CRITICAL ANALYSIS OF CONTEMPORARY POLICE TRAINING

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ABSTRACT

Over the last thirty years, the law enforcement profession has undergone sweeping changes. Most of the changes noted have been positive, and reflect a greater degree of orientation toward community concerns and expectations. However, there have been residual areas of concern pertinent to the manner and means in which police use force. Most of these problems are attributable to questionable operational imperatives, and increasingly aggressive, fear-based training protocols.

CRITICAL ANALYSIS OF CONTEMPORARY POLICE TRAINING

I. INTRODUCTION

Few occupations come under as much media and public scrutiny as does the law enforcement profession, and rightfully so. An efficient constabulary, mindful and respectful of individual liberties, is one of the cornerstones of a free society.

Americans, long immersed in cultural imagery of "super cops," assume that law enforcement officers are properly selected, trained, equipped and assigned. Unfortunately, there is a serious disconnect between what the public assumes to be true, and what is. But, when one considers the challenge that police administrators and trainers are tasked with, they might better understand why the attainment of such expectations is an almost insurmountable challenge.

Few occupations are analogous to law enforcement, which is why comparisons to virtually any other profession seem tenuous. A brief review of what public expectations are of police may buttress this perspective.

- We expect officers to be fearless, but not reckless.
- We expect officers to be passionate about what they do, yet display no emotion in doing it.
- We expect officers to be decisive and forceful, but not bullies.
- We expect officers to confront brute criminal behavior with finesse and restraint.
- We expect officers to make micro-second decisions regarding life-and-death that judges and juries would deliberate upon for weeks.
- We expect officers to retain the athleticism of their youth while sitting in police cars through rotating 8-12-hour shifts, drinking gallons of coffee to stay awake.
- We expect officers to exude the "Wisdom of Solomon" and the ethics of saints at salary levels commensurate with that of trash collectors.

Given the parsimonious nature of resources allocated for police training, have our expectations ever been attainable? Compounding the degree of difficulty encountered in training police is the fact that police hiring standards have suffered serious erosion over the last thirty years. Cognitive testing standards have been attacked (and lowered) for allegedly being discriminatory. Physical strength and agility standards have been completely eliminated in some jurisdictions, and hang by a thread in many others, also because of perception that such standards have been discriminatory. As a result, there has been increasing pressure on police trainers to transform substandard recruit material into acceptably trained and capable police officers.

II. THE MINIMALIST NATURE OF POLICE TRAINING

The essence of the criminal justice system, search & seizure, judicious use of force, patrol procedures, professional ethics, first aid, etc. must be inculcated in police recruits in an embarrassingly short period of time. For instance, in the state of Texas, police recruits are required to complete 618 hours of academy training.[i] Compare that with many other professions, most of which are far less litigious in nature, and you may come away with an uneasiness regarding the minimal levels of training given to police. In Texas, if someone wishes to become certified as a hairdresser, they need to acquire 1,500 hours of training.[ii] Also in Texas, if someone wanted to become a licensed "Drain Cleaner" he/she would be required[iii] to complete at least 4,000 hours of training working under the supervision of a master plumber. Are we to believe that hair dressing and drain cleaning are more demanding than law enforcement duties? Why would state licensing entities show much more apparent concern for hair dressing than they would public safety?

III. PURPOSE AND SCOPE OF POLICE TRAINING

As one might expect, a substantial portion of recruit level police training is information-based.

However, almost as much time should be allocated to experiential or task-oriented training. Teaching recruits the essentials of handling domestic disputes, vehicle stops, building searches, alarm activation response, use-of-force decision-making, etc. must go far beyond merely advancing operational theory. Trainees must also be given a sense for the role that environmental interaction plays upon scenario resolution. Additionally, they must be given a sense for the proper usage and limitations of issued equipment, especially weaponry.

However, the experiential realm of training is usually given short shrift because it is also the most time-consuming aspect of police training. It is far more time-efficient to utilize one instructor to lecture 30-50 trainees in a classroom than it is to have one instructor proctor 1-3 trainees in scenario-based training. And, if your academy curriculum needs to be squeezed into sixteen weeks, quantitative demands tend to take precedence over those that are qualitative.

While most expect that police training should be focused upon preparing police for the myriad of tasks they'll be expected to perform professionally, they often overlook one other critical mandate that is seldom spoken of. Training should always be used as a means to operationalize departmental policy. This is another reason why task-oriented training should be

allocated far greater resources than what it has been in the past. Scenario-based training provides trainees with a grasp of the operational parameters they'll be expected to work within on the street. Unfortunately, many agencies fail to grasp this imperative. While changes in use-of-force policy should always be interpreted and emphasized through scenario-based training, the most common means in which policy changes are transmitted to officers are through memorandums and briefing notes.

IV. PARADIGM SHIFT AND PARADOX

Into the late 1960s, even as ever increasing numbers of policemen were being slain feloniously, police weapons training had been fairly sedate. On April 6, 1970, something happened that would be credited with a paradigm change. On that date, in Newhall, CA, four California Highway Patrolmen were slain by two career criminals in a gun battle that lasted less than five minutes. The law enforcement community was stunned by this tragic loss. As one might expect, after-action analysis was quick, and severe. The four California Highway Patrolman had barely been able to put up a fight before being slain. Both of their assailants fled the scene, virtually unscathed. Poor, unrealistic firearm training was laid squarely to blame for the tragedy. In retrospect, that single event has been universally credited with initiating what became known as the "officer survival movement."

Slowly but surely, police training methodology began to evolve in a way that reflected greater realism. More attention was paid to criminal tendencies in violent encounters. Ironically, just four months before the Newhall tragedy, NYPD had initiated the most ambitious police shooting database ever attempted. The NYPD data, soon offered to an eager post-Newhall law enforcement community, became the Holy Grail for police trainers. It helped spawn a wildly popular text entitled, "Street Survival," which in turn spawned an equally popular "Street Survival Seminar."

Many of the changes in mindset and methodology that transpired in the years following Newhall were positive, and long overdue. However, perhaps as an outgrowth of watching so many reenactments of how police were being slain, fear had become a pervasive and compelling training and marketing tool. By the late 1980s and into the 1990s, it appeared as though the use of fear as a motivational tool was instilling paranoia in many officers. This created a training paradox. Was there a way in which police trainers could somehow regulate the level of fear being generated by "realistic training" so as not to transform officers into "fear biters"? Unfortunately, that is a question that remains unanswered to this day.

V. ESSENTIAL CHANGE AND UNINTENDED CONSEQUENCES

Many professions have undergone radical transformations over the last thirty years. Technology, case law, government regulations, and public expectations have fueled most of that change. Law enforcement has been transformed for many of the same reasons. But, there have also been sweeping cultural changes within the law enforcement profession. In many jurisdictions, physical and cognitive standards have been dramatically altered over the last thirty years for the sake of "inclusiveness."

For better, and for worse, the law enforcement profession is no longer the near-homogenous entity that it was thirty years ago. There are huge disparities in the physical and cognitive abilities of police recruits. While the police profession continues to attract some candidates who are 6'0 and taller, it has been deluged with candidates who are 5'5" and less. With the complete abandonment of height and weight standards, some agencies are hiring candidates who are under 5' tall and under 100 lbs. There have been many critical training implications associated with this trend.

At a time when police service handguns are typically girthy, high capacity semi-automatic pistols, the police hands that are expected to shoot them with efficiency often have fingers too small to manage the gun properly. There is often too little hand strength to even pull the trigger repeatedly, a problem that quickly becomes manifest and problematic in training. One large Texas agency (that will remain anonymous) once informed me of having to require "booster seats" for recruits who couldn't see over the steering wheel of the vehicles they were training in.

Lowered cognitive hiring standards have resulted in widespread complaints (by police trainers) of having to remediate and "nurse" recruits through academy courses they should have been washed out of. What this trend has ultimately translated into is a tendency of barely literate police recruits being allowed to graduate academy classes, only to later churn-out illegible and/or unintelligible police reports that are so vital to both prosecution and defense attorneys. Attempts to mandate that police candidates obtain 2-4 years of college before being hired have often been abandoned in favor of attracting minority candidates in proportion to their representation in the community.

In essence, pervasive cultural countervailance has had unintended consequences for law enforcement agencies. While we have finally achieved some of the overdue proportional ethnic representation of the communities that we serve, we may have paid a steep price for that achievement. As a course of remediation, larger communities may wish to consider using "pre-academies" as preparatory schools for recruits who are deficient in basic cognitive skills. Some city agencies

(e.g., LAPD) have already experimented with pre-academy physical fitness preparation. It would certainly seem prudent to provide the same corrective measures for police candidates with cognitive shortcomings.

VI. THE FORCE CONTINUUM CONUNDRUM

Perhaps few police artifacts reflect paradigm shifts in police training as much as does the evolution seen in the so-called "use of force continuum." Force continuums are graphical devices used by police trainers to assist trainees in the conceptualization of legal constructs salient to the judicious use of force. Force Continuums have been evolving in the law enforcement community for more than three decades. They almost universally reflect a logical and reasonable progression of force response to what are usually illogical manifestations of non-compliant and/or aggressive behavior. What police practitioners and trainers often fail to grasp is that almost all force continuums fail to reflect parameters established by relevant case law. They do attempt to reflect an often tenuous relationship between subject resistance and a measured and objectively reasonable officer response. The most ubiquitous example is embodied in the FLETC continuum (Appendix A).

The FLETC Use of Force Model is a linear continuum, and tends to inadequately represent a non-linear world of circumstances and alternatives. Subsequently, linear continuums are largely being replaced by non-linear continuums. The Canadian Continuum is perhaps the most advanced of this species. (See Appendix B).

As one might ascertain from the Canadian continuum, the trend seems to be moving away from telling officers what specific weapon or force option that might be appropriate for a given level of subject resistance, and toward a categorical force response directive. As seductive as the Canadian Continuum is, and while it does reflect policy and procedural guidelines, it fails to reflect any legal standard.

But, there is one additional entry into the mix. And while this latest entry appears more ambiguous, it suggest greater harmony with established case law (e.g., Graham v. Connor, 490 US 386 (1989). 490 US 386). The "Totality of Circumstances" device (Appendix C), designed by the same person (Greg Connor) who designed the FLETC Continuum, seems to more accurately portray the standard by which an officer's use of force might be judged.

VII. "STRESS INOCULATION"

In the 1990s, a seductive concept gained widespread attention in the law enforcement community. Through a publication authored by Bruce Siddle[iv], police trainers were led to believe that the situational threshold at which officers might transition from hyper-vigilance ("psyched-up") to "panic" ("psyched-out") could be ramped-up through stressful, realistic training. The rationale behind this is that the delineation between "anxiety" and "fear" is the threshold at which people lose the perception of control, and begin to succumb to panic.

Using the "Inverted-U Hypothesis" (See Appendix D) to assist in conceptualizing this idea, Siddle proffered that stress inoculation would serve to delay the onset of panic in life threatening confrontations. While the goals associated with this stratagem seemed laudable, some questioned whether there was a likely "downside" to immersing officers in a training regimen of high-stress scenarios required for stress inoculation. Specifically, would this training regimen serve to condition officers to shoot with less deliberation? There is empirical evidence that suggests that police continue to shoot unarmed subjects with frequency similar to the years preceding Tennessee v. Garner, 471 US 1 (1985). 471 US 1.

VIII. QUESTIONABLE POLICE SHOOTINGS

Until recently, all known data pertinent to the frequency in which officers shoot unarmed suspects predates the landmark Tennessee v. Garner case. However, given the frequency in which police engage in low-light lethal force events, the pre-Garner studies deserve serious consideration. The 25-43% frequency[v] in which those studies suggested that police shot unarmed suspects appears dated due to the more restrictive deadly force parameters established by Garner. Though the Garner decision may have attenuated this phenomenon over the last twenty years, currently available data suggests that it still persists with alarming frequency.

Between 1990 and 2001, the Metro-Dade Police Department reportedly[vi] had 22 shootings in which suspects were clearly unarmed, and a dozen others in which the officers claimed they saw guns -- but no guns were found. All told, Miami officers shot and killed 33 people in that period of years -- 11 of which were under questionable circumstances. More recently, an investigative story[vii] carried by the Houston Chronicle suggested that 33% of those shot by police in that jurisdiction had been unarmed when shot.

Not all "questionable" police shootings are "mistake-of-fact" (MOF) shootings, but they represent a substantial number of questionable police shootings. A MOF shooting is typically one in which an object in a suspect's hand, or within his immediate reach, has been mistaken for a weapon. Given high-risk situational and behavior cues, officers often surmise that objects being held by suspects might be weapons based in part on context. When reviewing Los Angeles County police shooting data[viii] (1998-2002) the author discovered some of the most enlightening aspects of this phenomenon. The LAC incidents (148 total)

examined during that period, 27 (18%) were identified as likely mistake-of-fact shootings. Not surprisingly, of that total of MOF shootings, 20 (75%) occurred at a time of day (seasonally adjusted) that we'd generally associate with reduced light conditions.

Where the author has been able to examine "questionable" shootings in detail[ix], they are largely attributable to (1) misidentification of threat level due to impaired visual "contrast sensitivity" in low levels of ambient light, (2) precipitating suspect behavior[x], and (3) context-based expectations relative to the nature of the assignment or call. There are training implications embedded in this issue that are too numerous and complex to elaborate upon in this article. However, it must be noted that while most MOF shootings occur under low light conditions, in the author's LAC research, only one incident denoted officers using flashlights to better identify possible threats. Police training in low light tactics still has a very long way to progress. But, there are other errors that also seem to contribute to MOF shootings.

Mistake-of-fact shootings may also involve other misleading threat cues. The author has noted a significant number of shootings whereby one or more officers perceive another officer's weapon discharge or fall as being affirmation that he is under attack. This element was noted in the tragic NYPD shooting death of Amadou Diallo (1999). It was also noted as an element embedded within the dramatic "contagious fire" incident in Los Angeles County (Compton, May 2005) in which ten sheriff's deputies fired 120 rounds at an unarmed subject.

Observational study conducted by the author[xi] suggests that there is an "associative firing impulse" where multiple officers encounter what they believe to be an imminent lethal threat. Plausible explanations for these occurrences fall into two categories; (1) officers experience an "associative threat assumption" phenomenon, as one or more officers conclude that the officer that initiated fire correctly identified an imminent lethal threat, or (2) one or more officers experiences a "mistaken origin of fire" phenomenon, whereby an officer believes shots being fired by another officer are in fact shots fired by the suspect. In cases examined by the author, this mistake-of-fact occurrence is most common when officers place themselves in a geographical crossfire.

IX. TRENDS LIKELY TO CONTINUE

Police training will likely continue to see a continuance of the trends that first emerged in the 1970s, gained momentum in the 1980s and 1990s, and then gained added velocity in the aftermath of September 11th, 2001. Today, the SWAT tactics, weapons and accoutrements that were once compartmentalized within special operational units have permeated into virtually every aspect of policing.

There are essential benefits derived from this trend. First-responders are now better equipped and trained to handle "active-shooter" (e.g., Columbine, Jonesboro, etc.) situations than ever before. In the past, police units responding to violent crimes-in-progress were ill-equipped or trained to do more than merely establish a security perimeter until SWAT arrived.

In the San Ysidro McDonald's massacre (1984), an unemployed security guard, walked into a McDonald's in San Ysidro, California, and began shooting. Armed with three guns, he killed 21 people and wounded 19 others. His rampage lasted 77 minutes, and finally ended when a SWAT sniper shot and killed him. Throughout most of that shooting rampage, literally dozens of patrol officers were forced to watch the carnage transpire. They lacked the equipment, training and agency authorization to take immediate action that may have saved many of the lives taken. There have been similar tragedies, such as the 1991 Luby's restaurant massacre in Killeen, TX where a man fatally shot 23 people. Even more emphatically and compellingly, the 46-minute Columbine High School massacre (1999) further highlighted how unprepared and disjointed responding law enforcement units were.

In response to the recent history of police ill-preparedness for active-shooter scenarios, many agencies have taken significant remedial steps. The two most notable trends have been (1) the general issuance of "patrol rifles," most commonly of the AR-15 genre, and (2) training geared toward preparing all patrol division personnel to be able to respond with small unit, "SWAT-Lite" tactics.

The public expects a swift and efficient law enforcement response to life-endangering criminal or terrorist behavior. And, they deserve it. However, one might argue that this "militarization" of law enforcement should be counterbalanced by training and policies that might attenuate potential for abuse. It remains to be seen to what extent and by what means that "balance" will be maintained.

X. THE POLICE "PREY DRIVE"

A stubborn bastion of concern in the way police tend to use force against citizens may be attributable to operational imperatives. Police tend to be fixated on the apprehension of suspects, and upon the seizure of contraband. That's their job. An unfortunate outgrowth of this operational focus is apparent in too-frequent "prey-drive" scenarios. Analogous to a dog chasing a stick into a busy highway, oblivious to risk, the officer will often (unwittingly) subjugate his/her own safety concern toward apprehension and/or seizure goals. It is in such scenarios (e.g., after vehicular or foot pursuits) that we tend to see some of the more questionable police applications of force.

Sometimes this is attributable to the fact that the officer, like the dog who has run into oncoming traffic on a busy street, has found himself in a tactically untenable position. Other times it might be attributable to the heightened emotions of the moment. Regardless of how we tend to view the aftermath of such scenarios, recognition should be given to the nature of potentially troublesome operational imperatives through a combination of better policy and training. Apprehension and seizure objectives should be always be subjugated to concern for officer safety and public safety. What agencies fail to grasp is the direct correlation between the prioritization of occupational safety and the minimization of liability exposure. *When and where reckless police behavior is minimized, so is liability exposure*.

XI. OTHER IMPEDIMENTS TO PROGRESS

If the quality and scope of police training is to progress, it will do so in part by validating (and invalidating) future concepts, techniques and tactics. That process necessitates constant scrutiny of arrest data. That sounds simple enough, until one factors-in the institutional paranoia that is systemic to most law enforcement agencies. While there has been a widespread trend toward stringent use-of-force reporting requirements within most agencies, there is a vehement reluctance to publicize the data that has been collected. Agency administrators seem to believe that such data is inherently ugly, and vulnerable to misuse by litigation attorneys. The reluctance to provide open access to such data often conveys a sense that there is much in the way of "dirty laundry" being hidden. In actuality, arrest and use-of-force data is the truth that might ultimately set agencies free of misunderstanding.

The author recently expended several months assisting in the formulation of an exhaustive and innovative use-of-force reporting mechanism for a California law enforcement agency. The agency (which shall remain anonymous) obsessed for many months about who on the "outside" might readily gain access to the information culled from the use of the data collection device. Ultimately, they agreed to implement the data collection program, but only after having a battery of government attorneys devise ways to obscure the collected data from unauthorized eyes. Pleas for "transparency" fell on seemingly deaf ears. Such paranoia is the norm and not an anomaly. And, as is often the case, paranoia reflects a disconnect from reality.

In a recent 18-month study[xii] of the San Antonio Police Department, a professor from Northeastern University noted use-of-force research results similar to those yielded in other comparable studies. When comparing the 962 cases in use-of-force data set to the data set of the 54,250 individuals arrested in that period, it was revealed that officers use force in about one of every 56 arrests. Put another way, force is used in less than two percent of arrests (1.8 percent). Also, given the ethnic proportionality of subjects arrested, there was no significant disproportionality of force being used along racial lines. This is yet another indication of why law enforcement agencies must commit to exhaustive data collection and analysis. If not, that which is broken will likely never be identified, let alone get fixed.

XII. CONCLUSION

Although major strides have been made over the last thirty years, the law enforcement profession seems unable to come to grips with residual problems associated with the use of force, especially deadly force. Police training has become increasingly aggressive in nature, and has relied upon, disproportionately perhaps, fear as a motivational learning tool.

Embedded in the basic nature of law enforcement agencies is resistance to change. After all, why should they embrace change? Efficiency, profit, share valuation, and a host of other reasons that motivate private corporations to embrace change, are nebulous concepts to law enforcement administrators. When confronted with a public relations crisis, police administrators will display concern for restoration of public trust and confidence. But, even when confronted with a crisis of public confidence, it seldom provokes implementation of anything more than a facelift. Everything that remains decrepit and broken beneath the surface seldom gets fixed.

The few times we do see substantive change, it is generally driven by external stimuli. Sometimes, that external impetus for change takes form in a DOJ consent decree. Consent decrees, while fairly uncommon, tend to instigate sweeping and expensive changes. For instance, the police departments Los Angeles and Detroit are under DOJ consent decrees, and both estimate[xiii] compliance costs to reach or exceed $100 million in their respective cities.

Most often, major change in law enforcement has stemmed from litigation. Although the author knows of no national repository of aggregate data salient to litigation against police, anecdotal evidence suggests that many large metropolitan agencies expend an average of $1 to $4 million per annum in litigation expenses. For instance, Miami, a relatively small city of 362,470 residents[xiv], paid out more than $17.8 million between 1990-2001 to resolve more than 110 federal and state lawsuits alleging brutality, misconduct or unnecessary death inflicted by city police officers[xv]. In four recent years (1996-2000), lawsuits against the Detroit Police Department[xvi] cost the city more than $46 million, which includes judgments, mediations and arbitrations.

Qualified immunity seems to serve as a double-edged sword; providing insulation to the poorly trained officers who need it most, and also an impediment toward achieving greater agency accountability. City and police administrators aren't fond of public embarrassment or difficult, probative questions, and yet we should anticipate continued resistance to change from law enforcement agencies. Unfortunately, we should also anticipate that the impetus for essential change will remain external.

ENDNOTES

[i] Texas Commission On Law Enforcement Officer Standards And Education (TCLEOSE)

[ii] Texas Cosmetology Commission

[iii] Texas State Board of Plumbing Examiners.

[iv] "Sharpening the Warrior's Edge," Siddle, B., (1995) PPCT Research Publications

[v] Geller, W. & Scott, M. (1992). Deadly Force: What We Know. Police Executive Research Forum. Washington, DC.

[vi] Data published from Metro-Dade Internal Affairs and Firearms Discharge Reports, 1990-2001.

[vii] Khanna and Olsen, '1 in 3 Police Shootings Involve Unarmed People," Houston Chronicle, July 25, 2004

[viii] Aveni, T (2003) Officer-Involved Shootings: What We Didn't Know Has Hurt Us," Law & Order Magazine

[ix] Ibid

[x] The LAC data suggests that furtive movement on the part of suspect commonly preceded a mistake-of-fact shooting.

[xi] (1996-2001) Unpublished, scripted Simunition®-based role-playing scenarios conducted by the author.

[xii] William Terrill, Ph.D, (2003) Use of Force Analysis, City of San Antonio Police Department

[xiii] Egan, P., "Detroit Cop Reform Tab May Top $100 Million," The Detroit News, June 29, 2003

[xiv] U.S. Census Bureau, Census 2000

[xv] Christensen, D., "Blood Money," Miami Daily Business Review, November 8, 2001

[xvi] Ashenfelter, Swickard, "City Had Bad-Cop Warning," Detroit Free Press, Dec. 29, 2000.

APPENDICES

APPENDIX A

The FLETC Use of Force Model

Note:
This device suggests a linear flow of subject resistance and officer response. It has been criticized as being misleading in that it suggests that officers exhaust all alternative force measures before using deadly force.

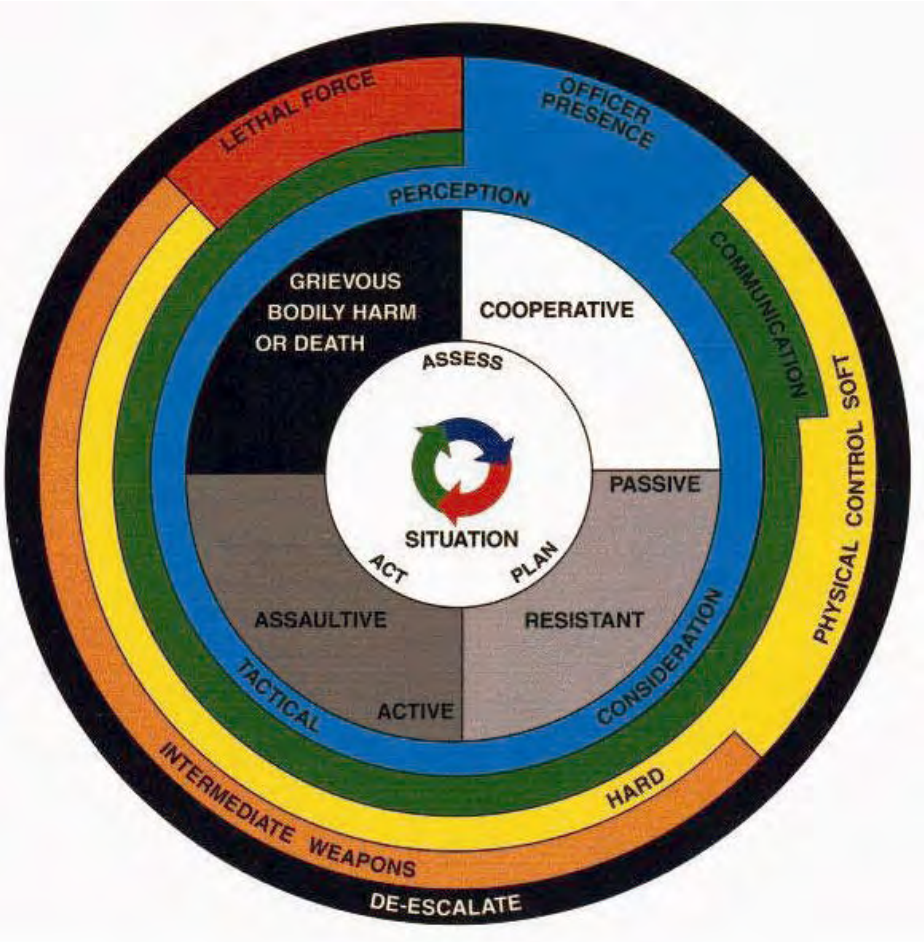


APPENDICES

APPENDIX B

The Canadian Use of Force Model

Note:
Also known as the "Canadian Wheel," it has undergone numerous revisions since its first introduction in the early 1990s. Non-linear in nature, this device places the officer at the center of the wheel. The degree of subject resistance, depicted in the black-white-grey band, adjacent to the spoke of the wheel, dictates the officer's course of action. This device is also unique in that it does not specify which type of weapon is appropriate for the officer to respond with.

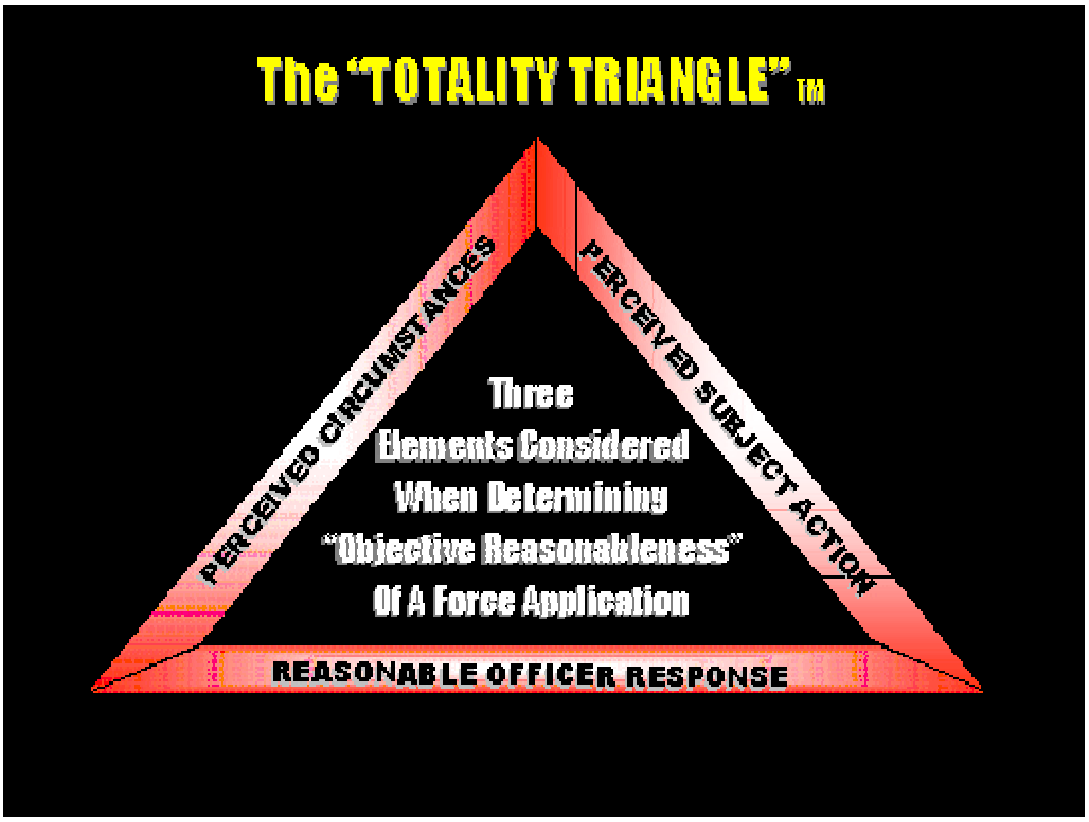


APPENDICES

APPENDIX C

The "Totality of Circumstances Triangle"

Note:
While this conceptualization device doesn't attempt to quantify subject actions and then marry them to appropriate officer actions, it does attempt to convey the legal standard of care in justifying the use of force. As long as the officer's actions reflect all three legs of the triangle, the presumption is that the officer will have satisfied the standard of objective reasonableness.

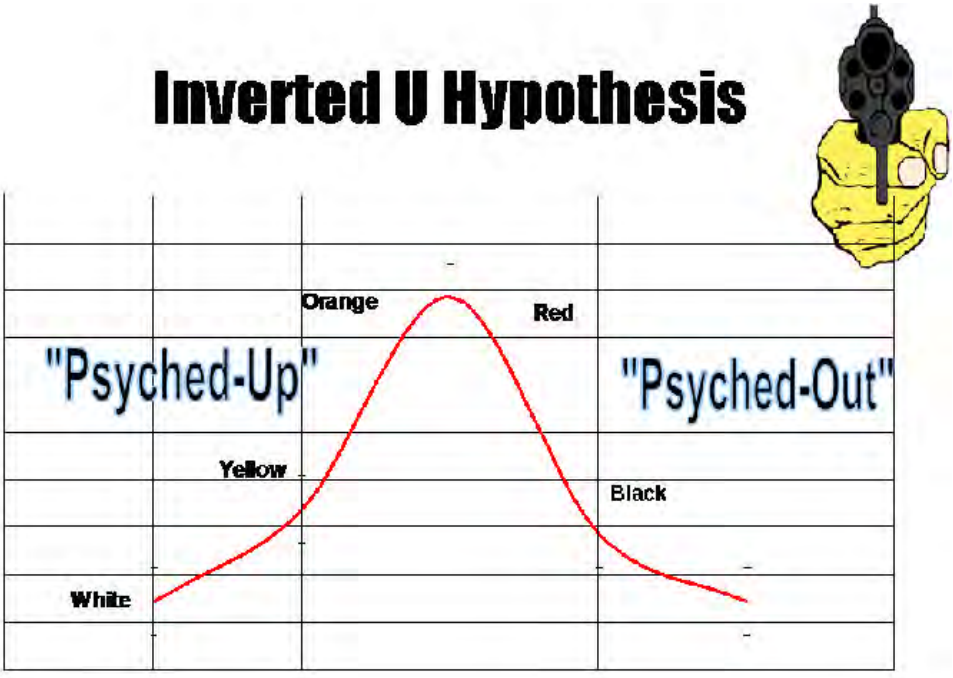


APPENDICES

APPENDIX D

The Inverted-U Hypothesis

Note:
This device has been employed to suggest the threshold at which an officer might succumb to panic. Using the Jeff Cooper's color codes of mental preparedness, we see "Condition White" (officer is oblivious to his/her environment) transition to "Condition Yellow" (vigilance), to "Condition Orange" (hyper-vigilance) to "Condition Red" (firefight panic), to "Condition Black" (the emotional decompression that occurs after the encounter has culminated).



APPENDICES

APPENDIX E

The Law Enforcement Treadmill

Note:
This device attempts to illustrate the give-and-take process that has neutralized much of the progress made within the law enforcement profession over the last thirty years. In effect, for every positive change, there has been almost equal and opposite negative change.

