear progressions. The subject upon whom force was used generally began with a high degree of freedom and as the officer(s) involved in the incident began employing force they generally progressed to greater states of control, culminating in being handcuffed (or if still resisting being hobbled and/or in a police car/holding cell).

As mentioned early this variable is an important proxy for threat. As officer gain greater levels of control the need for force will, all other variables being held constant, decrease. The relationship of force to control is essential to any attempt to quantify threat. As Table 21 demonstrates it is possible for relatively untrained coders to review police reports and reliably assess the degree of control an officer obtains over a subject.

Table 22 examines the combined reliability of sequences one to five:

**Table 22. Inter-Rater Reliability for Sequence One to Five - Control Achieved Over Subject**

| | |
|---|---|
| *n* | 182 |
| **Percent Exact Agreement** | 80.2% |
| **Percent Agreement within One Level** | 92.3% |
| **Cohen's *k*** | 0.716 |

Reliability for this category can be improved by collapsing the "Physical Hold-Single Limb Control" and "Pin-Multiple Limb Control" variables. These variables may be indistinguishable in a narrative report without specific training to officers to categorize the exact type of control they have obtained at any given point in an encounter. Unfortunately there was substantial disagreement over when a ECD/Taser had been deployed effectively. This lack of reliability is concerning given the demonstrated concern of both the DOJ, ACLU and Amnesty International over the multiple ECD applications. Table 23 dispalys the crosstab for "Control Achieved Over Subject:

**Table 23. Crosstab for Control Achieved Over Subject**

| | None | Isolated; Blocked | Phys. Hold; Single Limb | Pin; Multiple Limb | ECD/Tased Effectively | Handcuffed | In Police Vehicle;Hobbled | Response Not Documented |
|---|---|---|---|---|---|---|---|---|
| **None** | 81 | 3 | 2 | 1 | 2 | 1 | 0 | 0 |
| **Isolated; Blocked** | 2 | 8 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Phys. Hold; Single Limb** | 2 | 0 | 10 | 4 | 0 | 0 | 0 | 2 |
| **Pin; Multiple Limb** | 0 | 0 | 9 | 13 | 0 | 2 | 0 | 0 |
| **ECD/Tased Effectively** | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 |
| **Handcuffed** | 1 | 0 | 0 | 0 | 4 | 30 | 0 | 0 |
| **In Police Vehicle;Hobbled** | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 |
| **Response Not Documented** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Table 24 displays the improvements to reliability when "Physical Hold –Singe Limb Control" and "Pin – Multiple Limb Control" are collapsed:

**Table 24. Inter-Rater Reliability for First Five Sequences - Control Achieved Over Subject**

| | |
|---|---|
| **n** | 182 |
| **Percent Exact Agreement** | 87.4% |
| **Percent Agreement within One** | 92.3% |
| **Cohen's k** | 0.814 |

Given the relatively high overall agreement for the category the final form does not collapse these variables. There is also the practical consideration that, at least anecdotally, police use of force against individuals pinned or otherwise held down appears to be particularly deliterious to legitmacy. However, to be of use additional emphasis will need to be dedicated to recording the amount of control achieved by various applications of force throughout an encounter.

## Graham Factor Review

The final section of the review sheet consisted of an overall review of relevant Graham Factors. These consist of "Governmental Interest", "Threat to Officer", "Subject Resistance" and "Timing."

It is important to remember that although this information is also gathered prior to the officer using force that analysis is subject to what the officer was aware of at that point in time. In contrast this section captures the actual governmental interest, threat, resistance and timing (not just what the officer believed) of the incident. Hence, this section can be used to identify cases where force is used and the governmental interest (or threat, resistance etc.) is low, even if the officer reasonably believed it to be higher. An example of this can be seen in police officer reports that individuals calling 911 will sometimes mention that a gun is present in an incident to elicit a quicker police response. Identifying such situations and developing strategies to avoid them would improve the overall use of force relative to governmental interest, regardless of individual culpability on the part of the officers using force.

This factor may not directly related to an individual officers culpibility in using force but can related to an agency's organizational liablity. This would be especially true as a "pattern or practice." An agency which is consistently employing more force because of either

misinformation or a lack of information is both legally and ethically obligated to, at a minimum, attempt to develop strategies to overcome this deficiency.

Table 25 through 28 provide the crosstabs and reliability for these factors:

**Table 25. Inter-Rater Reliability for Governmental Interest**

| | | | | |
|---|---|---|---|---|
| *n* | 50 | | | |
| Cohen's *k* | 0.512 | | | |
| | Low | Moderate | High | Could Not Determine |
| Low | 4 | 1 | 1 | 2 |
| Moderate | 4 | 16 | 5 | 0 |
| High | 1 | 1 | 14 | 1 |
| Could Not Determine | 0 | 0 | 0 | 0 |

**Table 26. Inter-Rater Reliability for Subject Resistance**

| | | | | |
|---|---|---|---|---|
| *n* | 50 | | | |
| Cohen's *k* | 0.125 | | | |
| | Low | Moderate | High | Could Not Determine |
| Low | 1 | 0 | 1 | 1 |
| Moderate | 2 | 0 | 8 | 1 |
| High | 0 | 4 | 32 | 0 |
| Could Not Determine | 0 | 0 | 0 | 0 |

**Table 27. Inter-Rater Reliability for Threat to Officer/Self/Others**

| | | | | |
|---|---|---|---|---|
| *n* | 50 | | | |
| Cohen's *k* | 0.298 | | | |
| | Low | Moderate | High | Could Not Determine |
| Low | 5 | 3 | 0 | 0 |
| Moderate | 10 | 12 | 5 | 1 |
| High | 0 | 4 | 10 | 0 |
| Could Not Determine | 0 | 0 | 0 | 0 |

**Table 28. Inter-Rater Reliability for Timing**

| | | | |
|---|---|---|---|
| *n* | 50 | | |
| Cohen's *k* | 0.531 | | |
| | No Immediate Need | Immediate Need | Could Not Determine |
| No Immediate Need | 11 | 4 | 1 |
| Immediate Need | 3 | 25 | 4 |
| Could Not Determine | 0 | 4 | 10 |

Unfortunately both the "Subject Resistance" and "Threat to Officer/Self/Others" categories could not be reliably coded. This most likely is the result of the variety of subjective factors that must be used to make these assessments. Whereas "Governmental Interest" can be evaluated on the nature of the call i.e. is it a person crime, property crime, disturbance etc., threat and overall

resistance are subject to a number of considerations such as the relative size/training/experience of the officer and suspect, the presence of multiple suspect/officers and variety of other factors which are not easily parsed.

Resistance is captured explicity and more reliably in the sequences so it have been dropped.

"Governmental Interest" and "Timing" are less reliable than would be ideal. However, despite this both factors could potentially be improved to the point were they would provide usable information.

Finally, threat is a basic constitutional factor which cannot be ignored. Systems must be developed to reliably and validly assess threat or a system such as this cannot be used to measure "constitutionality." In the initial form and training threat was poorly defined. Additionally, the coders unfamiliarity with police tactics, terminology and concerns likely made this distinction even more difficult. Additional, more specific, definitions of threat have been included in the final code book and built into the final review form. However, additional research on the ability to code overall threat reliably is necessary.

## Potential Benefits and Limitations of this System

**Potential Benefits**

This system has several potential applications:

1. Improved analysis of use of force: Even the most skilled analysis cannot overcome poor data. Currenty systems of data collection fail to account for a number of important consititutional factors, fail to provide struture to the process by which data is gathered and generally fail to provide any sequencing to the use of force.

   Constitutional factors, when analyzed at all, are done so by reviewing narrative reports subjectively or by capturing administrative records which have not been explicity desinged for the purposes of constitutional analysis. Both systems currently lack meaningful analysis of consistently such factors are coded between the individual completing or reviewing the reports. Such processes have not help up well under DOJ scrutiny and more recently in court rulings (David Floyd,et. al., against The City of New York, 2013). It is important to remember that in these investigations consist of the reviews of anywhere from hundreds to literally millions of cases Unstructured systems, lacking in appropriate checklists and quality control protocols, will fair poorly under such scrutiny.

   Importantly the improved analysis will assist training efforts by highlighting areas which may need additional training or potentially the development of new tools or tactics. As the old adage goes, "ignorance is no excuse." Increasingly the courts and DOJ are

expecting agencies to employ robust data systems not only for purposes of collecting records but also to assist in improving practices and procedures.

Finally, these systems should increase agencies, both locally and nationally, ability to assess changes to policy and procedures. Given the enormous resources being allocated to programs around use of force it is essential for police leadership to assess the benefits of these programs.

2.  Improved quality control:  This system will provide a structured checklist for the analysis of force usage. This structure will improve the consistency of force reviews. While direct research regarding use of force is lacking there is considerable researchi in to others which shows that increased structure improves the relability of selection interviews (Conway, Jako, & Goodman, 1995) or assessment for the risk posed by sex offenders (Hanson & Morton-Bourgon, 2009). Both the cited articles are meta-analyses, which encompass the results of hundreds of individual studies. The findings that improved structure aids in assessment are compelling, wide ranging and should not be dimissed lightly.

3.  Can improve the debrief process:  This system advocates a sergeant utilizing the forms provided to conduct a structured assessment of an officers use of force. By incorporating the office in this process police leaders can improve force decisions over time. This system, if incorporated with a force debrief, can provided structure to the discussion of how to better employ and document force. The author of this project readily concedes that the structure and reporting requirements of this system will dramatically the time necessary to evaluate force incidents. Despite this requirement, the adoption of a system similar to the one advocated in this project may be necessary given the increased national focus on police use of force..

The analysis of these factors capture by this system at an aggregate level may help identify situations which consistently result in the use of force despite a lack of constitutionally related variables. Once identified these cases can be examined individually to determine if these cases are concerning. If this turns out to be the cases policy or training solutions can be developed to address these issues. Data may also be used to flag individual officers for closer review. After reviewing the associated to ensure an issue exists officers who use high levels of force relative to the constitutional factors may receive remedial training. This will afford agencies an opportunity to intervene with officers who may be at risk for using force unconstitutionally before the issue raises to levels which would costly to both the agency (via lawsuits) and the officer in question (via discipline, termination or potentially criminal charge).

**Limitations**

This study revealed a number of limitations that may be inherent not only in this system but in related attempts to quantitatively evaluate the constitutionality of force. The following is list of limiations exposed in this analysis and recommendation on how to correct them.

*Reliability*

Coders were unable to code some variables with suffient reliability. Even in sections with adequate overall reliability sectain sections, such as coding non-compliance and physical resistance by the suspect, where reliability must improve.

Clearly, to employ this system on an agency wide scale would require additional training for individuals coding the use of force incidents (most likely sergeants). Training and improved definitions should increase reliability. The coders for this project worked diligently but expecting untrained individuals to learn to read, review and assess police use of force with only twenty hours of training is overly ambitious. Future analyses should utilzed trained police professionals and focus on developing a replicable training format to increase reliability.

*Legal Analysis*

The constitutional factors developed for this system were based upon the author's understanding of the state of constitutional law regarding police use of force. The author of this system is a trained police sergeant who has an expertise in the analysis of police data but is not a trained attorney or and does not claim to be an "expert" on the constitutional factors of police use of force. This system would benefit from review by police and legal experts with greater experience surrounding the legal implications of police use of force.

The devlopment of additional key decision-points and/or legal factors would improve this system. Trained legal professionals and expert police practioners, working with researchers could potentially develop a more robust method for capturing critical information associated with police use of force.

*Validity*

As mentioned early there is a fundamental question about whether a review of administrative reports can determine constitutionality. This project proceeded under the premise that this distinction was irrelvant as adminstrative reports were currently being used in this manner. Future research may wish to examine if administrative records can even be used to examine excessive force.

Reliability is necessary but insuffienct measure for a system evaluating use of force. The concept captures the ability of coders to agree on when a variable is present or absent but simply agreeing is not enough. The coders must also be right. Once a reliable system for coding reports has been established further analysis (perhaps using reports of use of force which were eventually subject to a civil trial) will be needed to confirm its validity.

An examination of force, relative to both resistance and other constitutional factors, should align with both the outcomes (winning a civil case or losing a civil cases) and also the size of the award. Put another way, cases which have gone to trial could be evaluated to see if administartive police reports which have been coded with high levels of force relative to constitutinal factors correlate with the size of an award and/or the final outcome of the case.

*Lack of Data and Basic Research in this Area*

This project consisted of an analysis of just 50 cases and the analysis conducted was rudimentary. While there have been attempts at analyzing data using a constitutional lens, the author was unable to find attempts as assessing the reliability of such systems. Additionally, the one body currently conducting such analysis, the DOJ's Civil Rights Divison, has not made their methodolgy publicy available. This lack of transparency retards the ability of police researchers and practitioners from working to improve systems of police accountability so that they fall in line with the expectations of the DOJ.

Given the importance of this topic and the money being expended to address police use of force it would seem that the development of a system similar to this would be a priority. This project was conducted without a budget or any formal support (the Portland Police Bureau did allow the author to use some resources such as access to computer software but the agency used no money or personnel time on this project). A larger, better funded and more comprehensive effort shoud be launched to develop a system for examing police use of force. If the DOJ Civil Rights Division possesses a usable methodology they should share this with police agencies so that even those agencies not currently being examine by the DOJ can use it to improve their management of police use of force.

Without at least some objective measures to evaluate success there is nothing to prevent agencies working with the DOJ to simply adopt policies advoacted by the federal government, declare the programs successful and then move on to the next polictically sensative issue. None of the political actors involved with have any incentive to more thoroughly and objectively evaluate the policies in question. As prior research into constent decrees regarding racial profiling have noted, there is no evidence that these sorts of legal interventions produce meaningful results (Kupferberg, 2008). While not as politically rewarding, developing transparent, reliable systems to ensure local accountablitly may prove a better method for ensuring police accountability.

The use of force by police has real, often tragic, consequences. The community deserves more than proforma adoption of "best practices" that have no actual evidence of their value. Developing a reliable, valid metric to assess for both within and between agencies should a priority for both local and federal law enforcement. Such an approach is consistent with the evidence-based policing approaches advocated by the Department of Justice's National Institute of Justice. The cart is currently in front of the hores and without a valid system of assess police

use of force there is no way to determine if current efforts by the DOJ or the courts are improving how police agencies management of force.

## Appendix A – Initial Use of Force Review Sheet

| USE OF FORCE ANALYSIS | | | | | | |
|---|---|---|---|---|---|---|
| CASE NUMBER | POLICE INC # (CAD) | SUBJECT CRN | RESPONDING OFFICER DPSST | | OFFICER SEQUENCE # | Coder Initials |
| | | | | | 1   2   3 | |

| INFORMATION AVAILABLE TO RO PRIOR TO ARRIVAL AT SCENE | | | | |
|---|---|---|---|---|
| INFORMATION KNOWN BY/REPORTED TO RO PRIOR TO ARRIVAL AT SCENE (*excluding current incident) | No Info Available/Not Documented | Factor Present (positive) | Factor Absent (negative) | Conflicting Information Available |
| ☐ Officer is on-scene (on view or not dispatched) to call – ignore this section | | | | |
| Subject .....Age | ☐2 | ☐1 | | ☐8 |
| Subject .....Gender | ☐2 | ☐1 | | ☐8 |
| Subject .....Race | ☐2 | ☐1 | | ☐8 |
| Subject.....Specific Mental Health Problem/Symptom | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject.....Non-Specific Mental Health Problem | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject.....Alcohol Problem/Was Using Alcohol | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject....Drug Problem/Was Using Drugs | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject....Criminal Record* | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject....History of Violence* | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject....History of Weapon Access/Use* | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject....History Gang Involvement* | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject....History of Police Noncompliance* | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject....Known to Be Armed Currently | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject....Suspected of Being Armed Currently | ☐2 | ☐1 | ☐0 | ☐8 |
| Subject....Unique Threat(s) to ROs/3rd Party   List:_____ | ☐2 | ☐1 | ☐0 | ☐8 |
| Location....High Crime or Dangerous Area | ☐2 | ☐1 | ☐0 | ☐8 |
| Situation....Presents Threat to ROs/3rd Party | ☐2 | ☐1 | ☐0 | ☐8 |
| Gov. Interest....Responding to Violent Crime | | ☐1 | ☐0 | ☐8 |
| Gov. Interest....Responding to Property Offense /DUII | | ☐1 | ☐0 | ☐8 |
| Gov. Interest ....Responding to Public Disorder | | ☐1 | ☐0 | ☐8 |
| Gov. Interest ....Pursuit Call/Subject in Flight | | ☐1 | ☐0 | ☐8 |
| Gov. Interest ....Welfare Check | | ☐1 | ☐0 | ☐8 |
| Gov. Interest ....Warrant | | ☐1 | ☐0 | ☐8 |

## INFO AVAILABLE TO RO BETWEEN ARRIVAL AT SCENE AND FIRST USE OF FORCE

| INFORMATION KNOWN BY/REPORTED TO RO (*excluding current incident) | No Info Available/Not Documented | Factor Present (positive) | Factor Absent (negative) | Conflicting Information Available |
|---|---|---|---|---|
| Subject …..**Age** | ☐$_2$ | ☐$_1$ | | ☐$_8$ |
| Subject …..**Gender** | ☐$_2$ | ☐$_1$ | | ☐$_8$ |
| Subject …..**Race** | ☐$_2$ | ☐$_1$ | | ☐$_8$ |
| Subject…..**Specific Mental Health Problem/Symptom** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject…..**Non-Specific Mental Health Problem** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject…..**Alcohol Problem/Was Using Alcohol** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject….**Drug Problem/Was Using Drugs** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject….**Criminal Record*** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject….**History of Violence*** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject….**History of Weapon Access/Use*** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject….**History Gang Involvement*** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject….**History of Police Noncompliance*** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject….**Known to Be Armed Currently** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject….**Suspected of Being Armed Currently** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Subject….**Unique Threat(s) to ROs/3rd Party** List:_____ | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Location….**High Crime or Dangerous Area** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Situation….**Presents Threat to ROs/3rd Party** | ☐$_2$ | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Gov. Interest….**Responding to Violent Crime** | | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Gov. Interest….**Responding to Property Offense /DUII** | | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Gov. Interest ….**Responding to Public Disorder** | | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Gov. Interest ….**Pursuit Call/Subject in Flight** | | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Gov. Interest ….**Welfare Check** | | ☐$_1$ | ☐$_0$ | ☐$_8$ |
| Gov. Interest ….**Warrant** | | ☐$_1$ | ☐$_0$ | ☐$_8$ |

## TIMING OF EVENTS

| FROM..........TO | SHORT (0 to 3 Min) | MEDIUM (4 to 9 Min) | LONG (10+ Min) | UNCLEAR | N/A |
|---|---|---|---|---|---|
| Receipt of Call.......Arrival at Scene | ☐0 | ☐1 | ☐2 | ☐7 | ☐8 |
| Arrival at scene.......1st Use of Force by RO | ☐0 | ☐1 | ☐2 | ☐7 | ☐8 |

## SEQ 1. DYNAMIC INTERACTION

BRIEFLY DESCRIBE SUBJECT'S ACTIONS IMMEDIATELY PRIOR TO 1ST CONTACT WITH RO (optional)

BRIEFLY DESCRIBE OFFICER'S ACTIONS IMMEDIATELY PRIOR TO 1ST CONTACT WITH SUBJECT (optional)

| SUBJ'S RESPONSE TO RO'S ARRIVAL | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#____)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#____)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#____)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 2. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 3. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 4. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance   (#____) | 4 ☐ Adv. physical; chemical   (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap.   (#____) | 5 ☐ Intermed. weapon use   (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force   (#____) | 6 ☐ Use of lethal force   (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting   (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap.   (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 5. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance   (#____) | 4 ☐ Adv. physical; chemical   (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap.   (#____) | 5 ☐ Intermed. weapon use   (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force   (#____) | 6 ☐ Use of lethal force   (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting   (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap.   (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 6. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 7. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 8. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 9. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#___) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#___) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#___) | 1 ☐ Additional justification provided | |

## ■ RELIABLE SEQUENCING NOT POSSIBLE (CODE BELOW FOR EVENT AS A WHOLE)

PLEASE EXPLAIN WHY SEQUENCING WAS NOT POSSIBLE

BRIEFLY DESCRIBE SUBJECT'S ACTIONS IMMEDIATELY PRIOR TO 1ST CONTACT WITH RO

BRIEFLY DESCRIBE OFFICER'S ACTIONS IMMEDIATELY PRIOR TO 1ST CONTACT WITH SUBJECT

| SUBJ'S HIGHEST RESPONSE TO RO | RO'S HIGHEST ACTION TOWARD SUBJ. | |
|---|---|---|
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic | |
| 4 ☐ Act. physical resistance | 4 ☐ Adv. physical; chemical | |
| 5 ☐ Use of non-lethal weapon | 5 ☐ Intermed. weapon use | |
| 6 ☐ Use of lethal force | 6 ☐ Use of lethal force | |

| SUBJ'S HIGHEST ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ No resistance; Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weapon | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions | 1 ☐ Additional justification provided | |

## MISCELLANEOUS ELEMENTS

| INJURY TO 3rd PARTY/SELF (from SUBJ) | INJURY TO SUBJECT (from RO's acts) | INJURY TO RO (from SUBJ) |
|---|---|---|
| 0 ☐ None  2 ☐ Major – Hosp. Tx | 0 ☐ None  2 ☐ Major – Hosp. Tx | 0 ☐ None  2 ☐ Major – Hosp. Tx |
| 1 ☐ Minor  3 ☐ Major – Hosp. Admit | 1 ☐ Minr  3 ☐ Major – Hosp. Admt | 1 ☐ Minr  3 ☐ Major – Hosp. Admt |

| 3RD PARTIES/OTHERS INVOLVED (✓ all that apply) | DE-ESCALATION TECHNIQUES USED (✓ all that apply) |
|---|---|
| 0 ☐ Police/Probation Officer | 0 ☐ Dialogue  4 ☐ Explained Actions |
| 1 ☐ Security/Bouncer/Store Employee | 2 ☐ Negotiated  5 ☐ Distraction |
| 2 ☐ Other person(s) | 3 ☐ Problem-Solving  6 ☐ Communicated Concern |
| 3 ☐ Self (e.g., suicidal, self-harm) | 7 ☐ Other:_____  8 ☐ Not Documented |

## DOCUMENTATION IN REPORT(S)

| DID RO DOCUMENT WARNINGS HE/SHE ISSUED TO SUBJECT PRIOR TO USE OF FORCE? | DID RO EXPLAIN HOW ALCOHOL/DRUG USE BY SUBJECT INFLUENCED ACTIONS TAKEN? |
|---|---|
| 0 ☐ No warnings documented | 0 ☐ Not documented in report(s) |
| 1 ☐ No warnings given but reasons for this documented | 1 ☐ Documented in report(s) |
| 2 ☐ Warnings documented | 8 ☐ Not applicable – Subject was not intoxicated/high |
| 8 ☐ Not applicable | |

| DID RO EXPLAIN HOW MENTAL/EMOTIONAL STATUS OF SUBJECT INFLUENCED ACTIONS TAKEN? | DID RO DOCUMENT FACTORS THAT INCREASED PERCEIVED THREAT IN SITUATION? |
|---|---|
| 0 ☐ Not documented in report(s) | 0 ☐ Not documented in report(s) |
| 1 ☐ Documented in report(s) | 1 ☐ Documented in report(s) |
| 8 ☐ Not applicable – Subject did not evidence MH problem | 8 ☐ Not applicable |

## GRAHAM FACTOR REVIEW

| GOVERNMENTAL INTEREST IN SUBJECT/CASE (do not include offenses resulting from arrest) | THREAT TO OFFICER/SELF/OTHERS |
|---|---|
| 0 ☐ Low (e.g., traffic stop, minor infraction) | 0 ☐ Low (e.g., absence of weapons, no history of violence) |
| 1 ☐ Moderate (e.g., property crime, disorderly conduct, warrant) | 1 ☐ Moderate |
| 2 ☐ High (e.g., violent crime, felon, public danger) | 2 ☐ High (e.g., weapons, known history of violence) |
| 8 ☐ Could not determine | 8 ☐ Could not determine |

| SUBJECT RESISTANCE/EFFORT TO EVADE CONTROL | TIMING OF EVENTS |
|---|---|
| 0 ☐ Low (e.g., largely compliant, passive resistance) | 0 ☐ Situation did NOT require immediate action by RO (it was unlikely that anyone would have been physically injured if RO delayed contact with subject and use of force) |
| 1 ☐ Moderate (e.g., verbal resistance, verbal threats) | 1 ☐ Situation required immediate action by RO (somebody would probably have been physically injured if RO delayed contact with subject or use of force) |
| 2 ☐ High (e.g., active resistance, flight, assaultive) | |
| 8 ☐ Could not determine | 8 ☐ Could not determine |

## Appendix B – Revised Code Sheet

| USE OF FORCE ANALYSIS | | | | | | |
|---|---|---|---|---|---|---|
| **CASE NUMBER** | **POLICE INC # (CAD)** | **SUBJECT ID #** | **RESPONDING OFFICER BADGE#** | | **OFFICER SEQUENCE #**<br>1  2  3 | **Coder Initials** |
| | | | | | | |

| INFORMATION AVAILABLE TO RESPONDING OFFICER PRIOR TO USE OF FORCE | | | | |
|---|---|---|---|---|
| **INFORMATION KNOWN BY/REPORTED TO RO PRIOR TO USE OF FORCE** (*excluding current incident) | **No Info Available/Not Documented** | **Factor Present (positive)** | **Factor Absent (negative)** | **Conflicting Information Available** |
| Subject .....Age | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject .....Gender | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject .....Race | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject.....Possible Mental Health Problem/Symptom | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject.....Possible Drug/Alcohol Involved | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject....Criminal Record* | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject....History of Violence* | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject....History of Weapon Access/Use* | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject....History Gang Involvement* | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject....History of Police Noncompliance* | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Subject....Possibly Armed Currently | ☐ $_2$ | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Gov. Interest....Responding to Violent Crime | | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Gov. Interest....Responding to Property Offense /DUII | | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Gov. Interest ....Responding to Public Disorder | | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Gov. Interest ....Pursuit Call/Subject in Flight | | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |
| Gov. Interest ....Welfare Check | | ☐ $_1$ | ☐ $_0$ | ☐ $_8$ |

| TIMING OF EVENTS | | | |
|---|---|---|---|
| **FROM..........TO** | **Immediate**<br>(Yes) | (No) | **UNCLEAR** |
| Arrival at Scene ........Use of Force | ☐ | ☐ | ☐ |

## SEQ 1. DYNAMIC INTERACTION

**BRIEFLY DESCRIBE SUBJECT'S ACTIONS IMMEDIATELY PRIOR TO 1ST CONTACT WITH RO (optional)**

**BRIEFLY DESCRIBE OFFICER'S ACTIONS IMMEDIATELY PRIOR TO 1ST CONTACT WITH SUBJECT (optional)**

| SUBJ'S RESPONSE TO RO'S ARRIVAL | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance    (#____) | 4 ☐ Adv. physical; chemical    (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap.  (#____) | 5 ☐ Intermed. weapon use    (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force         (#____) | 6 ☐ Use of lethal force         (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 8 ☐ Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 0 ☐ No Resistance/Verbal Exchange | 0 ☐ Nothing beyond subj's act above | |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Additional justification provided | |
| 2 ☐ Postural or verbal threats | | |
| 3 ☐ Resisting custody, flight | **\*JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS** | |
| 4 ☐ Hitting, kicking, fighting    (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap.     (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 2. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance    (#____) | 4 ☐ Adv. physical; chemical   (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap.  (#____) | 5 ☐ Intermed. weapon use    (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force          (#____) | 6 ☐ Use of lethal force          (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 8 ☐ Not applicable; | 8 ☐ Not documented | Additional Information (optional) |
| 0 ☐ No Resistance/Verbal Exchange | 0 ☐ Nothing beyond subj's act  above | |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Additional justification provided | |
| 2 ☐ Postural or verbal threats | | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting   (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap.    (#____) | 0 ☐ Nothing beyond subj's act  above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 3. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance    (#____) | 4 ☐ Adv. physical; chemical   (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap.  (#____) | 5 ☐ Intermed. weapon use    (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force          (#____) | 6 ☐ Use of lethal force          (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 8 ☐ Not applicable; | 8 ☐ Not documented | Additional Information (optional) |
| 0 ☐ No Resistance/Verbal Exchange | 0 ☐ Nothing beyond subj's act  above | |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Additional justification provided | |
| 2 ☐ Postural or verbal threats | | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting   (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap.    (#____) | 0 ☐ Nothing beyond subj's act  above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 4. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 8 ☐ Not applicable; | 8 ☐ Not documented | Additional Information (optional) |
| 0 ☐ No Resistance/Verbal Exchange | 0 ☐ Nothing beyond subj's act above | |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Additional justification provided | |
| 2 ☐ Postural or verbal threats | | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 5. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 8 ☐ Not applicable; | 8 ☐ Not documented | Additional Information (optional) |
| 0 ☐ No Resistance/Verbal Exchange | 0 ☐ Nothing beyond subj's act above | |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Additional justification provided | |
| 2 ☐ Postural or verbal threats | | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 6. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#____)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#____)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#____)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 8 ☐ Not applicable;<br><br>0 ☐ No Resistance/Verbal Exchange<br>1 ☐ Verbal/Passive resistance<br>2 ☐ Postural or verbal threats<br>3 ☐ Resisting custody, flight<br><br>4 ☐ Hitting, kicking, fighting (#____)<br>5 ☐ Using non-lethal weap. (#____)<br>6 ☐ Used lethal force/actions (#____) | 8 ☐ Not documented<br>0 ☐ Nothing beyond subj's act above<br>1 ☐ Additional justification provided | Additional Information (optional) |
| | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| | 8 ☐ Not documented<br>0 ☐ Nothing beyond subj's act above<br>1 ☐ Additional justification provided | Additional Information (optional) |

## SEQ 7. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#____)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#____)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#____)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 8 ☐ Not applicable;<br><br>0 ☐ No Resistance/Verbal Exchange<br>1 ☐ Verbal/Passive resistance<br>2 ☐ Postural or verbal threats<br>3 ☐ Resisting custody, flight<br><br>4 ☐ Hitting, kicking, fighting (#____)<br>5 ☐ Using non-lethal weap. (#____)<br>6 ☐ Used lethal force/actions (#____) | 8 ☐ Not documented<br>0 ☐ Nothing beyond subj's act above<br>1 ☐ Additional justification provided | Additional Information (optional) |
| | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| | 8 ☐ Not documented<br>0 ☐ Nothing beyond subj's act above<br>1 ☐ Additional justification provided | Additional Information (optional) |

## SEQ 8. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 0 ☐ Not applicable | 8 ☐ Not documented | Additional Information (optional) |
| 1 ☐ No/Verbal/Passive resistance | 0 ☐ Nothing beyond subj's act above | |
| 2 ☐ Postural or verbal threats | 1 ☐ Additional justification provided | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## SEQ 9. DYNAMIC INTERACTION

| SUBJ'S RESPONSE TO RO | RO'S ACTIONS TOWARD SUBJ. | CONTROL ACHIEVED OVER SUBJ |
|---|---|---|
| 8 ☐ Response not documented | 8 ☐ Response not documented | 8 ☐ Not documented |
| 0 ☐ No resistance; verbal exchange | 0 ☐ Presence; verbal exchange | 0 ☐ None – subj. had free movement |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Lawful orders | 1 ☐ Isolated, blocked, cornered |
| 2 ☐ Use of posture and verbal threats | 2 ☐ Light contact | 2 ☐ Phys. hold; single limb controlled |
| 3 ☐ Physical non-compliance | 3 ☐ Physical control tactic* | 3 ☐ Pin; multiple limbs controlled |
| 4 ☐ Act. physical resistance (#____) | 4 ☐ Adv. physical; chemical (#___)* | 4 ☐ ECD/Tased effectively |
| 5 ☐ Use of non-lethal weap. (#____) | 5 ☐ Intermed. weapon use (#___)* | 5 ☐ Handcuffed |
| 6 ☐ Use of lethal force (#____) | 6 ☐ Use of lethal force (#___)* | 6 ☐ In police vehicle; hobbled |

| SUBJ'S ACTIONS TO 3rd PARTY/SELF | *JUSTIFICATION(S) FOR USING FORCE IN GENERAL | |
|---|---|---|
| 8 ☐ Not applicable; | 8 ☐ Not documented | Additional Information (optional) |
| 0 ☐ No Resistance/Verbal Exchange | 0 ☐ Nothing beyond subj's act above | |
| 1 ☐ Verbal/Passive resistance | 1 ☐ Additional justification provided | |
| 2 ☐ Postural or verbal threats | | |
| 3 ☐ Resisting custody, flight | *JUSTIFICATION(S) FOR USING SPECIFIC TYPE OF FORCE & NUMB. REPETITIONS | |
| 4 ☐ Hitting, kicking, fighting (#____) | 8 ☐ Not documented | Additional Information (optional) |
| 5 ☐ Using non-lethal weap. (#____) | 0 ☐ Nothing beyond subj's act above | |
| 6 ☐ Used lethal force/actions (#____) | 1 ☐ Additional justification provided | |

## MISCELLANEOUS ELEMENTS

| INJURY TO 3rd PARTY/SELF (from SUBJ) | | INJURY TO SUBJECT (from RO's acts) | | INJURY TO RO (from SUBJ) | |
|---|---|---|---|---|---|
| 0 ☐ None | 2 ☐ Major – Hosp. Tx | 0 ☐ None | 2 ☐ Major – Hosp. Tx | 0 ☐ None | 2 ☐ Major – Hosp. Tx |
| 1 ☐ Minor | 3 ☐ Major – Hosp. Admit | 1 ☐ Minr | 3 ☐ Major – Hosp. Admt | 1 ☐ Minr | 3 ☐ Major – Hosp. Admt |

| 3RD PARTIES/OTHERS INVOLVED (✓ all that apply) | DE-ESCALATION TECHNIQUES USED (✓ all that apply) | |
|---|---|---|
| 0 ☐ Police/Probation Officer | 0 ☐ Dialogue | 4 ☐ Explained Actions |
| 1 ☐ Security/Bouncer/Store Employee | 2 ☐ Negotiated | 5 ☐ Distraction |
| 2 ☐ Other person(s) | 3 ☐ Problem-Solving | 6 ☐ Communicated Concern |
| 3 ☐ Self (e.g., suicidal, self-harm) | 7 ☐ Other:_____ | 8 ☐ Not Documented |

## DOCUMENTATION IN REPORT(S)

| DID RO DOCUMENT WARNINGS HE/SHE ISSUED TO SUBJECT PRIOR TO USE OF FORCE? | DID RO EXPLAIN HOW ALCOHOL/DRUG USE BY SUBJECT INFLUENCED ACTIONS TAKEN? |
|---|---|
| 0 ☐ No warnings documented | 0 ☐ Not documented in report(s) |
| 1 ☐ No warnings given but reasons for this documented | 1 ☐ Documented in report(s) |
| 2 ☐ Warnings documented | 8 ☐ Not applicable – Subject was not intoxicated/high |
| 8 ☐ Not applicable | |

| DID RO EXPLAIN HOW MENTAL/EMOTIONAL STATUS OF SUBJECT INFLUENCED ACTIONS TAKEN? | DID RO DOCUMENT FACTORS THAT INCREASED PERCEIVED THREAT IN SITUATION? |
|---|---|
| 0 ☐ Not documented in report(s) | 0 ☐ Not documented in report(s) |
| 1 ☐ Documented in report(s) | 1 ☐ Documented in report(s) |
| 8 ☐ Not applicable – Subject did not evidence MH problem | 8 ☐ Not applicable |

## GRAHAM FACTOR REVIEW

| GOVERNMENTAL INTEREST IN SUBJECT/CASE (do not include offenses resulting from arrest) | THREAT TO OFFICER/SELF/OTHERS |
|---|---|
| 0 ☐ Low (e.g., traffic stop, minor infraction) | 0 ☐ Low (e.g., absence of weapons, no history of violence, young, physically small) |
| 1 ☐ Moderate (e.g., property crime, disorderly conduct, warrant) | 1 ☐ Moderate (e.g. non-compliant/resistive, physically large relative to the officer) |
| 2 ☐ High (e.g., violent crime, felon, public danger) | 2 ☐ High (e.g., weapons, known history of violence) |
| 8 ☐ Could not determine | 8 ☐ Could not determine |

| TIMING OF EVENTS |
|---|
| 0 ☐ Situation did NOT require immediate action by RO (it was unlikely that anyone would have been physically injured if RO delayed contact with subject and use of force) |
| 1 ☐ Situation required immediate action by RO (somebody would probably have been physically injured if RO delayed contact with subject or use of force) |

## Appendix C – Revised Code Book

# Use of Force Analysis Code Book

| CASE INFORMATION |
| --- |

1.  **Case Number**

    A case number (or similar identifying number) is used to link reports to incidents. A "case" may contain a number of reports, such as, arrest report, incident report, use of force report etc. This number is used as key to link the case.

2.  **Police Inc. # (CAD)**

    A separate and distinct number may be issued to emergency dispatch calls. Some agencies may use the same number as the case number and some agencies may use a unique number

3.  **Subject CRN**

    PPB assigns each person in their records management system a unique computer record number or CRN. Other agencies will employ a similar number to identify individuals in their records management systems.

4.  **Responding Officer DPSST**

    The state of Oregon assigns each law enforcement officer a unique ID or DPSST number (*Department of Public Safety Standards and Training*). Other jurisdictions will have a similar number, often referred to as a "badge number."

5.  **Officer Sequence Number**

    These cases may use more than nine sequences. In the event that more than nine sequences are necessary utilize this form but label it sequence 2.

6.  **Source Materials Available/Used**

    Please report all of the documents/reports that you reviewed in order to complete the coding on an incident.

| NOTES REGARDING THE RESPONDING OFFICER (RO) |
| --- |

**There will be situations where multiple officers use force against a single suspect. Please remember that you are documenting only the actions of the officer who's DPSST you listed in section 4. An additional analysis will be conducted for each officer associated with the incident. Each officer's actions should be documented and attributed to only that officer. If you have questions please do not hesitate to ask for assistance.**

| INFORMATION AVAILABLE TO RESPONDING OFFICER (RO) |
| --- |

**The goal for this section of the review is to document all of the information that the responding officer (RO) had access to prior to his/her first use of force against the subject[12]. This includes information relayed to the officer by dispatchers, other police officers, witnesses, family members, or the subject. It also includes information that the officer knew on his/her own already about the subject, incident location, or general situation, information that he/she documented in the reports.**

**It is very important to understand that the emphasis here is on what was known by or communicated to the officer prior to his/her use of force, not whether this information is valid. For example, if dispatchers and/or witnesses at the scene tell the officer that the subject is armed with a gun, this item would be coded as affirmative or "present", regardless of whether later investigation found that the subject was actually unarmed.**

**Timing:**

**After contacting the subject (prior to first use of force)** – This information will most likely be found in the report narrative for the responding officer.  Officer may fill out multiple reports for an incident (for instance they may take an incident report of a theft and then a custody report for arresting the suspect), but will generally only fill out one narrative for the entire incident.  You can identify the officer who wrote each narrative by reviewing the DPSST box at the bottom of the page.  You can also determine the type and length of the report by examining the box at the top of the page.  It will list the report type and be followed by a second box listing the current page number and how many pages are in the entire report.  This narrative section should contain the officer account of the incident and include both information which they learned during the incident and the timing and way in which they learned the information (for instance an officer may document speaking with a witness).

**For each of the factors detailed below you will choose one of four options:**

- **No Info Available/Not Documented** – if there is any indication from the various documents that the officer knew about/was informed of this item before the first use of force, then you should check this box.
- **Factor Present** - this box should be checked when there is documented evidence that the officer was provided with the given information or that the given factor was affirmative. For example, choose this option for gender if the dispatcher told the officer the subject was a "white male". Similarly, if a witness told the officer that the subject was armed this factor would be coded "present".
- **Factor Absent** – with some items officer might be told that the factor was not present. For example dispatchers might have told the officer that the subject was "not armed".
- **Conflicting Information Available** - in some cases the officer may receive conflicting information from different sources or from the same source at different times prior to the his/her first use of

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[12] By "use of force" we mean physical control tactics, advanced physical or chemical agents, intermediate weapon use, or lethal force. Details on each of these actions are provided later in this document.

force against the subject. In these cases you should select the box labeled "Conflicting Information Available".

1. **Subject …..Age**

   Age can be listed in years or as a descriptor.  For instance the dispatcher may describe a "white male, age 20 to 25" or reports may indicate a general impression of age ("young male").  The general context (a grade school) or reports by others might also allow the officer to infer the subject's age ("there is a teenager who just stole our car")

2. **Subject …..Gender**

   As with age the call may describe a "young white male" or reports provided to the officer may allow him/her to infer the subject's gender ("our son is locked in his room and is threatening to hurt himself").

3. **Subject …..Race**

   The call may describe a "young white male" subject or other information relayed to the officer might reasonably allow him/her to infer the subject's race.

4. **Subject…..Possible Mental Health Problem/Symptom**

   - Information available to (known by) the officer specifically indicates the person is mentally ill, mentions mental health treatment, taking medications or suffering from symptoms (i.e. depression, anxiety or other mental health issue), consistent with a mental illness, or;
   - Information available to (known by) the officer indicates a possible mental health issues but does not provide specific information.  For instance the dispatch log states, the person appears mentally ill, is "acting crazy" or other general reference which may be associated with a mental illness but does not provide additional information of a non-speculative nature such as direct knowledge of the person's mental health status, the identification of symptoms or other indicators specific to mental illness).  If behavior is attributed to drug or alcohol use (as opposed to mental illness) as (0) Factor Absent.

5. **Subject…..Possible Drug/Alcohol Involved**

   - Information is relayed to (known by) the officer regarding alcohol use/abuse (i.e. call says the person is drunk, has been drinking, is using alcohol or is "alcoholic" etc.).  Statements indicating a person "looks drunk" or has a drinking problem would also qualify.  Code alcohol as being present when officers witness the use of alcohol, document evidence consistent with alcohol use or state that training and/or experience leads them to believe the subject was drunk.  If the incident occurs in a location or at a function in which alcohol is generally used (for instance a bar or large party) assume that alcohol is involved unless otherwise mentioned, or;
   - Information is relayed to (known by) the officer regarding drug use/abuse (i.e. call says the person is under the influence of drugs, is "stoned" or "high" or other language specific to drug use but is not inferred from behavior alone).  Statements indicating the person looks

"high" or has a drug problem would also qualify. . Code drug use as being present when officers witness the use of drugs, document evidence consistent with drug use or state that training and/or experience leads them to believe the subject was using drugs.

6. **Subject….Criminal Record**

Information is relayed to (known by) the officer regarding past criminal activity (excluding the current event). For instance a witness who knows the subject of the call may indicate they have a criminal past. Alternately, an officer or dispatchers may know the subject's history.

7. **Subject….History of Violence**

Information is relayed to (known by) the officer regarding past violence (excluding the current event). This may include officially documented incidents (such as a past arrest for assault) or witness statements indicating the person has a history of violence (such a girlfriend reporting, "he is always fighting with people). Alternately, an officer or dispatchers may know the subject's history. If the subject has a police record related to violence (such as past arrests) code this factor as being present both in this category and the criminal record category.

8. **Subject….History of Weapon Access/Use**

Information is relayed to (known by) the officer regarding past access to or use of weapons (excluding the current event). For instance, a witness who knows the subject of the call may indicate they have used or possessed weapons in the past. Alternately, an officer or dispatchers may know the subject's history. If the subject has a police record related to violence (such as past arrests) involving weapons use code this factor as being present both in this category and the history of violence category.

9. **Subject….History Gang Involvement**

Information is relayed to (known by) the officer regarding past involvement in gang activity (excluding the current event). For instance a witness who knows the subject of the call may indicate that the subject had been involved in gangs in the past. Alternately, an officer or dispatchers may know the subject's history.

10. **Subject….History of Police Noncompliance**

Information is relayed to (known by) the officer regarding past non-compliance with police, such as running from police, fighting with police or otherwise resisting police authority (not associated with the incident being reviewed). For instance a witness who knows the subject of the call may indicate that the subject had fought with the police in the past. Alternately, an officer or dispatchers may know the subject's history.

11. **Subject….Possibly Armed Currently**

- Definitive information is relayed to (known by) the officer regarding the subject's current possession of a weapon. This would include eyewitnesses stating the subject was armed or other definitive evidence such as a subject in a bedroom shooting a gun, where the witness

may not see the weapon but has other definitive knowledge that the subject is currently in possession of the weapon, or;

- Officers responding to the call receive information that the subject may be armed. This would include witnesses having seen the subject with a weapon earlier in the event but did not know if they still have it. Another possibility would be that a witness says the subject is "always armed" but has not seen a weapon. Finally the suspect may claim to be armed but a weapon is not seen. If the subject is known to be armed (see above) code this factor as present as well.

## 12. Gov. Interest….Responding to Violet Crime

Information is relayed to (known by) the officer that suggests he/she is responding to a fight, gun shots, assault or other calls involving a violent act. A generic disturbance (yelling, arguing etc.) would not be classified as a violent crime without additional information. Threats, sex crimes or robbery (using force or threat of force to take property) would be a violent crime. Robbery in particular is often misclassified as a property crime because it is instrumental in nature (the goal being taking the belongings of another). However, because of the threat of violence it is classified as a violent crime. Domestic violence (even if no force is involved such as a restraining order violation) would also be a violent crime. Hit and Run accidents with injury to a person would be a violent crime.

## 13. Gov. Interest….Responding to Property Offense

Information is relayed to (known by) the officer that suggests he/she is responding to a theft, burglary, fraud, vandalism or other crime involving property. This also includes calls such as Driving Under the Influence of Intoxicants (DUII) and Hit and Run accidents with only property damage.

## 14. Gov. Interest ….Responding to Public Disorder

Information is relayed to (known by) the officer that suggests he/she is responding to a drunk individual, a person acting loudly or being disruptive, civil disorder such as noise or the individual's behavior is alarming the public but not necessary violent. This would include calls where the subject is impacting other persons (sleeping in a doorway and preventing people for entering a business). It would also include offenses such as jay walking, complaints about drug activity not associated with violence or status offenses such as curfew violations, minor in possession of alcohol or other minor infractions.

## 15. Gov. Interest ….Pursuit Call/Subject in Flight

Information is relayed to (known by) the officer that suggests he/she is responding a subject attempting to avoid/evade police custody (or custody by another lawful agent like a probation officer, store security). This would include subjects running from officers or vehicle pursuits.

## 16. Gov. Interest ….Welfare Check

Information relayed to (known by) the officer that suggest s/he is responding to check the welfare of a person. Many calls will be explicitly coded as Welfare Checks. Officers may self-initiate contact

with a person who needs to be checked (for instance in an individual lying in the street). This will differ from public disorder in that the primary purpose is to check the welfare of the subject(s) and the subject is not impeding other individual's ability to exercise their rights.

17. **Gov. Interest ….Warrant**

Information relayed to (known by) the officer suggesting the subject of the call has a warrant. If the warrant is for a violent crime (e.g. assault, robbery, murder etc.) the Gov. Interest box for violent crime would also be check. Similarly if the warrant is for a crime associated with property offenses or public disorder the associated box would also be checked.

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**TIMING OF EVENTS**

**One goal of this evaluation is to determine the timing of various interactions in police use of force. Some of this material may be available in the dispatch log with a time stamp. Unfortunately there will be instances where the interaction was not relayed to dispatch (especially in rapidly evolving situations). In those instance, please use definitions listed below to make the most accurate assessment possible.**

**For each of the time periods you will need to determine if the use of force was the result of an immediate threat/action by the subject or if the officer had time to develop additional information, negotiate etc.**

- **YES** - Occurred immediately or nearly immediately. If exact time is not available, short can be defined as a sufficiently brief time so that the officer could not get more than very basic information, such as a name, from the subject.
- **No** - Occurred long enough after the contact for the officer to gain some information or communicate. This would allow for enough time for the officer to obtain basic information from the subject such as name, date of birth and a possibly a brief description of the problem resulting in a police response.
- **Unclear** – The timing of events cannot be determined from existing reports.

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**SEQ 1. DYNAMIC INTERACTION**

**The purpose of this section is to document officer actions relative to the suspect's actions (and vice-versa). Note on Sequencing: these are dyadic interactions, each sequence requires an action by both officer and subject. If the officer indicates that they employed a force types multiples times please record the number on the box next to that force type (e.g. an officer may document, "I delivered to open palm strikes to the subject's upper back"). If an officer employs multiple force types and the subject does not respond between those force types please record both force types (e.g. an officer may document, "I took the subject to the ground using an armbar take down (physical control) and then punched the subject once in the torso (Advanced Physical;Chemical)."**

1. **BRIEFLY DESCRIBE SUBJECT'S ACTIONS IMMEDIATELY PRIOR TO 1ST CONTACT WITH RO**

   The report narrative should contain an explanation of the subject's behavior as the officer made contact. This may include behavior such as fighting with a spouse, engaged in a crime or the behavior which led to the officer contacting the subject.

2. **BRIEFLY DESCRIBE OFFICER'S ACTIONS IMMEDIATELY PRIOR TO 1ST CONTACT WITH SUBJECT**

   This narrative will generally contain a brief (possibly only an abbreviation) explanation of the officers activity prior to contacting the subject. Some common abbreviation would include: "RP" or routine patrol (indicating the officer was on a patrol i.e. driving around). Often self-initiated calls will begin with an officer on routine patrol indicating s/he was not responding to a dispatched radio call, "R/C" or radio call, "Disp" or dispatched (both of these would indicate the officer was dispatched to a call from a citizen requesting a police officers). Officers may also indicate tactical actions taken before the call, such as parking away from the call and walking in or waiting for another officer for "cover."

3. **SUBJ'S RESPONSE TO RESPONDING OFFICER**

   Please choose just one of the responses below to indicate how the subject responded to the officer's last action.

   Select just one of the following options:

   - **Response not documented –** Use this option if the officer does not articulate the actions of the subject.
   - **No resistance; Verbal exchange -** The subject does not resist or otherwise refuse commands from the responding officer. The subject may argue as long as the subject follows directions. For instance, the officer may order a person to turn-around and put their hands on their head. The subject may threaten to sue the officer or get them fired but the subject follows the officer's directions. This category would also be used for encounters where the officers and subject are talking or otherwise interacting in a non-hostile manner. For instance, if an officer responded to the domestic disturbance and was speaking with the subject prior to determining that an arrest would be made. The officer may develop probable cause to make and arrest and fight may ensue but the initial interaction was non-hostile.
   - **Verbal resistance/passive resistance -** The subject is refusing commands from the responding officer but not threatening the officer. For instance, the officer may tell the subject to place their hands on their head and the subject may say, "no." In the absence of other actions this would indicate verbal resistance. If the subject "goes limp", acts as "dead weight" or engages in passive resistance while refusing command code their actions in this category.
     However, verbal resistance is also often coupled with flight. If in the above example the subject said, "no" and began to back away from the officer or turn and run it would be categorized as "physical non-compliance." Code verbal resistance in instances where the subject is refusing to comply with an order but engaging in no other actions, including threats of violence.

- **Use of posture and verbal threats -** The subject assumes a threatening posture or issues verbal threats against the responding officer.  This may include over threats such as, "I'm going to kick your ass," or attempting to appear intimidating by cracking knuckles, "puffing up" or "chest thumping".  Officers may document actions such as: "the suspect clenched his fists…" or "the suspect assumed a fighting stance"  which would be included in this category.  Attempts to actually fight the officer, even if unsuccessful do not qualify as posture (for instance if the officer documents that the subject attempted to punch or kick a person) but would instead constitute "Active Physical Resistance".

- **Physical non-compliance -**  The subject makes attempts escape or avoid custody which do not involve offensive actions against the officer.  This would include refusing to provide their hands for handcuffing (by tensing up or physically preventing the officer from handcuffing), attempting to run from the officer or refusing commands to stop.  It might also include pulling away from an officer so long as there is not an offensive action (such as pushing or punching) associated with the attempt at flight.
  Going "limp", acting as "dead weight" or engaging in passive resistance would not count as physical non-compliance.  This can be coded as verbal resistance.  Similarly, acts of civil-disobedience which do not involve offensive actions (such as linking arms together while seated to block an intersection) would not be included in this category.  These would also constitute verbal/passive resistance.

- **Active physical resistance -**  The subject makes attempts to avoid control which involve offensive actions such as violent struggles to escape, wrestling, striking, pushing or otherwise using vigorous physical actions designed to prevent custody which are not purely for designed to escape the officer.  Simply pulling away from an officer would not constitute active physical resistance, however, wrestling with the officer on the ground while attempting to escape would.

- **Use of non-lethal weapon –** This would include the use of a weapon (or object being employed as a weapon such as a pool cue) in a manner that it is unlikely to cause fatal injury.  Examples might include throwing a chair at an officer or striking the officer in the leg with a blunt object.

- **Use of lethal force -** This would include actions aimed at the responding officer capable of inflicting serious injury.  Blows to the head with hard objects (this would not include a single punch but would include actions such as repeatedly punching an unconscious or defenseless person in the head).  It would also include the use or attempted use of stabbing weapons, group assaults against a defenseless person, chokes or other maneuvers which have a reasonable possibility of cause death.

4.  **Responding Officer (RO'S) ACTIONS**
Please choose just one of the responses below to indicate how the officer responded to the subject's last action.
Select just one of the following options:

- **Response not documented:** Use this option if the officer does not articulate their actions sufficiently to choose one of the options provided below.

- **Presence; Verbal exchange:** Officer arrives and is engaged directly with the subject. Officer communication is non-directive (i.e. questions and statements but not commands or orders). This can include getting basic information such as name, date of birth or asking about the situation. Additionally, if the officer reports multiple actions by the subject (i.e. the officer reports, "the subject pushed me to the ground and then punched me in the side of my head") use this to code the officer response between suspect actions.
- **Lawful orders:** Officer commands or directs the subject to perform an action. This can include commands to, "stop", "turn around", "put your hands on your head" etc.
- **Light contact:** This would include handcuffing, leading or "escorting" a subject or lifting a passively resistant subject. It may include holds which are not used to inflict pain and do not cause injury. An example of this might include a wrist lock which is used with handcuffing. However, it would not include an arm bar takedown or a hold designed to use pain to gain compliance.
- **Physical control tactic\*:** This would include joint manipulations, pain compliance or physical actions likely to cause pain and/or possible injury (tackling a subject, pushing them to the ground while running etc.). Wrestling or struggling to take a suspect into custody which did not include strikes (punches, kicks, elbow strikes etc.) would fall in this category. The use of the hobble (also phrased maximum restraint in police reports) would fall into this category.
- **Advanced physical; Chemical\*:** This would include punches, knee strikes, elbow strikes and/or other blows which do not involve weapons (including improvised weapons such as striking a subject with a radio or other blunt object). The use of chemical spray would also fall into this category.
- **Intermediate weapon use\*:** This includes the use of less-lethal weapons such as asp baton, PR-24, Taser (electronic control weapon or ECW), less-lethal shotgun (beanbag gun) or a grenade launcher utilizing rubber dowels. If these weapons are intentionally used against the head or neck of the subject it would constitute deadly force. Officers should document where the body part of the subject against which the weapon was employed.
- **Use of lethal force\*:** Shootings were not included in this data set but other uses of lethal force might include, intentional chokes holds, intentional strikes to the head with a weapon, or the intentional use of less-lethal shotgun to the head. It is important to note that the officer must intend for the strike to be to the head or for the choke to occur. If the choke or strike is unintentional it is an Intermediate Weapon Use.
- **An \* indicates that the questions in the two "justification" sections beneath use of force need to be completed. This includes "justification for in general" and "justification for using specific type of force and numb. repetitions.**

5. **Control**

The level of control indicated below is an ordinal scale. Each higher level should indicate additional control over the subject by the officer. For instance, an officer who has a subject in a physical control hold (the third level below) has more control over that individual than if the officer has only

managed to isolate or blocked (the second level below) the subject. Code this section at the end of each officer/subject sequence.

Select highest one of the following options:

- **Not Documented:** The officer does not document the level of control (or lack of control) achieved by their last action.
- **None – Subject has Free Movement:** The subject is unrestrained and has complete freedom of movement. This would include Taser usage, pepper spray or control holds which fail to control the subject.
- **Isolated, Blocked, Cornered:** The subject's ability to interact with others has been removed. This could occur via the subject being moved or by directing potential victims to leave the area. The officer may also position herself so that the suspect's ability to access victims is limited.
- **Physical Hold – Single Limb Control:** The officer has applied a hold such as a wrist lock, san kajo or other technique to limit the movement of the subject. The subject may not be fully restrained and may still be resisting control but the officer indicates that the hold was used or that they control one limb.
- **Pinned – Multiple Limb Control:** The subject is pinned and unable to move or his held on the ground. Note use this section if the officer indicates the subject is pinned or restrained even if it is not on the ground (i.e. pinned the subject in the door well of the vehicle or on their trunk).
- **ECD or "Tasered" Effectively:** Subject is disabled by a taser. Officers will note if the taser was effective or not. Do not code this level as factor present if the officers indicate that the taser was either ineffective or only partially effective. Officers will normally indicate if the taser was effective in their reports.
- **Handcuffed:** Officer has applied handcuffs to both of the subject's hands. Note the subject may still not be under control and may still be struggling but the handcuffs are secure and locked on both hands of the subject.
- **In Vehicle or Hobbled:** The subject is placed in the officers secure prisoner compartment (not sitting in the front or in an car without a prisoner section). If the officer reports the subject was placed in their vehicle it is assumed that they are in the secure section. The officer will document if they are not. The subject may or may not be handcuffed. Officers have successfully applied a hobble to the subject. This can include a full hobble where the subject's feet and legs are both restrained and the hobble is latched to a bolt in the police car or a partial hobble where only the subject's feet are restrained.

## 6. SUBJ'S ACTIONS TO 3rd PARTY/SELF

Often officers will act to assist or protect a 3rd party. This section is included to document threats to individuals other than the responding officer. This may include situations such as an officer intervening in a fight or an officer acting to protect another officer (or other person with legitimate authority such as store security, parole officer etc.). This may also include situations in which an officer acts to prevent a subject from inflicting harm on themself (such as tackling a suicidal subject who intends to jump off a bridge). There may be ambiguous situations, for instance an officer uses

force to prevent a drunk subject from driving away, in these situations the officer should document their concerns in their report narrative. In coding this section remember that these are actions taken by the suspect toward anyone other than the responding officer.

- **Not Applicable:** Indicates that there was not threat to other persons and that the subject was not threatening to harm themselves.
- **No Resistance**: Indicates actions the subject engages in with a person other than the responding officer. This category includes actions which would not be perceived as hostile or threatening. Examples of this could include the subject talking with a security guard or bouncer, a concerned bystander or family member. The interaction should be obviously non-threatening. The context of the information provided to the officer should be used to help evaluate this (for instance the dispatch log may state, "family members are with a suicidal subject. The family member says the subject is unarmed and non-violent").
- **Verbal/Passive resistance:** Indicates actions the subject engages in with a person other than the responding officer. The subject was engaged in argumentative but not threating behavior. This could include arguing with a bouncer about being kicked out of a bar, a verbal dispute with family members over the need to go to the hospital for mental health treatment or a dispute with shop owner over payment. Threats of violence would not count as verbal resistance but would be documented as "Postural or verbal threats".
- **Postural or verbal threats:** Indicates actions the subject engages in with a person other than the responding officer. The subject was threatening or assuming a threatening posture as documented by the officer. Threats must reference violence (i.e. threatening to sue does not constitute a threat for purposes of this category). Officers will often document threatening postures such as "clenched fists" or "assuming a fighting stance". The posture or threats need to be directed at someone other than the responding officer.
- **Resisting custody, flight:** Indicates actions the subject engages in with a person other than the responding officer. The subject was fleeing or resisting the custody of someone with legitimate authority to detain the subject (e.g. security guards attempting to apprehend fleeing shoplifters, the parent of a juvenile). This includes actions such as struggling, pulling away or other non-offensive acts but would not include actions such as pushing, punching or other offensive actions aimed at the 3rd party. The resistance or flight must be from someone other than the officer.
- **Hitting, kicking, fighting:** Indicates actions the subject engages in with a person other than the responding officer. The subject was actively fighting the third party. This would include punching, wrestling, kicking or other offensive actions but would not include actions which are entirely focused on flight. For example, pushing a security guard to get past them would be fighting as the push was an offensive action. Running around a security guard and pulling way when the security guard grabbed a coat would be resisting custody/flight. Self-harm might include situations such as a person attempting to jump from a bridge, hitting themselves or banging their head against a wall.
- **Using non-lethal weapons:** Indicates actions the subject engages in with a person other than the responding officer. The subject employed a weapon (including improvised weapons such as

throwing a chair or using a bottle) in an offense action which could have caused harm to the 3rd party. Examples of this might include, throwing rocks, using a taser or chemical spray. Blows to the head with weapons (including bottles and other improvised weapons) would be lethal force. Stabbing instruments (even improvised ones such as a bottle which has been broken) would also be lethal force except in the instance of self-harm involving arm cutting (some individuals cut themselves repeatedly in the arm or leg in a non-lethal fashion due to mental health issues). The use of non-lethal weapons should include only items unlikely to cause serious injury.

- **Using lethal force, lethal actions:** Indicates actions the subject engages in with a person other than the responding officer. This would include actions aimed at someone other than the responding officer capable of inflicting serious injury. Blows to the head with hard objects (this would not include a punch but would include actions such as repeatedly punching an unconscious or defenseless person in the head). It would also include the use or attempted use of stabbing weapons, group assaults against a defenseless person, chokes or other maneuvers. Self-harm might include cutting one's neck, self-inflicted gun shots or overdoses of medication.

7. **DID RO DOCUMENT JUSTIFICATION FOR THE USE OF FORCE IN GENERAL ON THE SUBJECT?**
This is not a subjective decision by the coder on if the justification was valid or a sufficient reason for the use of force but instead is an objective decision on if there is some justification for the action. This will generally take the form of the officer describing the subject's actions and (hopefully) providing an explanation of their though process on using force as a result of the subject's actions.

- **Not documented:** The RO did not provide an explanation or justification for their decision to use force and does not articulate actions by the subject which lead to the decision to use force.
- **Nothing beyond subject's actions:** The RO documents the actions of the subject leading up to the use of force but does not provide additional insight as to why that action lead to a use of force. An example of this could include an officer documenting, "the subject pulled away and clenched his fist so I struck him in the hand with my baton," without additional articulation as to why the subject might present a threat to the RO or others.
- **Additional Justification(s) provided:** The RO documents both the actions of the subject and articulates the reasons for those actions leading to the use of force. Using the example above this would include documentation such as, "the subject pulled away and clenched his fist. I believed he intended to strike me so I struck him with my baton." The RO should provide context around their decision to employ force that both describes the subject's actions and then explains why those actions might be cause for the use of force.

8. **DID RO DOCUMENT JUSTIFICATION FOR SPECIFIC TYPE OF FORCE USED ON SUBJECT?**
Ideally officers will document not just why they used force in a given situation but also the thought process behind why they chose the particular type of force used (for instance an officer may elect to use a Taser in-lieu of a chemical spray in a confined space where using the spray would also impact other officers). Please choose among the responses below (choose only one response) to best describe the level of documentation.

- **Not documented:** The RO did not provide an explanation or justification for their decision to use a specific form of force versus other options and did not detail the number of repetitions with applicable types of force (e.g., 3 punches).
- **Nothing beyond subject's actions:** The RO documents the actions of the subject leading up to the use of force but does not provide additional insight as to why that action lead to a use of force. An example of this could include an officer documenting, "the subject pulled away and clenched his fist so I struck him in the hand with my baton," without additional articulation as to why the subject might present a threat to the RO or others.
- **Additional Justification(s) provided:** The RO documents both the actions of the subject and articulates the reasons for those actions leading to the use of force. Using the example above this would include documentation such as, "the subject pulled away and clenched his fist. I believed he intended to strike me so I struck him with my baton." The RO should provide context around their decision to employ force that both describes the subject's actions and then explains why those actions might be cause for the use of force.

No: The RO documented the use of force and may have documented the actions by the subject which lead to the use of force but does not explain their decision process for why a particular type of force was used. An example of this might include an officer documenting the use of an arm bar take down against a subject pulling away from them but not including addition reasons for why they chose an arm bar as opposed to alternate type of force.

Yes: The RO documented the use of force and also documented why they chose that particular force type. An example of this could include a RO stating, "The subject pulled away from me and I employed an arm bar take down to overcome their resistance. I chose the arm because as the subject pulled away I was able to grab their arm." Alternately, the officer may explain why one force option was chosen relative to another. An example of this might include, "I chose to utilize my taser in this situation because we were in an enclosed space and I believed that if I used OC spray it would contaminate myself or the other officers present."

Not applicable: For some reason this category is not applicable to the incident being coded.

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**RELIABLE SEQUENCING NOT POSSIBLE (CODE BELOW FOR ENTIRE EVENT)**

If sequencing is not please document the reason why the coder is unable to document the event. Reasons could include reports narratives which do not capture the information sequentially, multiple narratives making it difficult to document the sequence of actions, missing reports (reports referenced but which were not included in the reporting packet) or other unforeseen reasons.

For coding the remaining sections please code the highest use of force or level of resistance by the suspect and the officer. Similarly, code the highest level of control obtained. Code all attempts at de-escalation and all the parties involved.

**MISCELLANEOUS ELEMENTS**

1. **Injuries**

Minor injury:  Includes any injury which did not require transport to a hospital for evaluation.

Major injury (not admitted to hospital):  Injuries requiring transportation to the hospital for evaluation, but where the subject is released and transported to prison (i.e. stitches or injuries which do not require overnight admission).

Major Injury (admitted to hospital):  The subject was admitted to the hospital for medical treatment. This does not include admissions to the hospital for mental health issues.  This would include situations where the subject was under arrest but could not be transported to jail due to injuries which occurred as a result of the police use of force.

2. **De-escalation**

Ideally officers will document attempts at de-escalation during the course of the use of force incident. Please list all the different types of de-escalation utilized by the RO and documented in the reports (you can choose more than one item in this section).  Please remember that this section only applies to the RO.  In some situations two officers may use force against one person.  In those situations document only the de-escalation attempts attributed to the officer you are scoring in this section.

De-escalation Dialogue:  Officer attempts to use dialogue to avoid use of force.  Officers need to specify how they used dialogue to avoid use of force as opposed to simply reporting that they spoke with the subject.  An example of this might include an officer stating that they attempted to re-direct the subjects attention by asking them a question about themselves or the offices states she attempted to use a calm voice to settle the subject.

De-escalation Explain Actions:  An officer documents attempts to explain why they are taking certain actions or why it is necessary for the person to comply.  This might include the officer explaining that they have to arrest a subject for domestic violence because the law requires them to or explaining that they are going to have to handcuff the subject because of policy.  Threats to use additional force would not qualify as an explanation.

De-escalation Negotiated:  Officer attempts to negotiate in-lieu of force.  Examples of this may include allowing a subject to smoke a cigarette prior to transport to jail, handcuffing a subject away from family etc.

De-escalation Communicate Concern:  Officer attempts to communicate concern for the subject in an attempt to avoid force.  Examples of this would include communicating to a person in a mental health crisis that they need to go to the hospital or communicating that the consequences of fighting may have a negative impact on the subject (this would not include threats of force by the officer but may include concerns around additional criminal sanctions for fighting).

De-escalation Problem Solving:  Officer attempts to use problem solving to avoid use of force.  Examples could include separating parties who are fighting to avoid escalation or working with an agitated subject to provide a less intense environment in the hopes of avoiding force.

De-escalation Distraction: Officer attempts to avoid use of force by distracting the subject.  This could involve attempts at humor or re-focusing highly agitated subjects so that the likelihood of needing to use force is reduced.  Officers should be explicit that their actions were intended to reduce force use.

De-escalation Other:  Officer employs another means to reduce the likelihood of having to use to force.  This should not include threats and officers should explicitly state the steps they took to avoid force.

## 3.   3<sup>rd</sup> Parties/Others Involved

This category us used to document individuals involved in the incident who have force used against them by the subject, become involved in the incident by attempting to apprehend the subject or are threatened by the subject.  This may include security officers attempted to take custody (or even just exclude a trespassing person), police or other law enforcement that are not the officers whose force is being catalogued or other individuals (such as victims) involved in the incident.

Police/Probation Officer:  In addition to police, sheriff's deputies, parole or probation officers this category would include federal and state law enforcement agents such as FBI, Department of Justice (state or federal), officers of the court (baliff's or court security) and other governmentally authorized agents of the state.

Security/Bouncers/Store Employee:  This would include both undercover and uniformed security/loss prevention agents, bouncers or doormen at bars, store employee's or owners.  This category will be non-governmentally sanctioned 3<sup>rd</sup> parties who are intervening on behalf of their employer (i.e. people who are working or work for the a business and are acting on behalf of that business, whether authorized by their employer or not).

Other Person(s):  All other private citizens.  This would include good Samaritans, bystanders or property owners who have force or a threat of force used against them by the subject.

| DOCUMENTATION IN REPORT(S) |
| --- |

## 4.   DID RO DOCUMENT WARNING S/HE ISSUED TO SUBJECT PRIOR TO USE OF FORCE?

No warnings documented/given:  Officers did not document if a warning was provided and did not document why such a warning was not provided.

No warnings given but reasons for this documented:  Officer did not warn the subject of use of force but documented the reason(s) for this.  An example of this might be an officer indicating he did not warn the subject because the situation developed to quickly or did not warn the subject because the officer did not want the subject aware of their presence.

Warnings documented/given:  The officer documented the warnings she provided.  This can include threat to use force if the subject does not obey an order. For example, an officer may tell a subject, "get

on the ground or you will be tased." If the officer subsequently employs a taser this would constitute a warning.

Not applicable:  For some reason this category is not applicable to the incident being coded.

**DID THE RO EXPLAIN HOW MENTAL/EMOTIONAL STATUS OF THE SUBJECT INFLUENCED THE ACTIONS TAKEN?**

Not documented in report(s):  The RO did not provide any explanation for how the mental/emotional status of the subject influences their decision making.  This would be coded for instance where the subject was coded as having a **Specific Mental Health Problem/Symptom** or **a Non-Specific Mental Health Problem.**  If an officer documents those issues the will, ideally, explain how they took those factors into consideration when interacting with the subject.

Documented in report(s):  The RO provided some level of documentation on how the mental/emotional status of the subject impacted the RO's decision-making process.  An example of this might include an officer indicating that she chose a certain course of action due to the mental health status of the subject.  Other examples might include deciding against a certain course of action, for instance, an officer may decide against employing a taser on a manic subject due to their heightened stats of arousal.

Not applicable:  There was no indication of a mental health problem associated with the call.

**DID RO EXPLAIN HOW ALCOHOL/DRUG USE BY THE SUBJECT INFLUENCED ACTIONS TAKEN?**

Not documented in report(s):  The RO did not provide any explanation for the alcohol/drug use by the subject influenced the actions taken.  This would be coded for instances where the subject was coded as having **Alcohol Problem/Was Using Alcohol** or **Drug Problem/Was Using Drugs.**  If an officer documents those issues the will, ideally, explain how they took those factors into consideration when interacting with the subject.

Documented in report(s):  The RO provided some level of documentation on how alcohol or drug use by the subject impacted the RO's decision-making process.  An example of this might include an officer indicating that he used a certain tactic due to the subjects intoxicated state.  Another example might be to refrain from a certain tactic due to the intoxicated state of the subject.

Not applicable:  The subject was not intoxicated or high

**DID RO DOCUMENT FACTORS THAT INCREASED PERCEIVED THREAT IN SITUATION?**

Not documented in report(s):  The RO did not document any factors which influenced their perception of threat in this situation.  Ideally, the office will both document specific events, actions, or situation factors associated with the use of force incident as well as how those factors influenced their perception of threat in a given situation.

Documented in report(s):  The RO documented how their perceptions of specific events, actions or situation associated with the use of force incident influenced their perception of threat.  This can

include events which heighten threat, for instance an RO may report, "as the subject fled he repeatedly looked back over his shoulder at me.  I was concerned he was trying to determine my location so that he could quickly turn and attack me." Alternately, some event may lessen a perception of threat, for instance, "the subject attempted to punch me but due to their level of intoxication they were unable to pose a credible threat and instead stumbled forward falling to the ground."

Not applicable:  For some reason this category is not applicable to the incident being coded.

## Graham Factor Review

Graham factors are related to Graham v. Connor, 490 U.S. (1989).  This is a Supreme Court ruling which provides legal guidance to police on when they can use force.  Several factors influence the decision on if force is reasonable *given the totality of the circumstances*.  Some of these factors include[13]:

### Severity of the Crime

All other factors being equal, it is intuitively reasonable that officers would be able to use more force to stop someone who had just committed an armed robbery as opposed to someone who had just crossed against the light.  Although no factor is a controlling or overriding factor, officers should be cognizant of the alleged crime (or violation) they are attempting to interdict and articulating how it affected their decision to use a particular quantum of force.

### Time, Tactics and Resources

This factor encompasses the universe of things available to the officer at the time the force event occurred.  Was it possible to wait, or did an intervention have to happen immediately?  A tactic is defined as "a skillful means to an end."  The officer is expected to work intelligently and purposely towards a positive outcome.  This expectation takes into consideration the fact that officers live and work in the real world, and that not every foreseeable option in hindsight will actually be possible or available to you at the time of the force event.

### Attempts to Avoid Control by Flight and Resists Attempts at Control

It stands to reason that if an officer has probable cause to arrest a particular person, and that person attempts to avoid arrest by running away, the officer may use some force to stop the flight.  In any given scenario, the amount of force that an officer can reasonably use to stop the flight will be a function of the specific facts in that incident.

### Resists Attempts at Control

 If someone is actively resisting an officer's attempt to place them in custody, the officer is allowed to use a reasonable amount of force to overcome the resistance and affect the arrest.  When a suspect

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[13] As taught to Portland Police Bureau members and borrowed from the training curriculum.

resists efforts at control, the potential for the suspect to get injured is increased, as is the potential for officers to get hurt.  This factor overlaps greatly with threat, but can also be established regardless of threat.

## Threat Posed by the Suspect

This is the threat not only to the responding officer, but to other officers, the subject himself, or the public.  As with the resistance factor described above, it is important for the officer to be as specific as possible about who is being threatened and what the level of threat is.  As with the level of resistance posed by the subject, the more severe and more immediate the threat, the higher the level of force that may be reasonable.

## Impact of the Subject's Behavior on the Public

There are a few ways to think about this factor.  Many of the police calls officers go on, even shots fired calls, are dispatched based on one call.  Knowing that there are several 911 calls, then, would lead a reasonable person to conclude that the subject's behavior is having a larger impact on the public, even if the behavior is an order maintenance issue such as harassing a passerby.

## Other Circumstances Not Mentioned Above

This is a catch all which includes relevant factors not mentioned above.  These factors might be: whether warnings were given; mental illness, state or crisis; intoxication; past history; environment; availability of cover officers or lack thereof; availability of effective less intrusive alternatives; items on the attack risk indicator sheet; or any other relevant factor that influenced an officers decision making.

For purposes of the coding we have included the following factors:

GOVERNMENTAL INTEREST IN SUBJECT/CASE:

Low (e.g., traffic stop, minor infraction):  This would include situations in which the offense in very minor.  This would include very low level property crime (shoplifting for instance), events which cause minor public disorder (a pan handler annoying passersby), civil complaints (such as neighbors having a dispute over a loud stereo), status offenses (this would include something like a juvenile who is reported as a run-a-way or is out after curfew) or other similar events.  These events will generally have minimal or no impact if left unaddressed by the police.

Moderate:  This would include situations in which the offense is impactful and would generally be considered an important police priority.  They will often involve theft, property damage or disturbances which are impacting large numbers of people. This may include things like major property crimes such as burglary or motor vehicle theft, major public disorder such as a large out of control party or other events which are impacting large numbers of people and/or generating multiple calls to 911 or other events for which police would considered primarily responsible and the public would expect to be addressed.

These events will generally result in either a substantial (hundreds of dollars or more) loss of property or a major impact on people's ability to lead their lives.

High (e.g., violent crime, felon, public danger):  This would include situations which present a danger to the public.  This could be violent crimes such as robbery or a shooting, a felon wanted for such crimes who the police are attempting to apprehend or something like a dangerous drunk driver.  These events should generally be considered to pose a real danger to the public if not addressed by the police.

Could not determine:  The coder was unable to determine the extent of government interest.

**THREAT TO OFFICER/SELF/OTHERS**

Low (e.g., absence of weapons, no history of violence):  This would include subjects for whom the officers have little indication of threat, in situations which are have little indication of threat.  For instance an out of control juvenile with no history of violence, a mentally ill subject in a controlled facility with no access to weapons and no history of violence or shoplifter in store custody who has not history of violence or other generally non-threatening situation.

Generally, individuals without access to weapons, who are either physically much smaller or less capable due to impairment (an individual who is so intoxicated they cannot stand) or suffer other limiting factors will present less threat.

It is important to remember that threat is a relative concept.  A juvenile may be small relative to a large adult but still be bigger than a small officer.

Moderate (e.g. no indication of weapons or history of violence but other potential concerns):  This would cover a broad range of situation where there may be no history of violence or indication of weapons but for which there are safety concerns.  This could include a physical large out of control individual who is behaving violently or threatening violence but who has not yet assaulted anyone and is most likely unarmed or a domestic violence call where there is no indication of weapons or violent history but an assault has occurred and it is charged situation.  It may also include individuals who would be classified as a low threat but in situations which may elevate safety concerns.  An example of this would be an out of control juvenile acting out at a large party with a number of angry and intoxicated friends where gaining control rapidly could be a priority.

High (e.g. weapons, persons with history of violence):  This would include situations were weapons have been used or are likely involved (armed robbery, shootings etc.) or which involve individuals with a violent history or who are high risk (gang members, armed career criminals, individuals with a history of weapons possession/use).  It may also include extremely dangerous situations with subjects who are less dangerous.  An example would struggling with a mentally ill person who has no history of violence but is in a kitchen and is within reaching distance of several knives or officers attempting to take custody of an unknown person fleeing from the scene of a shooting.

Could not determine:  The coder was unable to determine the extent of government interest.

**TIMING OF EVENTS**

Situation did NOT require immediate action by the RO (it was unlikely that anyone would have been physically injured if RO delayed contact with the subject and use of force):  This would include situations where the cost of inaction is likely less than the cost of acting.  For instance, an armed suicidal subject in their own home is more likely to survive if the police simply leave the individual and come back then next day to check on them than if the police attempt to storm their home with a SWAT unit.  Other, less dramatic examples might include deciding not to chase a juvenile run-a-way to escape if chasing them would endanger the juvenile more (chasing them into traffic etc.).  If a third party could be endangered by police inaction this section would not be coded (for instance the police could not decide not to chase a shoplifter who is being pursued by store security because the security officer could be injured apprehending the shoplifter).

There are a number of potential situations where it might be advisable for police to decide not to act. Other examples include chasing individuals for low level offenses (vandalism, drinking in public etc.), becoming involved in a competition with a subject (allowing an argument over whether a person takes the physical copy of their traffic citation to escalate into a situation where the officer uses a taser on the subject) or rushing into a situation in without sufficient planning or resources to resolve it without excessive force.

Situation require immediate action by RO (somebody would probably have been physically injured if RO delayed contact with subject or use of force):  This would include situation in which inaction could result in injuries, especially to third parties, or substantial property losses.  Examples might include apprehending an violent criminal who is viewed as dangerous to the public, using a taser on a mentally ill subject to prevent them from seriously injuring themselves, using force to prevent an exceptionally drunk individual from driving off.  Officer should articulate why they felt it necessary to escalate a situation if their actions are pre-emptive.  Such justifications could include attempts to use less force early in an encounter to prevent the potential for using more force later.  An example of this could be using force to prevent a subject from walking into their kitchen because the officer was concerned their where knives or potential weapons.

Could not be determined:  Unable to determine if the situation required immediate action by the RO.

## Appendix A - Definitions

| Code/Acronym etc. | Meaning/Definition |
|---|---|
| 1234 | see 12-34 |
| 12-34 | Is a 12 code (a code used to lessen the amount time spent on the radio). It is used to signify that a person may suffer from a mental health issue (or extreme behavioral issue). It may be found in dispatch logs and occasionally in report narratives (although it should generally not be used in reports). |
| 10-61 | see IC |
| ASP | A police baton - it is short metal tube (normally around 2 feet) which can be collapsed when not in use. |
| AV | Stands for Available. Is found in the Dispatch Log and means an officer has cleared from the call and is available. It will most likely be not be used in this exercise but is included in case there are questions about its significance. |
| BOLO | Stands for Be On The Look Out - can be found in both Dispatch Logs and occasionally reports. An officer my respond and stop or contact a person due to a BOLO. NOTE: Be care in interpreting this from a Dispatch Log. They often include a BOLO followed by an "N" or other indicator meaning there was **not** a BOLO associated with the call. This can be confusing. |
| C/N | see Case Number |
| Caller | A code often found in Dispatch Logs and indicates the person who called 911 about the incident |
| Case Number | The number assigned to a case by the PPB's records division |
| CE | Indicates Central or Central Precinct. This is one of three police precincts in the city. |
| CO | Stands for Complainant - this is often but not always the victim. It is a person who has called in the "complaint" or call. It is often used when a parent is reporting a crime which occurred to their child to help or similar situations. |
| Complainant | See CO |
| Cover | Cover is when additional officers are requested to help control a situation. It is often the response to the flight of a suspect or a use of force. It may also be used if an officer feels a situation is deteriorating and may require additional resources, such as arriving at a large out control party or other major disturbance. |
| CRN | A unique number generated by the PPB records division to track individuals in the PPB computer system |
| CT1 | CT stands for call taker and the number following it identifies which dispatcher. Is is found in the Dispatch Log. |
| Dispatch Number | A number generated by the dispatch system to track individual calls (either dispatched or self-initiated). Also called Police Incident #. |
| DK | A code often found in Dispatch Logs mean drunk or intoxicated |
| DP1 | DP stands for dispatcher and the number following it identifies which dispatcher. Is is found in the Dispatch Log. |

| | |
|---|---|
| DPSST | Department of Safety Standards and Training number.  This is basically a "badge number" or unique identifier for each officers |
| DUII | Driving under the Influence of Intoxicants  AKA drunk driving or driving while drugged |
| DV | Stands for Domestic Violence - this can be violence between intimate partners but can also be violence between adults related by blood. |
| EA | Indicates East or East Precinct.  This is one of three police precincts in the city |
| ER | ER stands for En-route.  It can be found in the Dispatch Log and also in report narratives.  In the dispatch log it will be followed by a time and indicates the time the officer was actually headed to a call.  In report narratives the officer may us it to signify events or information learned prior to arriving at a call (i.e. "while ER I learned that the suspect was armed with a knife."). |
| FA | code for female asian |
| FB | code for female black |
| FH | code for female hispanic |
| FW | code for female white |
| H/C | See Hot Call |
| Hobble | A nylon strap with a clasp which can be used to secure the legs of a person who is kicking after being handcuffed.  Use of a hobble is documented on a use of force report. |
| Hot Call | Hot Call is a code normally in the Dispatch Log.  It is often used when a subject is fleeing from or fighting police.  It may indicate an officer notifying dispatch that they are struggling or fighting with a subject.  Also seen as H/C |
| IC | Stands for In-custody.   It can be found in the Dispatch log.  It will be followed by a time and indicates the time the officer informed dispatch that a suspect was arrested or otherwise in police custody.  Another shorthand often used is 10-62 or 1062.  This is a 10 code and is legacy code used for brevity.  Historically a premium has been placed on radio discipline and codes are used to shorten the amount of radio time used to communicate. |
| JUV | code for a juvenile |
| MA | code for male Asian |
| MCDC | Multnomah County District Court – this is the jail where arrested individuals are taken. |
| MB | code for male Black or African-American |
| MDC | Mobile Data Computer – This is the computer in the police car. |
| MDT | Mobile Data Terminal – This is another name for the computer in the police car. |
| MH | code for male Hispanic |
| MW | Code for male White or Caucasian |
| NO | Indicates North or North Precinct.  This is one of three police precincts in the city. |
| On-view | see S/I |

| | |
|---|---|
| OS | OS stands for On Scene.  It can be found in the Dispatch Log and also in report narratives.  In the dispatch log it will be followed by a time and indicates the time the officer arrives at a call.  In report narratives the officer may us it to signify events or information learned after arriving at a call (i.e. "I arrived OS and learned that the suspect was armed with a knife."). |
| PI or P/I | Premise Info- Information in a call about a location.  May include past police responses. |
| Police Incident # | See Dispatch Number |
| R/C | Radio Call - generally refers to a call that is dispatched to an officer as opposed to a self-initiated (or S/I)  call |
| RO | Responding Officer |
| S/I | Self-Initiated (also called "on-view" in the dispatch log- generally refers to activities officers initiate without a citizen calling 911.  It still creates call with a call number and is still captured by the dispatch system. |
| SE | Indicates Southeast or Southeast sub-precinct.  This used to be a precinct but is now a sub-precinct run out of East Precinct.  This is largely administrative but may be referred to in reports. |
| Self-Initiated | See S/I |
| Subj. or Subject | The person upon whom police use force. |
| Taser | An police weapons which uses electricity to incapacitate a person |
| TZ | see Taser |
| UoF | Use of Force |
| V1 | V is a code used to designate a victim and is followed by a number.  So V1 would be the first victim, V2 the second and so on.  The officers should name the victim at least the first time they use the code (i.e. "V1 Smith said he heard a noise to the downstairs.  V1 then said he went downstairs and observed that a rock had been thrown through his front window.").  This should help you keep track of incidents with multiple suspects. |
| W1 | W is a code used to designate a witness and is followed by a number.  So W1 would be the first witness, W2 the second and so on.  The officers should name the witness at least the first time they use the code (i.e. "X1 Miller said he heard a noise to the west.  W1 then said he walked around the corner and saw the broken glass.").  This should help you keep track of incidents with multiple Witnesses. |
| WELCK or WELKP | Radio abbreviations for Welfare Check or Welfare Check Priority (see Welfare Check listing). |
| Welfare Check | A broad range of call types indicating that police are check on someone or some situation to make sure everyone is not in danger.  These calls can range from checking on person who has not been heard from recently to checking an unconscious subject.  There is generally not a criminal nexus to these events.  It is also something coded as a type of Governmental Interest |
| X1 | X is a code used to designate a suspect and is followed by a number.  So X1 would be the first suspect, X2 the second and so on.  The officers should name the suspect at least the first time they use the code (i.e. "X1 Jones was running west.  I followed X1...").  This should help you keep track of incidents with |

| | multiple suspects. |
|---|---|

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