



COMMONWEALTH PROTECTION INSTITUTE

USE OF FORCE POLICY

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CPI Use of Force Policy

Members of the Commonwealth Protection Institute and its affiliated companies will use only that force which is reasonably necessary in conformity with state and federal statutes, and the Constitution of the United States. They must avoid the use of force where not essential to carrying out assigned responsibilities.

In cases warranting the use of force, you must use only that force reasonably necessary to reach your objective. You must tailor the type and level of force to its necessity. You must base your use of force option on the actions of the individual(s) with whom you are in contact. Once a particular level of force is no longer required, you must discontinue its use despite the fact a suspect's efforts to thwart or evade a seizure may arouse normal passions of anger, fear, or frustration. You shall not use excessive force in discharging your assigned responsibilities. Use of excessive force may result in administrative or disciplinary proceedings without regard to otherwise applicable criminal or civil sanctions for violations of related laws.

The fourth amendment to the US Constitution sets the limits for the use of force by personnel engaged in effecting arrests or other seizures of persons. In Graham v. Connor, 490 U.S. 386 (1989), the US Supreme Court established the fourth amendment standard of "objective reasonableness" as the appropriate standard for assessing the use of force in the context of making an arrest or other seizure of a person. It explained its application in these terms:

[T]he question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them..... The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. ...the 'reasonableness' inquiry...is an objective one...."

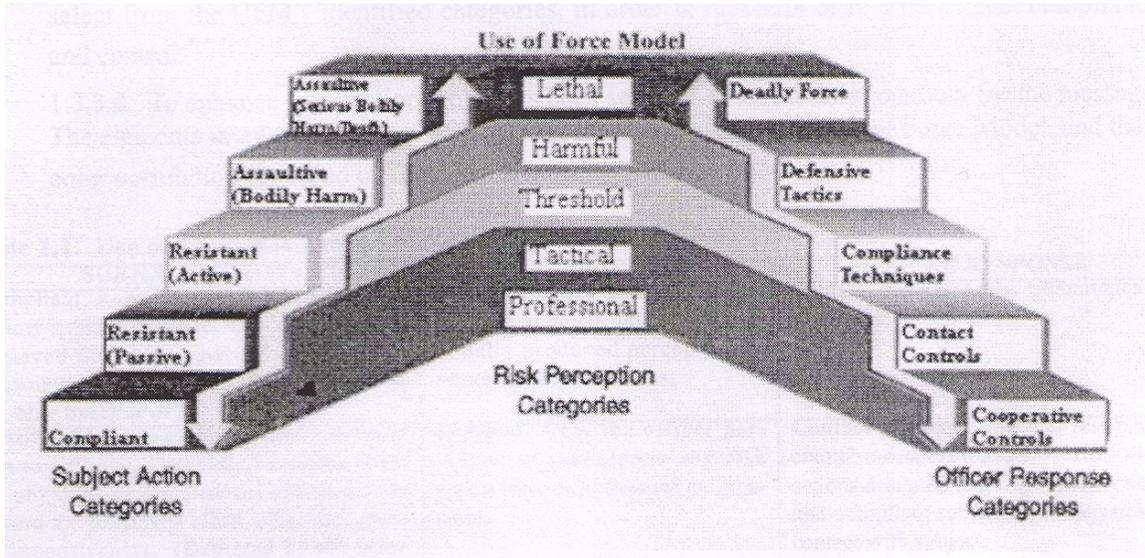
The Supreme Court recognized in Graham v. Connor that law enforcement and security personnel have to make "split-second judgments" concerning the use of force under "circumstances that are tense, uncertain and rapidly evolving..." The US Supreme Court has held that reasonableness under the fourth amendment does not require you to choose the least intrusive alternative, only a reasonable one. In effecting a seizure, individuals performing law enforcement or security duties draw from a reservoir of options, ranging from simple displays of authority, to the application of various levels of non-deadly force, to the use of deadly force itself. Facts dictate the appropriate response, and those facts--as well as the choice of response--are subject to close scrutiny.

The criteria supporting "objective reasonableness" is provided from three essential areas within the confrontational environment: the subject(s) action(s), the risk perception, and the officer response initiated in order to gain compliance and control.

Use of Force Introduction.

Force, and its proper utilization is perhaps the most critical concern of those engaged in the protection of personnel and resources. CPI personnel performing these duties must

have a thorough understanding of the philosophy and process of force utilization. This policy discusses the elements of the Use of Force Model (UFM), and the tools and tactics available to Virginia Special Conservators of the Peace. The UFM is adopted from the “Integrated Force Management – Use of Force Model” first developed in 1991, by the Professor Gregory J. Connor, University of Illinois Police Training Institute and staff of the Federal Law Enforcement Training Center.



The UFM is a three-sided, five-tiered structure. It is the basis by which discussions and questions will be addressed as to how much force is appropriate for a variety of situations with which you may be faced during training exercises and real world situations.

The UFM describes the progression or de-escalation of force based upon the demonstrated level of compliance or resistance. Ideally, each encounter flows in a logical and legal sequence of cause and effect based upon reasonable perception of risk, causing you to escalate, de-escalate, or maintain a level of appropriate force to gain or maintain control of the subject.

The elements involved in the use of force are integrated in the Use of Force Model. Each component; “subject’s action”, “risk perception”, and “officer’s response” is essential for a balanced use of force.

Subject Action - the action (s) perceived by the “reasonable officer” that place the subject in one or more of the Model’s compliant/non-compliant categories.

Risk Perception - the situations that are perceived by the “reasonable officer” within a confrontational environment which present a risk or potential risk to officer safety. Issues including the nature and severity of the crime, degree of subject non-compliance, knowledge of the subject’s previous actions, etc., can act as a test for reasonableness and a criteria for placement in one or more of the perception categories on the UFM.

Officer Response - the “balanced” response the reasonable officer could and/or would select from the UFM’s identified categories, in order to maintain or regain subject compliance and control.

Table 1. Use of Force Elements

SUBJECT ACTIONS	RISK PERCEPTION	OFFICER RESPONSE
Compliant: Represents the vast majority of officer/subject encounters. Cooperation is achieved through verbalization skills and contemporary acceptance.	Professional: The officer is engaged in duties with an occupationally produced perception of responsibilities and risks.	Cooperative Controls: Communication skills.
Resistant (Passive): Preliminary level of non-compliance. However, the subject offers no physical or mechanical enhancement toward the resistance effort, other than sheer unresponsiveness.	Tactical: Here the officer perceives an increase in the risk within the confrontational environment.	Contact Controls: Includes resistant countermeasures and restraint applications designed to guide or direct the non-compliant subject. First physical contact with subject.
Resistant (Active): The subject’s non-compliance is increased in scope and/or intensity. The non-compliance now includes energy enhanced physical or mechanical defiance.	Threshold: An activated level of alertness, where specific risks are identified by the officer.	Compliance Techniques: Includes resistant countermeasures designed to counter the subject’s degree of resistance. These tactics include pain compliance applications, chemical irritants, etc.
Assaultive (Bodily Harm): The officer’s attempt to gain lawful compliance has culminated in the perception of an attack or the potential for such an attack on the officer or others. The officer makes the reasonable assessment that such actions by the subject would NOT result in the officer’s or others death or serious bodily harm.	Harmful: An accelerated perception of danger and a more directed focus on officer safety and defense.	Defensive Tactics: Includes assaultive countermeasures designed to cease the subject’s non-lethal assault on the officer or others, regain control, and ensure continued compliance. These tactics include baton strikes, escape techniques, blocking defenses, etc.
Assaultive (Serious Bodily Harm/Death): The officer makes the reasonable assessment that he/she is facing conditions of extreme necessity, when all lesser means of force aren’t feasible or have failed, and reasonably believes themselves or others to be in imminent danger of death or serious bodily harm.	Lethal: A perception of a potentially lethal degree of risk. Decisive action is critical for officer safety and security or protection of others.	Deadly Force: Assaultive countermeasures designed to cease the subject’s lethal assault on the officer or others. Tactics include the use of a firearm, lethal strikes, etc.

The double-headed assessment/selection arrows indicate the dynamic and fluid nature of the processing of information toward proper decision-making during a confrontation. The principle incorporated into proper compliance and control is that of tactical transition, which includes escalation, stabilization, and/or de-escalation in force applications. The properly trained member will be conditioned to flow with the circumstances of the specific situation to properly control the confrontation.

The UFM supports the widely accepted premise and practice of progressive application of force. This simply implies the process of appropriate selection of force options in response to reasonable assessment of risks presented in the confrontation; the level of compliance or degrees of non-compliance from the individual to be controlled; and proper selection of an objectively reasonable response. Each officer/citizen confrontation should flow in a logical and legal sequence of cause and effect. The member's tactical transition must be capable of escalation or engagement, stabilization of the situation, or de-escalation or disengagement within the context of the confrontation toward the eventual goal of compliance and control.

Progressive Application of Force encompasses three main elements of action and assessment: tools, tactics, and timing.

Tools include the two broad forms of subject control; mental manipulation (verbal skills, body language, officer presence, etc.) and physical manipulation (weaponless controls, weapons, restraints, etc.).

The **tactics** encompass the actual application of these tools into actual strategies deemed necessary and viable in the confrontational setting.

Timing is demonstrated by the degree of actual force deemed necessary; based upon the "reasonable officer's" ongoing assessment of risks, the "reasonable officer's" perceived actions of the subject, and the available options of control; measured in terms of reasonableness.

Apply force with the appropriate tool. Tools available at the first level (Cooperative Controls) would include:

Mental Preparation: Perception skills, risk assessment, and survival orientation.

Spatial Positioning: Stance, body language, and relative positioning.

Verbal Controls: Communication skills, interviewing, and behavioral assessment.

Individual searching techniques: Frisk techniques, search positions (standing, prone).

Apprehension Tactics: Single/Dual subject, escort controls and transport controls.

K-9 presence.

Tools available at the second level (Compliance Techniques) include those in the first level and:

Verbal Manipulation Techniques: Targeted towards changing the behavior of an individual (conflict management) or of a group of individuals (crisis management).

Handcuffing Techniques: Standing, and prone.

Wrist-elbow position.

Hand rotation position.

Tools available at the third level (Compliance Techniques) besides those available in the first and second include:

Neuromuscular controls.

Chemical irritant application.

Baton used as leverage devices or in pain compliance role (non-striking).

K-9 (off leash).

Tools available at the fourth level (Defensive Tactics) include those from the three levels below and:

Escape Techniques: For use in escape from grabs and chokes.

Assault defenses: To include use of head, hands, elbows, feet and knees in warding off or countering the subject assault.

Impact Weapons: To include the baton or riot stick as well as anything at hand for use in fending off or gaining control of the subject. Blocks, strikes, and jabs to non-lethal areas would be justified.

Weapon retention.

Tools available at the fifth level (Deadly Force) include those formerly outlined in Levels I-IV and Firearms.

Three tactical issues should be noted.

The principle strategic focus in the enforcement environment is to continue to promote and practice the confrontation equation; which by definition is simply the officer remaining in a constant position of recognizable advantage within any confrontation, while the subject stays in a continued position of recognizable disadvantage. One vivid and viable illustration of this tactical equation is the

practice of the 2 on 1 advantage ratio of officers to subject, as the rule, rather than the exception.

The focus toward the confrontation should be primarily placed upon the "actions" of the subject, rather than the important, but secondary attributes of the "actor" in the situation. Certainly the "who" involved is of concern (e.g., past actions, previous history of violence, the subject's size/strength, etc.), but primary focus needs to be directed toward "what" is happening at the time - what the subject is doing. The "reasonable officer" must guard against being lulled into complacency by past knowledge of the subject, or placing himself in crisis by pre-judging a mode of force utilization based upon previous contact, not present at this point in time.

When placed into a confrontation, the "reasonable officer" must expand his/her perspective from the common practice of "reaction" into a more strategic confrontational conduct of an action initiated response.

This response should be pro-active, drawn upon the expertise and experience with the actual subject and situations, or other similar participants and incidents. The officer should remain free of the pressure to pre-judge the actions of the subject, and gain the enhanced ability to more properly perceive the actual and/or potential actions of the subject in question.

Ideally, the officer should practice anticipatory behavior (stress reduction techniques, conflict avoidance/resolution tactics, fear management skills, etc.) to attempt to prevent potential non-compliant confrontations. Or, if a conflict is perceived as inevitable, he/she should initiate procedures to provide sufficient systems (strategic planning, team tactics, etc.) to maximize the status of safety for himself/herself, others, and the actual subject.

The response must be active, in that the controlling tactics the officer initiates will accomplish the re-control of the subject with a high degree of effectiveness and safety to the officer and to others. In this manner, the confrontation can be controlled as efficiently as possible, thus avoiding the selection of higher levels of force utilization with the inherent risks of greater potential injury to the officer, the subject, or others.

Use of Deadly Force. The use of deadly force must meet the 'objective reasonableness' standard. Use deadly force only when facing conditions of extreme necessity, when all lesser means of force aren't feasible or have failed, and only when you reasonably believe yourself or others to be in imminent danger of death or serious bodily harm.

You may use force, including deadly force, to prevent the commission of a serious offense involving violence and threatening death or serious bodily harm.

You may use force; to include deadly force, when it reasonably appears necessary to detain, apprehend, or prevent the escape of a person suspected of committing a Felony, and it reasonably appears that the suspect presents an immediate danger to you or to others.

You may use force, to include deadly force, when it appears reasonably necessary to prevent the escape of a prisoner who threatens serious bodily harm or death to escorting personnel or other persons. During an escape attempt, you must have probable cause to believe the prisoner is attempting to escape and that the escaping prisoner poses a threat of serious bodily harm either to yourself or others.

You may use your weapon as a signaling device as a last resort when all other means of communication have failed or are unavailable, and you are involved in a life-threatening situation. This is done by firing three rounds in rapid succession straight into the air, away from resources or populated areas.

Special Considerations for the Use of Deadly Force. Fire shots only with due regard for the safety of innocent bystanders. Do not fire shots if they are likely to endanger innocent bystanders. When possible, give an order to "HALT" or "STOP" before discharging a firearm to prevent death or serious bodily harm to others.

When you discharge a firearm, fire it with the intent of rendering the targeted person or persons incapable of continuing the activity or course of behavior that led you to shoot. Rendering incapable may not require death in every circumstance. Shoot to stop, not to kill. Do not fire shots as a warning to suspects.

Supervisors must continually monitor the suitability of armed personnel. Supervisors must withdraw the authority to bear arms from people who are:

Identified substance abusers.

Emotionally unstable or whose behavior suggests they're incapable of using firearms with care.

Determined by medical authority to be suffering from alcohol abuse or dependence.

Taking prescription medication that will impair their ability to use firearms with care. Supervisors must consult with the responsible physician when medication such as Prozac is prescribed. The use of prescription medication does not necessarily mean the person cannot bear firearms. The physician has to make a determination regarding the individual's access to firearms. If the physician determines that the individual should not have access to firearms, this will be documented in a report to the CPI Executive Officer.

Relieved of duty for disciplinary reasons.

Every member has a special responsibility to stay alert for behavioral signs that arming someone is not suitable. If you have information or evidence of impairment of a member's mental or physical ability to arm, notify that person's supervisor immediately. Individuals under the influence of intoxicants will not be armed.

Supervisors must evaluate the information and if necessary take immediate action to temporarily withdraw the affected person's authority to bear a firearm. If warranted, supervisors must also deny the person access to any CPI-owned or privately owned firearm and associated ammunition stored in a CPI firearm storage facility.

Persons convicted of a misdemeanor crime of domestic violence are prohibited by the Gun Control Act of 1968 (18 U.S.C. 922) from shipping, transporting, possessing, or receiving firearms or ammunition. Furthermore, it is a felony for anyone to sell or otherwise dispose of a firearm to any person so convicted.

Supervisors will take appropriate measures to insure that CPI personnel do not issue CPI owned and privately owned firearms or ammunition to anyone they have reasonable cause to believe has ever been convicted of a crime of domestic violence. Supervisors will initiate an appropriate investigation to confirm convictions of domestic violence.

For personnel found to have a qualifying conviction, a Supervisor will retrieve immediately all issued firearms and ammunition, withdraw their authority to possess firearms or ammunition, and advise them to dispose of their privately-owned firearms and ammunition lawfully.

Documenting the Authorization To Bear Firearms. The appropriate authorizing official must sign written authorization to carry firearms except in situations requiring immediate action to protect life or property. Do not issue firearms to anyone who has not successfully completed their required weapons qualification training as specified in 6 VAC 20-171-365 *et. seq.*

CPI personnel may be authorized to bear firearms for a continuing period, providing they maintain required qualification and get annual in-service training.

Carrying Concealed Firearms. Carrying concealed firearms must be conducted in accordance with Va. Code § 18.2-308.

Firearms Safety. Draw or aim firearms only when you believe the lawful use of deadly force *reasonably* appears necessary.

You must base any decision to draw a pistol from the holster, on the circumstances you're facing and the threat present.

Do not store loaded firearms. Perform a safety check prior to storage.

Do *not* consume any form of alcohol or use other drugs or medications that could impair your ability to handle a firearm while on duty, or within 8 hours before duty/training.

Clear firearms for duty at a clearing barrel.

You may use a firearm as an **emergency** signaling device when no other means of communication is available to sound an alarm or when available communication means have failed. To signal, fire three shots in rapid succession straight up into the air, while considering that the fired round will come down somewhere. Do not fire shots indoors or when you might endanger innocent bystanders or nearby property.

When personnel are required to store CPI-issued firearms at a residence or non-CPI location, they will use locking devices or a security container. Safety locks and instructions for their proper use are to be provided with all CPI-issued firearms. ATF restricted firearms (i.e. automatic rifles, short-barreled rifles or shotguns, and sound suppressors) shall be stored in accordance with ATF regulations.

Firearms Discharges. Supervisors must investigate all accidental and deliberate firearm discharges. You must immediately report discharges to your Supervisor, the Executive Officer and the Virginia Department of Criminal Justice Services.

The supervisor of the person who discharged a firearm:

Immediately begins an investigation of the incident or contacts the police department for investigative assistance.

Immediately withdraws (temporarily) the person's authorization to bear a firearm until the completion of the investigation and, if necessary, until the person completes a remedial firearms training course.

Takes immediate corrective action, including applicable administrative or disciplinary action, if the investigation reveals the person used the firearm negligently or has a training deficiency.

Immediately returns the affected person to duty if the investigation or other conclusive evidence shows the person discharged the firearm according to established policy.

Carrying Firearms as a Passenger aboard Aircraft. CPI personnel may bear CPI firearms aboard commercial aircraft while performing official duties if the mission requires you to carry a firearm during the flight and only with the express written permission of the Executive Officer.

All personnel carrying weapons aboard commercial aircraft will comply with Federal Aviation Administration guidelines and training requirements. All personnel carrying firearms aboard an aircraft will notify the aircraft crew prior to flight. You must possess written authorization to carry firearms, that is, the letter of authorization from the Executive Officer, in addition to your LEO/SCOP credentials.