An examination of Florida policies on force continuums

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Abstract

Purpose – This paper aims to examine Florida law enforcement agency policies to determine whether they contain language from the International Associations of Chiefs of Police (IACP) Model Policy on use of force. Consistency of policy content is instructive.

Design/methodology/approach – Data for this study include written policies of Florida law enforcement agencies ($n = 160$) which were collected through e-mail requests to all agencies in the state ($n = 323$). Content analysis was used to analyze the policies.

Findings – Findings suggest that 74 percent of all agencies include language that refers to a use of force continuum, including 90 percent of sheriffs' offices and 70 percent of police departments.

Research limitations/implications – The research suggests that the majority of agencies continue to include a use of force continuum. Only Florida agencies were surveyed, and the response rate was 50 percent.

Practical implications – The research suggests that a majority of agencies adhere to the principle that clear use of force policies can reduce liability concerns, and shows that written policies can be effective training tools.

Social implications – Use of force remains the chief public concern in law enforcement's discretionary actions. Therefore, agencies must address use of force issues comprehensively.

Originality/value – There is no research that examines the content of current use of force policies. This paper adds to the literature on force policy and examines such policies in the nation's fourth largest state. The paper suggests areas for future research and offers a normative model of a force policy.

Keywords Use of force, Force continuums, Law enforcement policies, United States of America, Policing, Law enforcement

Paper type Research paper

Introduction

It is a settled issue that police use of force in the United States is infrequent (Adams, 1999; Bayley and Garofalo, 1989; BJS, 2006; Dunham and Alpert, 2005; Garner *et al.*, 2002). This infrequency, however, does not represent the proportional importance of using force. Bittner (1970) designated the ability to use of force as the defining or core characteristic of law enforcement officers. An alternative view has the overarching use of discretion as the defining characteristic of American law enforcement officers, with use of force as the act of discretion that carries the most import.

Practice should derive from policy in organizations. Well-crafted policy based on evidence-driven data can protect officers and citizens, and reduce agency liability. Leaders have a vested interest in officers having a clear understanding of policy (Mears, 2010). It is imperative that agencies continuously update policy to reflect changes in law, societal expectations, tactics, etc. Such continuous process

improvement has long been embraced by business, and more recently by public organizations (Mader, 2002). The current research leads to understanding what makes clear policy in the use of force arena. It also seeks to address how and whether agencies update policy to reflect evolving legal and societal standards. This research is important because while we examine Florida policies, the results or impacts can be extrapolated as there are no accepted nationwide mandated standards. There is no research that examines the content of current use of force policies. This paper adds to the literature on force policy and examines such policies in the nation's fourth largest state. The paper suggests areas for future research and offers a normative model of a force policy.

When the International Association of Chiefs of Police (IACP) published its first Model Policy on Use of Force in 1989, the landscape of force options was not as populated as it is now. Currently in its sixth iteration, the Model Policy is still presented as a brief document (two pages) that can serve as a starting point for development of an individual agency policy on use of force. The concepts and issues paper, *Use of Force*, accompanying each revision of the IACP Model Policy provides context and in-depth commentary on the policy (IACP, 2006).

Many law enforcement agencies utilize a relatively brief general order on force usage. This may result from the archaic view that brevity results in less liability exposure from a broadly written statement of policy. No policy can cover every situation and contingency, nor should it attempt to do so. However, sufficient guidance is necessary for officers and comprehensive and robust policies are needed to form the basis of reasonable and legally effective responses. These policies can result in fewer liability claims or lawsuits progressing beyond summary judgment.

Examining policies used by other agencies is helpful for policy and procedure development of any department (Farber, 2007). It is common for agencies undergoing accreditation to contact other already accredited organizations for copies of their general orders or policy manual. Accreditation standards at the least result in similar topics appearing in the manuals of member agencies. This current paper therefore will examine agencies' use of force policies to assess whether they contain similar items. While we found most of the same topics to appear, the depth of treatment and consistency of content was lacking.

The linkage between policy and agency training for officers is critical. Policy is a statement of agency philosophy, though this is not a policy's sole function. Officers look to policy for practical guidance on what to do and how to do it. Trainers should not teach techniques in a vacuum. Policy should be incorporated when in-service instruction or refresher training takes place. Inclusion of individual agency policy training in the basic recruit academy is impractical because regional academy instructors would be unable to utilize the policies of all potential agencies in their catchment area. In the state of Florida as in most states, basic recruit training curriculum is mandated by a state certifying entity. In Florida, that agency is the Criminal Justice Standards and Training Commission (CJSTC). Written policy also serves as a guide, reference or support in situations when officers have not had recent training in force options. Written policy is implicated in liability concerns, relations with the community, and the safety of officers and citizens.

Clarity as well as comprehensiveness is important in teaching high-liability topics (Gordon, 2003). Effective methods to maximize learner comprehension and retention

include static visual aids, dynamic scenario-based practice, reading material, and the requirement to display mastery, both physically and by written assessment. Most trainers use various graphic aids to teach force options. Administrators, counsels general, risk management professionals, and trainers recognize the continuums as effective in helping to explain the complex process of force utilization.

Literature review

Background of use of force continuums

The various roles and functions of law enforcement distinguish it from other vocations. Nowhere is this more apparent than in the requirement and lawful authority to use force against fellow citizens (Bittner, 1970). The unique ability and need to use force carries with it potential negative consequences including liability exposure for the officer and employer (Archbold, 2005). In an effort to train law enforcement officers on the proper use of force, in the late 1960s, law enforcement trainers developed force continuums (Williams, 2002; Peters *et al.*, 2006). Over the intervening four or five decades, the majority of these linear models depicted force options in an incrementally increasing series of actions that may be needed to arrest or control an offender.

American society experienced social turmoil and an increase in violent crime in this same time period. The challenges of our changing existence led public safety agencies to search for new methods of non-lethal control. The control innovations caused the force continuums to be re-conceptualized as each new option became available. The two-edged sword of increased force options and tools has caused some to express certain concerns that officers admit to some uncertainty regarding their available options (Petrowski, 2002). What were once straightforward lists of approved police responses or devices became expanded models of complex decision-making scenarios. Today, available force options are represented by "stairs, pyramids, tables, and ladders" (Williams, 2002, p. 14), or graphical representations of an encircling set of inputs and options (Fridell, 2005).

A use of force continuum may give the uninformed a one-dimensional view of an orderly step-wise process. Attempts to gain control of someone resisting is a moment-to-moment affair that often ends up on the ground and resembling a wrestling match without rules. The officer is typically reacting to the actions of the suspect (Alpert and Dunham, 2004; Williams, 2002). The dance of officer-suspect actions and reactions may not follow a discernible linear path. Peters *et al.* (2006) quote attorney Robert Thomas as saying:

> The continuum approach invites a laddered, stair-stepped ranking of officer force applications that is, for the most part, not based on law or logic (Peters *et al.*, 2006, p. 9).

Despite the length of time continuums have been used in police training, they have potential weaknesses like any framework or model of action (Bostain, 2006).

An initial point that critics make is that a continuum that shows options in a graphic way cannot be based on the vague standard of "objective reasonableness" established in the Supreme Court case of *Graham* v. *Connor* (1989). There is no one accepted model and, therefore, no universally accepted definitions of the various force levels and associated concepts. The presentation of officer responses seemingly matched to subject actions may appear to exclude consideration of the "totality of the circumstances." Bostain (2006) argues that this inability to address the uncertainties

and variables present on the ground is a weakness of continuums. Bostain adds that this lack of comprehensiveness leads to officer confusion.

Controlling the actions of another is a complex process. The use of force is a component that exists alongside an officer's voice and presence, psychological impact on a subject of strength of numbers, the often-vacillating thoughts and emotions of the subject possibly influenced by chemical or mental impairment, and the second-to-second actions and reactions of all parties in the occurrence (Dunham and Alpert, 2005; Terrill, 2003). The language of escalate and de-escalate is seen by some as inherent in the continuum and creates a perception on its face that force application should move up and down. This perception may create for the officer "...a state of doubt in the mind of the officer who then becomes worried not only about being injured but also about being disciplined or sued..." (Williams, 2002, p. 16).

The use of force continuum can not only provide a graphic aid to explain safety and legal considerations to officer, but it can also be used to explain concepts in a clear manner to community members and juries (Grossi, 2006). It is important to be able to explain to juries that the "...force decision was the most reasonable one, based on the threat you were facing" (Grossi, 2006, para. 4). The ability to provide juries a comprehensible model of how and why an encounter began, progressed, and ended as it did is quite important to the officer and the agency. For officers, an added benefit lies in having a "...framework ...when they have to justify and articulate their force applications" (Grossi, 2006, para. 5). The ability for an officer, training officer, or expert, utilizing a matrix, to explain subject and officer factors can be most persuasive. The importance of jury understanding in use of force cases is highlighted by the increasing costs resulting in payouts in police litigation cases and liability claims coupled with the assertion that "public organizations are usually held accountable more publicly ... because they are entrusted with a budget that derives in large part from ... (taxpayers)" (Archbold, 2005, p. 32).

The recent move away from requiring use of force continuums in policies

Over many years, courts have issued various opinions that impact use force by officers. This body of case law is enough for some observers to opine that no further or more detailed policy or guidance is need for training officers (Peters *et al.*, 2006). *Graham* v. *Conner* (1989) Supreme Court case, remains decisive in establishing parameters for law enforcement use of force (Petrowski, 2002). In this case, "the Court established that excessive force claims arising out of arrests, investigatory stops, or other seizures ... are properly analyzed under the Fourth Amendment's objective reasonableness standard" (Ross, 2002, p. 300). The Court noted that there is no "precise and mechanical application possible for this test of reasonableness" (Ross, 2002, p. 300; See also Hall, 1997; Williams, 2002; Klinger and Brunson, 2009). The Court did, however, enumerate the following criteria as factors that should reasonably impact an officer's decision to use force: "severity of the crime, whether the suspect poses an immediate threat to the officer or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight" (Ross, 2002, p. 300).

Since the *Graham* v. *Connor* decision, no major court case has altered or replaced the standard of objective reasonableness (Williams, 2002). Peters *et al.* (2006) maintain that "unless state law is more restrictive," the Supreme Court's ruling in *Graham* is "the only standard that need appear in an agency's use-of-force policy regarding seizures of

free people" (Peters *et al.*, 2006, p. 8). Peters *et al.* (2006) believe that inclusion of a continuum presents an opportunity for criticism of an agency that identifies an officer as having violated an agency standard while not breaching the reasonableness standard. This view suggests that inclusion of a continuum could harm an agency in a civil proceeding or in the perception of the community.

Some commentators believe the reasonableness standard is the proper standard to use, while others also assert the continuum should not be used because it amounts to a mechanical application (Petrowski, 2002). Petrowski in his writing attempts to link use of a continuum to dangerous hesitancy by officers in using force when faced with a threat. Given the studies of hesitancy to use force (Grossman, 1995), it is not at all certain this assertion can be supported. It is not debated that when training officers to use force, the training should be sufficiently thorough, intense, and frequent to reduce hesitancy and boost threat assessment capabilities.

Using the sole standard of reasonableness is not without problems. Determining what is "appropriately" reasonable is a difficult challenge (Alpert and Smith, 1994). In addition to the potentially intractable problem of quantifying reasonable, the standard remains open to a certain amount of court interpretation (Ross, 2002). Courts do not stand alone in struggling to apply the reasonableness standard. Reasonable can be a moving target, argued over by courts and police experts applying a mercurial calculation to what is reasonable in different settings and with different variables (Hall, 1997). An important, and sometimes eventual gauge of force usage, is rendered by civilians (Alpert and Smith, 1994). Citizens may express approval or disapproval of methods. Citizens may not understand the dynamics of force situations or the reasonable officer standard. Agencies, however, use the reasonable officer standard to assess officers' conduct (Klinger and Brunson, 2009). Our research discusses appropriate use of force and the challenges inherent in assessing what is and is not reasonable. The issues discussed including inconsistent definitions and varying court interpretations, make it perhaps even harder to define and address what can be considered excessiv*e* force (Alpert and Smith, 1994). Agencies are to be cautioned not to "reduce these critical issues to overly simple rules of application" (Hall, 1997, p. 32).

Alpert and Smith (1994) found the reasonable officer standard to be vague; what might be seen as reasonable to police officers (let alone different officers) might be viewed as unreasonable by the public. Alpert and Smith (1994) also noted that one reason there would be differences in both groups' view of what constitutes a reasonable officer is that the two groups do not share a common experience base. An awareness of why non-police may view various uses of force as unreasonable should be incorporated into officer training. Hall (1997, p. 32) believes that the balance of views may come from an "alternative approach to the reasonableness standard, carefully crafted guidelines that provide officers with a range of options within which to make decisions".

Florida's policies
Until 2006, Florida's CJSTC mandated the use of a continuum model called Florida's 2005 Recommended Response to Resistance and Levels of Resistance Matrix (Appendix 1) as part of its basic recruit academy training program. The matrix provides a graphic aid to assist in training officers on the proper application of force depending on resistance level. The matrix presents six resistance levels and six officer responses.

Florida's 2005 Recommended Response to Resistance and Levels of Resistance Matrix (Appendix 1) presents six subject resistance levels and six officer response levels. This matrix was in use for many years in Florida's basic recruit training. The training module was comprised of extensive instructor and recruit guides that included in-depth discussion of situational factors. This graphic aid was not presented in a vacuum. The complexity of force models requires graphic aids in training officers as well as in explaining to juries and the community. Grossi (2006, p. 1) pointed out that the benefit of being able to diagram the "standard progression of force from presence, dialogue, empty-hand control, chemical, electronic or impact weapons, up through deadly force, including why skipping steps based on special circumstances are sometimes necessary".

Data and methods

The data for this study were collected between January and August, 2009, as part of study on the use of force continuums and placement of TASERS on such continua, and attendant liability issues. Names and contact information for all Florida law enforcement agencies were obtained from the Florida Department of Law enforcement. E-mail and/or fax requests were sent to all 323 agencies requesting copies of their use of force policy. Follow-up e-mails were used to boost the response rate. This process resulted in an adequate response rate of 50 percent, with a total of 160 agencies responding.

The survey further asked how many sworn officers the agency has, whether a use of force reporting form is required, and whether the agency is state or nationally accredited or seeking accreditation. The survey examined whether policies contained language that incorporated or referenced a force continuum, and the current study analyzes the content of those policies.

The qualitative items or themes (sections of each policy) were calculated by frequency within each category of the sample. The nominal categories were initially established by examination of the Model Use of Force Policy of the International Association of Chiefs of Police (IACP, 2006). After reviewing the policies received from the agencies, we created coding categories from the common elements, some of which do not appear in the IACP Model Policy. The unit of analysis was thematic, which avoided the problem of context unit confusion. The final six coding categories were:

(1) definitions;

(2) medical aid;

(3) training;

(4) continuum;

(5) report; and

(6) accreditation.

The four categories of medical aid, accreditation, use of force report, and inclusion of the continuum did not appear in the IACP Model Policy. A discussion of medical aid and use of reports was included in the concepts and issues paper that accompanied the IACP Model Policy.

The structured content analysis of agencies' policy on use of force held the benefits of non-reactivity, face validity, large sample size, low cost, structure of documents

studied, and ease of coding. The disadvantage was the lack of a standard format (though this was an element of our inquiry), though the structure of written policies lead to relatively good quality documents. The content analysis resulted in frequency tables. Binary coding was employed. No assessment was made of space allotted, frequency of appearance, or intensity of the categories. Bias in the sampling frame was reduced by soliciting policies from all Florida law enforcement agencies.

Findings

Each policy document was classified by counting the coding categories that it exhibited. These categories were mutually exclusive and independent. In percentage terms of all responding agencies combined, definitions appeared in 74 percent, medical aid language in 62.5 percent, training in 31 percent, continuum in 74 percent, use of force report requirement in 92 percent, and agency accreditation in 48 percent of documents. These findings are summarized in Table I.

The depth of treatment or comprehensiveness of each category varied. Some policies treated some categories in detail, while giving short shrift to other categories. No agency's policy on use of force contained all of the categories studied. Some agencies state in policy that officers must receive the agency's written directives and training regarding use of force before being permitted to carry a weapon or be placed in a situation where use of force may be necessary. While this is one of several examples of a statement of policy that could be taken for granted and therefore not written, it strikes us that this is the sort of content that strengthens and makes for a comprehensive policy.

In labeling these policies, agencies used titles such as "Levels of Resistance," "Use of Force," "Use of Force and Apprehension Techniques," and "Use of Non-Deadly/Less Lethal Force." In the case of the last example, a second policy was titled "Use of Deadly Force." The variety can be attributed to semantics in perhaps all except the last instance. Debate exists between trainers, if not scholars, about the use of the terms less-lethal and non-lethal. The distinction is that with the former term, it is recognized that even items not designed to cause death and not used with the intention of deadly force, may nonetheless result in death. The latter, non-lethal, more clearly identifies to the broader audience the intended purpose of the techniques or devices.

Some agencies included a glossary or definitions section, some included neither. These sections had anywhere from three to twenty-one definitions. The IACP Model Policy only includes three definitions: deadly force, non-deadly force, and objectively reasonable. At least one agency included a legal disclaimer that read:

> This directive is for agency use only and does not apply in any criminal or civil proceedings. The [agency] policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of this directive will only form the basis of agency administrative sanctions. Violations of law will form the basis for criminal and civil sanctions in a recognized judicial setting.

This statement may ultimately have no effect in a civil proceeding against an officer or agency, but the view of the agency is clear on the matter. The agency's intent is to guard against lawsuits, but beyond that the administrator should have a vested interest in the proper conduct of agency personnel. The agency would hope for an immunity or insulation that simply does not exist. The policy, however, can address

deviations from expected behavior and how such deviations will be handled by the agency.

While medical or first aid considerations were mentioned in a majority of policies (62.5 percent), the placement and thoroughness of the topic varied. The use of force inherently involves the potential to inflict injury. It is remarkable that the IACP Model Policy and the accompanying concepts and issues paper, *Use of Force*, do not address medical aid or concerns. A succinct, yet effective medical attention section opened with the following:

> In the event a subject is injured or complains of an injury following the use of less-lethal force by a member, the member shall perform any necessary first aid in which the member has been trained, and summon emergency medical services immediately, in addition[. . .].

The directive goes on to include advising booking personnel, medically evaluating anyone struck with a beanbag projectile, and affording immediate medical attention for someone not showing signs of recovery from chemical munitions within a normal timeframe. Many policies contained language to the effect that if a subject is injured or complains of injury, medical treatment will be obtained immediately.

Training was mentioned in 31 percent of policies received. In some policies, a brief but important statement may have been made, such as in one policy that stated:

> Members shall not be allowed to carry or use agency authorized weapons (lethal or less-lethal), on or off duty, until they have been properly instructed and have demonstrated proficiency, if applicable, with the weapon(s).

Some took the step of tying use of force to review by training personnel or others such as internal affairs or professional standards units. While the survey did not ask whether an agency policy or order exists on training, or whether force training was addressed in such policy, even a brief mention of training on use of force seems in order in the interest of a comprehensive force policy. The IACP Model Policy includes a brief section on training. We find it significant that only 31 percent of agencies address training in the use of force policy. For those agencies that included mention of training, many referred to firearms training with little or no mention of training in other force options or policy.

Language describing the use of force continuum was present in 74 percent of agency force policies. This is notable in our research as the Florida agency responsible for initial training of all recruit officers no longer uses the continuum (matrix). One department's section of the general order titled Force Guidelines, described the guideline as ". . .a framework for making decisions involving the

Categories	SO	PD	n	%
Definitions or glossary	19	100	119	74
Medical aid	82	18	100	62.5
Training	9	40	49	31
Continuum	26	92	118	74
Report	27	120	147	92
Accreditation	16	61	77	48

Note: 323 surveys sent, 160 returned

Table I.
Number and percent of agency responses by police department, sheriff's office, and total with coding categories by number and percent

reasonable use of force..." Inevitably, there is use of the term "level" when discussing use of force. One agency points out that, "As soon as the point of subject compliance is reached, the deputy must de-escalate his/her response level to the reasonable force necessary to control the subject." This language differs in an important way from another agency that phrased the issue of reduced subject resistance this way: "Once the member achieves control or compliance, he or she must de-escalate the use of force." It is not semantics to point out that de-escalating to a level "necessary to control" may be seen differently from "...must de-escalate the use of force." If too much control is removed from some physical techniques, the subject may try to break free or resist once again.

Almost universally, agencies included a requirement for use of force reporting with 92 percent stating the requirement in their written policy on force. There was not a great deal of difference in the information required in the report and most agencies require the officer to complete the report. One agency, however, uses a Supervisor's Subject Resistance Review form. This supervisor form is required to be completed when an officer acting in an official capacity "uses a weapon, physical control and/or a physical technique..." This agency requires that the officer "making physical contact with someone for control purposes," document the circumstances in an incident report. Another organization addressed reporting force in this way:

> Each ... officer present or assisting in an arrest or incident requiring response to resistance shall submit a report supplement describing the incident and complete a Response to Resistance Report form.

There was variation in the force reporting form for those agencies that use them. Many of the use of force report forms contained sections that provided for resistance and response levels to be checked off. Forms provided for supervisors to sign as having reviewed the reported incident.

Of the responding agencies, 48 percent are accredited within the state or nationally or are in the formal process to become accredited. We hypothesized that accredited agencies would be more likely to have a complete or thorough use of force policy. We did not find this to be the case. Some agencies included notations to relevant accreditation standards on the first page of their policies. Some added the step of indicating the specific standard numbers at the beginning of the relevant subsection of the policy as well as the beginning. While state or national accreditation requires a use of force policy, these policies were not significantly more thorough than in non-accreditation agencies.

Discussion

There is a need for clear agency policy and comprehensive training. An examination of the extant literature does not reveal study or commentary on normative use of force policy content. While the IACP Model Policy and accompanying concepts and issues paper provide some guidance to agencies, there is much that is necessarily left to the design of individual agencies. We hypothesized that accredited agencies would have more comprehensive use of force policies than non-accredited agencies. This was not uniformly the case.

Accreditation
Whether accreditation is sought nationally through the Commission on Accreditation for Law Enforcement Agencies (CALEA) or the Commission for Florida Law Enforcement Accreditation (CFA), an agency that achieves this distinction is making a philosophical statement that it adheres to best practices in the field of law enforcement. Of the responding agencies, 48 percent stated they are now accredited or are in the accrediting process. While the use of force by officers is addressed in the standards of both accrediting bodies, the standards do not dictate or suggest content.

A statement on CALEA's web site entitled "What" Not "How," puts it this way: "Seeking to establish the best professional practices, the standards prescribe 'what' agencies should be doing, but not 'how' they should be doing it. That decision is left up to the individual agency and its Chief Executive Officer" (CALEA, 2010). The "what" recognizes the importance of a standard, topic, or issue in contemporary law enforcement agency administration and operation. The "how" is left to the individual agency recognizing the unique internal and external environment each organization exists within.

The Florida Accreditation standards include a chapter "Use of Force" that requires accredited agencies to have written policies that ". . .specify when and to what degree lethal and less-lethal force can be used" (CFA, 2008, p. 37). The chapter introduction further notes that, "Agencies must describe the weapons that may be used and provide training in 'use of force' policies for officers to understand the limits of their authority" (CFA, 2008, p. 37). CFA Standard 4.01 is a mandatory standard and states that, "A directive establishes the agency's use of force policy that, at a minimum, must follow Florida law and specify that members will use only the force necessary to effect lawful objectives." Another mandatory standard requires that agency members be furnished use of force policy and instructed in that policy before being authorized to carry weapons. Further, members must have completed Florida Basic Recruit Training before being allowed to carry a firearm or be in a position to make an arrest.

While state or national accreditation requires a use of force policy, the policies reviewed from accredited agencies were not significantly more thorough than in non-accredited agencies. Doerner and Doerner (2009) noted that accreditation does not necessarily become a change agent, just something to accomplish as a show of being a professional agency. An agency may include a requirement or language about a standard without changing its practice in any substantial way.

In formatting policies, it is helpful for accountability and accreditation audits to reference the relevant standard within the policy or directive. The most effective method of inclusion provides front-page section containing a list of the accreditation standards or other referenced documents and additional in-text citing of the affected standard at the section(s) in the policy where the standard is implicated. We find that this serves several purposes. First, policy revision is aided by the reviewer knowing when a topic or specific language must remain in a policy. Second, accreditation and re-accreditation reviews are facilitated when reviewers can quickly identify sections of sometimes-lengthy policies that address what they are seeking. Last, and of concern to line officers, placement of the identifying standard signals why certain language is included that might otherwise leave employees wondering.

Toward a comprehensive model policy
Public policy often changes through court decisions and litigation. From a risk management perspective, a thorough policy mitigates the potential problems from inadequately trained personnel or lagging changes in the law (*Tennessee* v. *Garner*, 1985). Many researchers suggest a move away from detailed written policies. The IACP Model Policy supports this. In the concepts and issues paper that accompanies the Use of Force Model Policy, the IACP (2006, p. 1) states:

> In constructing an agency policy on the use of force … a strong argument can be made to keep a use-of-force policy as short and simple as possible. It is essential that officers have a complete understanding and recall knowledge of their agency policy on this critical issue. But the longer and more complex the policy the less likely that this is possible. A use-of-force policy can and should be concise and incorporate only the essential principles to adequately guide officer decision making.

We differ on this key issue. While an effective policy should be succinct, it should not sacrifice thorough coverage of the following components: policy statement, report requirements, definitions, a process to review the use of force policy annually, criteria for providing medical aid, a force continuum, and training. We present a representation of components of a model policy in Figure 1.

The policy statements contained in an agency's general orders serve an important purpose. Not only does the policy statement provide an overview of the affected topic, it stands as a symbolic message of how important the organization and the chief executive see the issue addressed in the policy. It is hard to think of a policy area more important than the use of force to make clear an agency's values.

The Standards Manual of the Commission for Florida Law Enforcement Accreditation addresses when reports will be written regarding use of force to include force resulting in injury or death, use of lethal or less-lethal weapons, or weaponless force at a level defined by the agency. The CFA further contains a
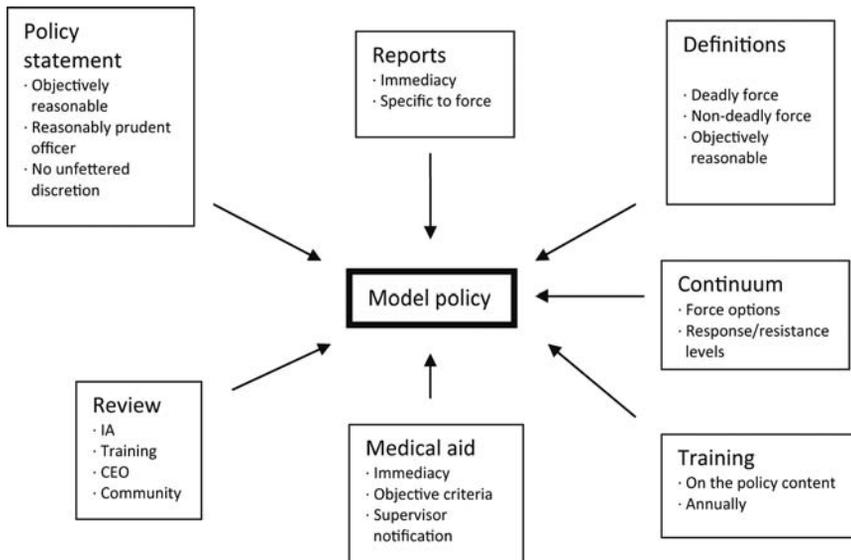
Figure 1.
Components of model use
of force policy

mandatory standard requiring "a written report be submitted and a documented review conducted by a defined level of authority whenever a member" uses force. Reports, to include use of force, are due in a timely manner. Law enforcement experience has proven that this means no later than the end of an affected officer's shift, hopefully sooner. Thoroughness in describing an incident where force was used cannot be overstated (Anderson *et al.*, 2003). A review of cases ending in liability for an agency, or an individual officer, provide ample support for ongoing proficiency training in this area specific to force usage and its investigation. Multiple uses of force within one incident bears examination (Terrill *et al.*, 2008), though it was beyond the scope of this study.

We include a section on definitions as critical to a model policy on use of force. The policies reviewed in this research contained from three to twenty-one terms defined. We suggest inclusion of the terms defined by the IACP's Model Policy (deadly force, non-deadly force, and objectively reasonable), as well as those that aid in clarifying concepts of force usage and terms that are used in the training environment.

Review of agency policy can be haphazard. A well organized system that specifies when policy is to be reviewed and who is to conduct the review is essential. A concluding statement on a policy that asserts that the policy will be reviewed annually is insufficient. One use of force policy we reviewed in this research had an effective date in 1993 with no indication of update. For larger agencies, a planning and research or professional standards unit may be responsible for keeping up with policy and procedure review. Experienced administrative personnel apportion policies for review by month to ensure thorough review of policies rather than a mad dash all in one month each year. Agencies utilize policy review committees to bring to the table affected section representatives as well as to provide development opportunities for employees. For those agencies currently accredited, the compilation of an annual use of force report is mandatory.

Another of the standards requires a directive that "specifies procedures for ensuring appropriate medical aid is provided after use of lethal or less-lethal weapons, or other use of force incidents as defined by the agency" (CFA, 2008, sec. 4.9). As noted in our findings, 62.5 percent of agencies include some mention of medical aid in their use of force policy. This means that nearly 40 percent do not. Whether serving as a reminder to officers, a topic for training, or a risk management statement of expected officer action, discussion of responsibility to render aid is quite important.

One agency's policy admonished officers to use what the agency termed the "one plus one theory of escalation . . . only escalating to the next level of force justified considering the amount of resistance given and the potential for injury to the subject by using that type of control." Another agency spoke more broadly in recognizing that use of force does not always follow a progression by stating, "When dealing with violent/combative persons, nothing in this order is intended to discourage members from using a higher level of force whenever such force is necessary and can be justified." The seeming disparity likely results from subjective interpretations of the same vague standard of "objective reasonableness."

While we found that a majority of agencies still incorporate the language of the force-resistance matrix, we do not know if agency policy matches the practice of officers. This observation in itself is not unique in the policy-practice dichotomy of police work. Closing the gap between what an agencies' say that employees do, and

what those employees actually do, remains a goal. The continuum is often used as a training aid and policy component. Most agencies in Florida use the continuum in policy. The categories examined in this research represent elements in the IACP Model Policy, or occurring in the policies gathered. The content analysis suggests important recommendations for law enforcement (and corrections) agencies. Given the recent national debate about the efficacy of force continuums, this research is timely.

There was a mention of training in 31 percent of use of force policies. In those policies where training is mentioned, few are specific regarding policy, non-lethal force options, or documentation of the training. The IACP concepts and issues paper on Use of Force addresses training but it predominantly addresses deadly force and firearms training. While firearm "training" or qualification occurs often semi-annually, upgrade or refresher training on all other force modalities may not occur post-academy. Such force options training might co-occur with firearm training to synergize discussion of policy and liability issues.

A few notes are in order regarding language. It may not be advisable to describe a technique and then include a colloquialism. In one example, an agency police prohibited the use of the "Lateral vascular neck restraint (a.k.a. chokeholds) . . . except in circumstances where lethal force is justified." Given that the item is permissive, a lawsuit against the agency may focus attention on the agency itself referring to the technique as a chokehold. In describing the use of an intermediate weapon, the TASER (CED), one policy listed the first consideration under tactical deployment as simply "use common sense." If such a commodity were quantifiable and teachable we might not object to its inclusion in a policy on use of force.

While opinions differ as to whether to use a linear or circular model of force considerations, clearly a graphic aid is useful to training officers and explaining concepts to the community, the media, and juries. Klinger (2004) argued that since force is conceptualized by amount, a linear progression is an apt measure.

Conclusions

Several conclusions can be drawn from the analysis of the policies collected in this study. First, even though the State of Florida moved away from the using the force matrix that had long been used throughout the state, agencies continued to incorporate the language of the matrix (continuum) in both policy and training. Such continued inclusion by agencies several years after abandonment of the tool at the state level may be an indicator of the utility of the continuum model.

Second, agency heads and governmental entities have a compelling interest and need to train officers effectively and continually in the application and consequences of using force in the performance of their duties. Appropriate techniques can prevent or limit injuries to officers and citizens as well as mitigate liability exposure. Written policies serve as effective training tools as well as expressions of agency stance on an issue.

An alternate explanation for continued use of the matrix could be agency inertia. Inertia has long been recognized as a characteristic of bureaucracies. The finding that so many agencies continue to use the continuum could be attributed to organizational inertia as much as to the utility of the continuum (Mears, 2010). Law enforcement agencies often find their policies driven by emergencies or crises. Additionally, changes in the law may be the impetus for policy changes. However, we do not

currently anticipate a likelihood that a US Supreme Court ruling will require a move away from the use of a continuum.

Finally, an obvious need exists for parochial agencies to remain abreast of benchmark standards in policy as well as practice in the critical high-liability area of force application. If an agency fails to train officers in follow-up procedures to use of force, needless liability may attach. Documentation of circumstances and actions must be swift, completed in a competent manner, and tied back to agency training and policy. Policies must also be reviewed at least annually with appropriate public input.

One potential limitation of the current study is that only Florida agency policies were examined. Future studies should include comparison of annual use of force reports with the written policy of agencies to examine correlations between policy and the rates of use of force. Additionally, state-to-state comparisons would be useful. Examination of the specific components of the model policy may reveal areas to increase training effectiveness.

References

Adams, K. (1999), *What We Know about Police Use of Force. Use of Force by Police: Overview of National and Local Data*, NIJ, BJS.

Alpert, G. and Smith, W. (1994), ""How reasonable is the reasonable man? Police and excessive force", *Journal of Criminal Law & Criminology*, Vol. 85, pp. 481-501.

Alpert, G.P. and Dunham, R.G. (2004), *Understanding Police Use of Force: Officers, Suspects, and Reciprocity*, Cambridge University Press, New York, NY.

Anderson, A., Zoufal, D. and Conlon, A. (2003), "The use of non-deadly force: recent legal developments", *Law Enforcement Executive Forum*, Vol. 3 No. 2, pp. 75-89.

Archbold, C. (2005), "Managing the bottom line: risk management in policing", *Policing: An International Journal of Police Strategies & Management*, Vol. 28 No. 1, pp. 30-48.

Bayley, D.H. and Garafalo, J. (1989), "The management of violence by police officers", *Criminology*, Vol. 27, pp. 1-27.

Bittner, E. (1970), *The Functions of the Police in Modern Society*, National Institute of Mental Health, Washington, DC.

Bostain, J. (2006), "Use of force: are continuums still necessary?", *FLETC Journal*, Fall, pp. 33-7.

Bureau of Justice Statistics (BJS) (2006), *Contacts between Police and the Public: Findings from the 2005 National Survey (NCJ-215243)*, Government Printing Office, Washington, DC, available at: www.prisonpolicy.org/scans/bjs/cpp05.pdf (accessed 16 May, 2010).

Commission for Florida Accreditation (CFA) (2008), *Commission for Florida Accreditation (CFA) The Standards Manual*, Commission for Florida Accreditation, Orlando, FL.

Commission on Accreditation for Law Enforcement Agencies, (CALEA) (2010), "What not how", available at:,www.calea.org/content/calea-recognition-program-standards (accessed 10 May 2010)

Doerner, W.G. and Doerner, W.M. (2009), "The diffusion of accreditation among Florida police agencies", *Policing: An International Journal of Police Strategies & Management*, Vol. 32 No. 4, pp. 781-98.

Dunham, R.G. and Alpert, G.P. (2005), *Critical Issues in Policing*, 5th ed., Waveland Press, Long Grove, IL.

Farber, B.J. (2007), "Civil liability for use of Tasers, stunguns, and other electronic control devices – part I: 4th amendment claims for excessive force", *AELE Monthly Law Journal*, Vol. 101, pp. 101-9.

Fridell, L. (2005), "Improving use-of-force policy, policy enforcement, and training", in Fridell, L. and Ederheimer, J. (Eds), *Chief Concerns: Exploring the Challenges of Police Use of Force*, The Police Executive Research Forum, Washington, DC, pp. 21-55.

Garner, J., Maxwell, C.D. and Heraux, D.G. (2002), "Characteristics associated with the prevalence and severity of force used by police", *Justice Quarterly*, Vol. 19 No. 4, pp. 705-46.

Gordon, K. (2003), "Teaching use of force", *Law Enforcement Executive Forum*, Vol. 3 No. 2, pp. 103-10.

Graham v. *Conner* (1989), *Graham* v. *Conner*, 490 US 386 (1989).

Grossi, D. (2006), "Setting the record straight on force continuums", *The Police Marksman*, January/February.

Grossman, D. (1995), *On Killing: The Psychological Cost of Learning to Kill in War and Society*, Little, Brown and Co., New York, NY.

Hall, J. (1997), "Police use of nondeadly force to arrest", *FBI Law Enforcement Bulletin*, Vol. 66 No. 10, pp. 27-32.

International Association of Chiefs of Police (2006), *International Association of Chiefs of Police Use of Force Concepts and Issues Paper*, IACP National Law Enforcement Policy Center, Washington, DC.

Klinger, D. (2004), *Into the Kill Zone: A Cop's Eye View of Deadly Force*, Jossey-Bass, San Francisco, CA.

Klinger, D. and Brunson, R. (2009), "Police officer's perceptual distortions during lethal force situations: informing the reasonableness standard", *Criminology & Public Policy*, Vol. 8, pp. 117-40.

Mader, D.P. (2002), "Design for Six Sigma", *Quality Progress*, Vol. 35 No. 7, pp. 82-6.

Mears, D.P. (2010), *American Criminal Justice Policy: An Evaluation Approach to Accountability and Effectiveness*, Cambridge University Press, New York, NY.

Peters, J., Peters, J. Jr and Brave, M. (2006), "Force continuums: three questions", *The Police Chief*, Vol. 73 No. 1, available at: www.iacp.org (accessed 26 May, 2009).

Petrowski, T. (2002), "Use-of-force policies and training: a reasoned approach", *FBI Law Enforcement Bulletin*, October, pp. 25-32.

Ross, D. (2002), "An assessment of *Graham* v. *Connor*, ten years later", *Policing: An International Journal of Police Strategies & Management*, Vol. 25, pp. 294-318.

Tennessee v. *Garner* (1985), *Tennessee* v. *Garner*, 471 US 1 (1985).

Terrill, W. (2003), "Police use of force and suspect resistance: the micro process of the police-suspect encounter", *Police Quarterly*, Vol. 6 No. 1, pp. 51-83.

Terrill, W., Leinfelt, F. and Kwak, D. (2008), "Examining police use of force: a smaller agency perspective", *Policing: An International Journal of Police Strategies & Management*, Vol. 31, pp. 57-76.

Williams, G. (2002), "Force continuums: a liability to law enforcement?", *FBI Law Enforcement Bulletin*, June, pp. 14-19.

Appendix. Recommended response to resistance and levels of resistance matrix

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