

An Ideal Use of Force Model For Law Enforcement:  
An Assessment of the Austin Police Department

by

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## ABSTRACT

*Purpose:* Generally speaking, a law enforcement agency's objective consists of protecting life and property, at the same time providing excellent public service to its community. Among other things, police administrators must provide its officers with the best use-of-force policies and practices to achieve an agency's objective. The purpose of this applied research project is threefold. The first purpose is to establish a practical ideal type model to assess use-of-force policies and practices in law enforcement. Second, using a case study method, current use-of-force policies and practices at the Austin Police Department will be examined. Finally, the project will provide recommendations for improving use-of-force policies and practices at the Austin Police Department. A review of the literature identified three key elements of effective use-of-force policies and practices. These elements include establishing clear use-of-force guidelines, extensive training in all force options, and a thorough review of use-of-force incidents.

*Methodology:* The elements of effective use-of-force policies and practices identified in the literature are used to construct the conceptual framework. This framework is used to create a practical ideal type model assessment tool for use-of-force policies and practices. The assessment tool is used to evaluate the Austin Police Department's use-of-force policies and practices. A case study method comprising structured interviews, direct observation, and document analysis is used to carry out the assessment.

*Findings:* Overall, the Austin Police Department's use-of-force policies and practices are consistent with the practical ideal type model developed through the literature, meeting best practices standards. Use-of-force policies and practices could be improved, however, by incorporating training practices to decrease officer and subject injuries, further research the use-of-force training model in place to evaluate its effectiveness, implement a system of use-of-force reporting that is more comprehensive, and strengthen its early warning system.

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## CHAPTER I: INTRODUCTION

In the United States, nearly 18,000 state and local law enforcement agencies employ more than 730,000 officers that possess the legal authority to deprive citizens of their liberty and use a variety of coercive tactics, including deadly and less-lethal force (Hickman et al., 2008, 564). The public is aware that law enforcement officials must occasionally employ the use of force in order to accomplish a specific objective (e.g., to suppress a riot, capture a barricaded subject, or to confront an armed individual). The public is also cognizant that there are times when use of force by law enforcement is specifically intended to be deadly in nature or inadvertently may become so (Trostle, 1990, 24).

The use of force by police is of particular concern by the public, especially acts such as fatal shootings, severe beatings that lead to hospitalization, and choke holds that cause unconsciousness or death; however, these incidents are not typical of police use of force. For example, a survey of U.S. households conducted by the Bureau of Justice Statistics (2002) revealed that of the 45.3 million contacts police had with the public, about 1.5% involved the use or threatened the use of police force (Gallo et al., 2008, 42).

Nevertheless, well-known incidents that have led to police use-of-force reform include the beating to death of Arthur McDuffie in Miami (1979) and the beating of Rodney King in Los Angeles (1991) (Alpert and Smith, 1999, 57), just to name a couple. In Austin, Texas, the officer-involved shooting of Nathaniel Sanders in 2009 was another controversial incident that weakened relationships between some members of the community and the Austin Police Department. Although these types of incidents are rare, the negative impact on police-community relations can be perennial.



Indeed, police administrators and managers have a difficult challenge managing the use of force by police officers. “The ability of police officers to enforce the law, protect the public, guard their own safety, and innocent bystanders is difficult in the United States where violent crime is commonplace and firearms are widely available for both legal and illegal purposes” (IACP, 2006, 1). Incidentally, in 2004, the majority of officers killed while performing lawful duties were shot to death (36 with handguns, 13 with rifles, and 5 with shotguns) (IACP, 2006, 2). Moreover, an FBI study indicated that 85 percent of officers feloniously killed in the line of duty never discharged their weapons (Petrowski, 2002, 28).

And so, research on police use of force and policy reform has become a topic of interest to police administrators and scholars. Police use of force can be problematic if police administrators do not provide officers the tools and training that lead them to use the necessary yet appropriate level of force during police-subject confrontations. But when use-of-force policies are ambiguous and police officers are not adequately trained, officers are therefore misguided and that can lead them to excessive uses of force.

### Defining Use of Force

The use of force by police officers is defined as a coercive action to make somebody do something (Gallo et al., 2008, 480), or the “exertion of power to compel or restrain the behavior of others” (Wolf et al., 2009, 741). Albeit most people assume use of force means excessive use of force, with every custodial arrest, police use a very low level of force (Williams and Hester, 2003, 374). Grasping a person by the arm or shoulder, grabbing a shirt or belt to hold a subject, twisting arms to apply handcuffs, tightening cuffs until they fit, and pressing a head down to

protect it in the course of placing a subject in the back seat of a patrol vehicle all constitute force (Williams and Hester, 2003, 374).

Generally speaking, there are five ways to administer force – the use of weapons, weaponless tactics, restraints, motions, and voice (Garner et al., 2002, 724). Force includes verbal and physical forms of coercion that threaten, from commands or strong directive language, to inflicting physical harm on subjects (Garner, 2002, 724). Similarly, the National Academy of Sciences's definition of force states:

There is no similarly explicit definition of the meaning of “force” in the police literature, but the academy's definition of violence, which incorporates threats, attempts and actual physical force, adequately captures what the research literature on police use of force typically means by “force” (Terrill, 2003, 56).

Additionally, force can be defined as “any physical effort used to control or restrain another or to overcome the resistance of another” (IACP, 2006, 2). The use of force includes a wide range of compliance techniques and devices. Less coercive, however, more common, uses of force range from command presence to hand control procedures such as firm grip, pressure or pain compliance techniques, or the use of more aggressive, intermediate weapons (TASER, OC spray, PR-24, etc.) up to and including the use of a firearm (IACP, 2006, 2). Next, the concept of police use of force is described and the negative impacts on the public resulting from excessive force are discussed.

### Understanding Use of Force

However concrete the definition of the use of force may appear, the actual concept of the use of force may be difficult to grasp. For example, when an officer places a subject in handcuffs, or deploys and strikes a fleeing subject with a TASER in an attempt to stop his

forward progress, and even shooting an armed subject that has posed a deadly threat, the officer has thus used force and simultaneously effected a *seizure* to gain compliance.

The 4<sup>th</sup> Amendment identified that a seizure occurs when a police officer “restrains the liberty of a citizen either through the use of physical force or by a show of authority” (Kessler, 2009, 55). That is, when an officer uses, say, a pain compliance technique or verbal commands to restrict the movement of another, she is thereby using force in an effort to seize that non-compliant subject.

The public should be cognizant that police officers, however, when using force and effecting seizures, can and will use various forms of verbal and physical coercion in their functions of enforcing the law. But if these coercive acts are left unchecked, these powers may lead to unreasonable uses of force (Gallo et al., 2008, 480). Additionally, when an officer exercises this authority, the public expects he or she to do so with restraint and integrity (Lawton, 2007, 163) because the unreasonable use of force affects public attitudes that can diminish the legitimacy of the police (Garner et al., 2002, 706).

Understandably so, unreasonable use of force is problematic for a variety of reasons. First, citizens in a free and democratic society have the right to be free of unjust and unwarranted government intrusion (Micucci and Gomme, 2005, 488). Second, excessive force frequents certain underprivileged segments of society whom police view as potential threats, but they are actually among societies most vulnerable (Micucci and Gomme, 2005, 488).

Also, excessive force creates a potential political legitimacy problem by forming the perception that police are lawless, developing an overall lack of public respect for government and rule of law (Micucci and Gomme, 2005, 488). Finally, the monetary costs of litigation

involving cases of excessive force and other forms of officer misconduct can be deleterious to an agency (Micucci and Gomme, 2005, 488).

The public may aptly ask, what causes police officers to use force? In fact, a police officer's use of force can stem from two circumstances: 1) in response to an imminent threat of harm from a subject or 2) to effect the seizure of a non-threatening subject who is resisting or attempting to escape (Petrowski, 2002, 25). When an officer uses force, the ultimate questions are:

- ❖ why the officer perceived the recipient of the force to be either a threat or to otherwise hinder the seizure in a non-threatening manner; and
- ❖ whether that perception and the response were *objectively reasonable* (Petrowski, 2002, 29).

Similarly, the public must also be aware that when officers use force, they are not required by law to use the *minimum amount of force* to gain compliance (IACP, 2006, 3) – only a reasonable one. Likewise, officers are not required to exhaust all force options or means before resorting to the use of deadly force (IACP, 2006, 3). Attempts to use the minimum amount of force or to exhaust all means before resorting to deadly force could result in the death or serious injury of the officer or the public.

In spite of the powers bestowed upon police officers, they are responsible for their uses of force, as well. Officers may be found criminally liable under 18 U.S.C. 241 where it is determined that the officer intentionally violated a person's civil rights (IACP, 2006, 3). Furthermore, an officer can be sued in civil court under 42 U.S.C. 1983 or section 1985, or both, as civil rights violation of the due process clause of the 14<sup>th</sup> Amendment, as cruel and unusual

punishment in violation of the 8<sup>th</sup> Amendment, or as a violation of the 4<sup>th</sup> Amendment restrictions on seizures of persons (IACP, 2006, 3).

Of course, police use of force requires an officer to make split-second decisions about type and level of force, and to consider in stressful, rapidly evolving situations the balance among necessary force and necessary rights (May and Headley, 2008, 126). Still, members of the general public typically have, and will continue to have, little to no understanding of the standard that provides the basis for legal and administrative decisions regarding police officers' use of force (Novak, 2009, 156). Therefore, it is crucial for policy makers to be cognizant of how the public will perceive the reasonableness of officer actions during use-of-force encounters (Novak, 2009, 156).

The next section will examine two nationally recognized organizations that provide law enforcement agencies guidance on developing use-of-force policies. This is important because the IACP Model Policy is used by this research project to develop the model assessment tool.

### Use-of-Force Policies

The Commission on Accreditation for Law Enforcement Agencies (CALEA) and the International Association of Chiefs of Police (IACP) have created policy guidelines on the use of force (McEwen, 1997, 42). Police departments often use CALEA and IACP guidelines as starting points and tailor them to comply with state laws and to reflect local law enforcement philosophies (McEwen, 1997, 42).

The CALEA standards and the IACP Model Policy possess similarities and differences. CALEA standards offer guidelines for policy statements, while the IACP Model Policy provides specific policy statements (McEwen, 1997, 44). CALEA standards do not provide specific

guidance on use-of-force issues. CALEA standards simply require an agency to have a use-of-force policy, regular training on weapons issued to officers, and a reporting system of use-of-force incidents (Rahtz, 2003, 139). As a result, the CALEA standards do not provide specifics on good policy, training content, and appropriate reporting practices (Rahtz, 2003, 139).

The IACP Model Policy is more influential (Alpert and Smith, 1994, 486). Established in 1893, the IACP is the world's largest and oldest organization of local police department chief executives (Geller and Norris, 1992, 283). Operating under the direction of an advisory board of law enforcement professionals, it has developed model policies in numerous key areas, including the use of force (McEwen, 1997, 44). The purpose of the IACP Model Policy is to provide a foundation of best practices for police administrators as a starting point in creating their own use-of-force policies (IACP, 2006, 1).

The next section examines the Department of Justice's investigation of the Austin Police Department's policies and procedures. This case is important because it reveals some of the policies and procedures that the Department of Justice recommended to the Austin Police Department for improvement, mostly involving its use-of-force policies and practices. This research project uses a case study method to assess use-of-force policies and practices at the Austin Police Department.

#### The Austin Police Department and the Department of Justice

In 2004, the National Association for the Advancement of Colored People (NAACP), with help from the Texas Civil Rights Project, filed a complaint with the Department of Justice against APD and the City of Austin. The complaint claimed that African American and

Hispanic residents were disproportionately subjected to excessive force and abuse of search and seizure powers.

In May of 2007, the Civil Rights Division of the Department of Justice initiated an investigation of the Austin Police Department. Policies and procedures were reviewed, and interviews were conducted with Austin Police Department (APD) administrators, officers, and supervisors, along with representatives of the Office of the Police Monitor (OPM) and the Austin Police Association (APA).

The Department of Justice investigation resulted in recommendations to improve the Austin Police Department's practices and procedures to ensure compliance with legal standards. These recommendations, not mandates, revised certain use-of-force policies and procedures. Based on this review, Austin Police Department's practices were inconsistent with best police practices and insufficiently detailed to provide the appropriate guidance for officer conduct.

The Department of Justice's recommendations to the Austin Police Department included:

- revise and update its policies and procedures to be comprehensive, comprehensible, up-to-date, and consistent with legal standards and contemporary police practices;
- revise its use-of-force policy and adopt an appropriate use-of-force continuum;
- revise its use-of-force policy to define key terms such as deadly force, less-lethal force, force, etc.;
- revise its use-of-force policy to require all officers involved prepare their own report detailing the event where force was used;
- revise use-of-force reporting forms to include information about multiple uses of force by multiple officers in a single incident so that it may be recorded;

- command staff should examine and review officer conduct on a regular basis as a proactive measure to minimize and detect misconduct, and to identify training and policy issues, through an early warning system; and
- firearms training should not only include skills in shooting, but also include review of applicable case law (U.S. Department of Justice Civil Rights Division, 2008).

These recommendations from the Department of Justice are focused on the policies and practices regarding the use of force; specifically, the legal concepts involving the use of force, training on the use of force, and procedures for reviewing use-of-force incidents. These areas are addressed in this research to develop the practical ideal type model. Next, discussed will be the best practices in developing use-of-force policies.

### Best Practices in Use-of-Force Policy Making

A policy is defined as “a definite course or method of action to guide and determine present and future decisions or a guide to decision making under a given set of circumstances within the framework of corporate objectives, goals, and management philosophies” (Kinnaird, 2007, 203). Likewise, policies hold credence, guidelines which are set in stone, and they can hold legal ramifications (Kinnaird, 2007, 203).

Police administrators use policies to guide officers’ decision making when using force. In order to be effective, use-of-force policies should be developed using the following criteria:

- policy is not developed specifically at the top of the organization, but includes input from those who must implement it;
- policy statements are unambiguous and well-written;
- there is a clear and concise reason for having the policy;



- policy statements are written for the facilitating of achieving agency goals and objectives;
- policy statements are a product of evolution – if an administrator adds to the policy, something should be removed;
- policy is the result of thoughtful analysis;
- goals of the policy statement guidance for officers;
- policies are created by using the same guidelines for setting priorities as those used in the development of training programs;
- policies are short, general guidelines;
- policies are true statements of the organization's values and philosophies; and
- the design of a policy the understanding that there is a limitation on human memory (Kinnaird, 2007, 203).

The answer to when and how force can be administered varies greatly by jurisdiction and is controlled in different agencies by the policies and procedures of those agencies (May and Headley, 2008, 46). If the objective is to lessen the potential for misconduct and litigation, the formation of policies and procedures is important for successful implementation of any control mechanism to address those issues (Kinnaird, 2007, 202). In determining the measure of success and in comparing with other organizations, law enforcement agencies must understand policy making that is in accordance with best practices (Kinnaird, 2007, 202).

## Research Purpose

The purpose of this research is threefold. The first purpose is to establish a practical ideal model to assess use-of-force policies and practices in law enforcement. Second, using a case study method, current use-of-force policies and practices at the Austin Police Department will be examined. Finally, the project will provide recommendations for improving use-of-force policies and practices at the Austin Police Department.

## Conclusion

This chapter defined the use of force and described the concept of the use of force by police officers. This chapter provided comparisons of the International Association of Chiefs of Police (IACP) and the Commission on Accreditation for Law Enforcement Agencies (CALEA). In addition, this chapter provided recommendations to the Austin Police Department's use-of-force policies and procedures by the Department of Justice. Finally, this chapter describes best practices in developing use-of-force policies and the purpose of this research.

The following chapters include the literature review, describe the research methodology and the operationalization of the research, and provide the research results and recommendations for improvement. Chapter II provides the literature review that establishes best practices for a use-of-force model policy. Chapter III describes the research methodology and the operationalization of the conceptual framework. Chapter IV presents the results of the research: how closely the Austin Police Department's use-of-force policies and practices measure to the best practices found through the literature review detailed in Chapter II. Chapter V includes a summarization of the previous chapters, strengths and weaknesses of the research, along with future research recommendations and recommendations for the Austin Police Department.

## CHAPTER II: LITERATURE REVIEW

### Chapter Purpose

The purpose of this chapter is to identify and describe the characteristics of a practical ideal type use-of-force model for law enforcement agencies. Integrating the key components into a single model will allow law enforcement agencies to assess their use-of-force policies and practices.

*“Officers must be provided with a clear and concise departmental policy that establishes guidelines and limitations on the use of force generally and the use of deadly force in particular. Officers also require training in the appropriate and proficient use of all force options, not just firearms” (IACP, 2006, 1). Likewise, it is “very important that law enforcement administrators create formal procedures for reporting and reviewing use-of-force incidents” (IACP, 2006, 1).*

### Introduction

The practical ideal type use-of-force model represents the best practices found in the literature. Developed from the literature, the Conceptual Framework in Table 2.1 reflects the essential elements, along with its respective subcategories, of a use-of-force model assessment tool. The practical ideal type use-of-force model should have:

- Clear Use-of-force Guidelines;
- Extensive Training in All Force Options; and
- Thorough Review of Use-of-Force Incidents

Table 2.1 Conceptual Framework

Conceptual Framework	
Practical Ideal Type Categories	Scholarly Support
<p><b>Clear Use-of-Force Guidelines</b></p> <ul style="list-style-type: none"> <li>• Instruct on Legal Standards</li> <li>• Employ a Force Continuum Model</li> <li>• Establish Deadly Force Guidelines</li> <li>• Establish Less-lethal Force Guidelines</li> </ul>	<p>IACP, 2006; Rahtz, 2003; Alpert and Smith, 1994; Klinger, 2007; Alpert and Smith, 1999; Thomas et al., 2010; Terrill, 2005; Kinnaird, 2003; Terrill et al., 2003; Garner et al., 1995; Mays and Taggart, 1985; Hatch and Dickson, 2007; May and Headley, 2008; Lindgren, 1981; White and Ready, 2010; Trostle, 1990; Alpert and Dunham, 2010; Novak, 2009; Lee and Vaughn, 2010; Kinnaird, 2007; Wolf et al., 2009; Mesloh et al., 2008; McKewn, 1997; Sousa et al., 2010; Gallo et al., 2008; Petrowski, 2002; Ross, 2002</p>
<p><b>Extensive Training in All Force Options</b></p> <ul style="list-style-type: none"> <li>• Firearms</li> <li>• Chemical Weapons</li> <li>• Electronic Weapons</li> <li>• Impact Weapons and Impact Munitions</li> </ul>	<p>IACP, 1994; IACP, 1995; IACP, 2002; IACP, 2006; IACP, 2007; IACP, 2010; Gallo et al., 2008; Kinnaird, 2003; May and Headley, 2008; Smith and Alpert, 2000; Morrison and Vila, 1998; Biggs, 1990; Morrison, 2006; Alpert, 2009; White, 2006; Taylor and Woods, 2010; Morabito and Doerner, 1997; Alpert and Dunham, 2010; McEwen, 1997; White and Ready, 2007; Smith et al., 2007; Sousa et al., 2010; Thomas et al., 2010; Rahtz, 2003; Klinger, 2007; Barrett et al., 2009; Fincknauer, 2002; Lee and Vaughn, 2010; Kinnaird, 2007; Texas Administrative Code, 2010; Mesloh et al., 2008; ACLU, 2005; Adang and Mensink, 2004; White and Ready, 2009; Petrowski, 2002</p>
<p><b>Thorough Review of Use-of-Force Incidents</b></p> <ul style="list-style-type: none"> <li>• Comprehensive Use-of-Force Reporting</li> <li>• Employ an Early Warning System</li> </ul>	<p>IACP, 1997; IACP, 2000; IACP, 2002; Alpert and Smith, 1999; Garner et al., 2002; Alpert and Smith, 1994; Terrill et al., 2003; Hatch and Dickson, 2007; Kinnaird, 2003; Alpert and MacDonald, 2001; Lersch et al., 2006; Walker et al., 2000; Hassell and Archbold, 2010; Rahtz, 2003; Hickman and Piquero, 2009; McKluskey and Terrill, 2005; Gallo et al., 2008; White and Ready, 2009</p>

## Clear Use-of-Force Guidelines

An effective use-of-force policy will set the tone for agency officials and line personnel on its expectations of officers (McKewn, 1997, 40). “An ambiguous use-of-force policy sends a message that officers have leeway in their actions, while a clear and strongly worded policy reflects concern on the part of the administration on how officers conduct themselves” (McKewn, 1997, 40). Yet, possibly the most important component of regulating the use of force by police officers is first-line supervision (IACP, 2006, 1).

Use-of-force policies will vary by police department; however, they must share elements of necessity, reasonableness, and proportional response when officers are responding to resistance (Novak, 2009, 155). Effective use-of-force policies provide officers with clear guidelines to follow during police-citizen encounters. These clear guidelines shape officer discretion and decision making when encountered with subject resistance (Sousa et al., 2010, 40). Clear use-of-force guidelines are established when police departments:

- Instruct on Legal Standards;
- Employ a Force Continuum Model;
- Establish Deadly Force Guidelines; and
- Establish Less-lethal Force Guidelines

## Instruct on Legal Standards

Police officers must be cognizant of new laws and legal procedures because of its vital importance in the training process (Kinnaird, 2007, 205). Consequently, a use-of-force policy must possess current legal standards on the use of force. According to the IACP, “officers shall use only force that is objectively reasonable to bring an incident under control” (IACP, 2006, 3).

The basis for this standard is the *Graham v. Connor* (1989) decision. The Court identified four elements to apply to each case to determine whether a particular application of force is reasonable:

- the severity of the crime at issue;
- whether the subject poses an immediate threat to the safety of the officers or others;
- whether the subject is actively resisting; and
- whether the subject is attempting to evade arrest by flight (*Graham v. Connor* 1989; Rahtz, 2003, 25).

The *Graham* decision affirmed that police officers have a substantial degree of latitude in making use-of-force judgments (Rahtz, 2003, 25). In particular, the Court said: “*The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene*, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decision about the amount of force necessary in a particular situation” (Rahtz, 2003, 25). A reasonable officer is one who is “well trained in the legal aspects of policing and police practices regarding the use of force” (Ross, 2002, 301). Furthermore, the use of force is not judged using subjective information such as the officer’s training, age, or experience (Petrowski, 2002, 26).

The *Graham* decision is important to use-of-force policies and training because: it guides officers during tense, evolving encounters with the public; it reduces exposure of the police to civil liability; and it satisfies the courts, which is an important institutional entity of the police (Novak, 2009, 155). Because the *Graham* decision must correspond with departmental policy, and deviation from this policy could implicate the officer and department on both a criminal and civil level, instruction on this legal standard is critical (Kinnaird, 2007, 203).

Additionally, in *Tennessee v. Garner* (1989), the Court stated that the use of deadly force simply to apprehend or seize fleeing felons is on its face constitutionally unreasonable (Rahtz, 2003, 23). Nevertheless, an officer may use deadly force “to prevent the escape of someone only if he has probable cause to believe that a subject poses a threat of serious physical harm, either to the officer or to others” (Rahtz, 2003, 23). Even though, however, both *Garner* and *Graham* establish the “objective reasonableness” as the standard for the use of force, there is no precise definition or mechanical application to any excessive force claims as each is decided on a case-by-case basis (Lee and Vaughn, 2010, 194).

The ideal type use-of-force policy should instruct on legal concepts that define reasonable force and provide the standard to measure how a reasonable police officer should act and be judged (Alpert and Smith, 1994, 491). Thus, to establish a connection between officer conduct and compliance with the law, use-of-force policies and practices must be crafted around legal standards because legal and practical considerations are not two separate matters; they are complementary (Petrowski, 2002, 27).

Next, the force continuum will be addressed. Force continua are models that guide officers’ decisions in selecting the appropriate force option to successfully and safely bring an incident under control.

## Employ a Force Continuum Model

Best practices suggest that a force continuum model should be employed. Police scholars, agencies, and trainers use a force continuum to measure, model, and evaluate types of force by police in response to types of resistance by subjects (Gallo et al., 2008, 484). Police agencies usually include a force continuum in their department policies and training practices because built into the continuum is a guiding principle of proportionality (Gallo et al., 2008, 484).

The application of the force continuum ranges from a lower to higher probability of causing harm to the subject. The lower end of the continuum is anchored by voice commands and the top end is anchored by deadly force. In between are a range of options – grabbing, striking with empty hands, and striking with impact weapons such as police batons. The force continuum describes the ranges of force and the appropriate force response necessary to match given resistance of a subject (IACP, 2006, 4). Officers should be trained to use the level of force based on the resistance of that subject (Klinger, 2007, 387).

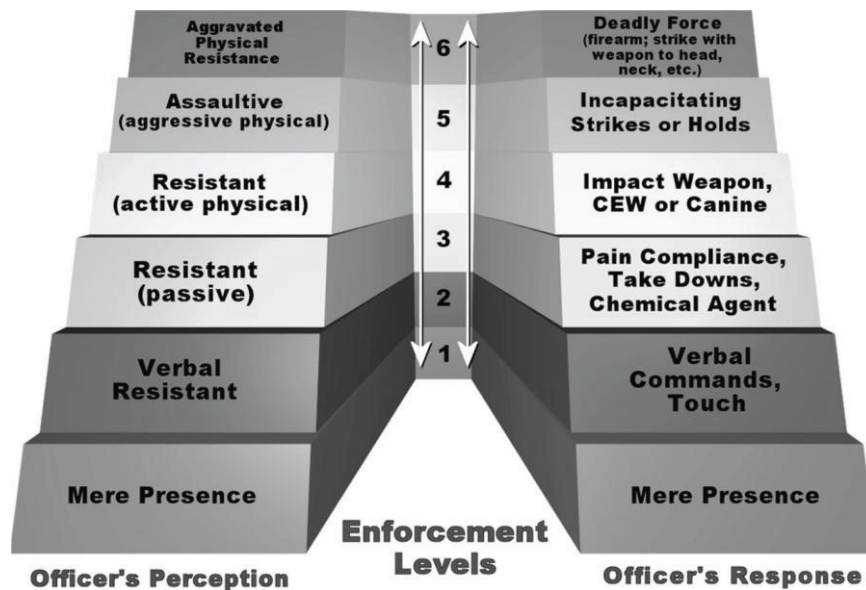
An effective use-of-force continuum provides officers with clear examples of subject resistance matched with the appropriate use-of-force responses by the officer (Alpert and Smith, 1999, 60). Continuum guidelines clearly establish a limited number of categories to characterize the level of resistance, dictating what level of response by the officer is warranted. The objective is to determine the extent to which officers follow or deviate from a continuum structure (Terrill, 2005, 108), and use it as a measuring tool to more efficiently identify those instances when resistance and force appear to deviate (Terrill et al., 2003, 158).

Many different scales and models of force continuums have emerged that guide decision making when police use force (Kinnaird, 2003, 66). Force continuums suggest officers have



options for using force and that the officer can articulate a pragmatic response. These pragmatic responses include: officer presence, verbal direction, soft and hard empty-hand control such as come-alongs and pressure-point techniques, chemical sprays, defensive tactics, impact weapons, less-lethal, and deadly force (Kinnaird, 2003, 66).

Figure 2.1 Force Continuum Model



**Notes:** "CEW" is the abbreviation for Conducted Energy Weapon; TASER is the brand of CEW used by both agencies in this study

Source: Wolf et al., 2009, 744

Figure 2.2 Use-of-Force Matrix  
Florida Department of Law Enforcement Resistance Response Matrix

Florida Department of  
Law Enforcement

**MATRIX**  
**RECOMMENDED RESPONSE TO RESISTANCE**  
**AND LEVELS OF RESISTANCE**

**CJSTC**  
**85**

R  
E  
S  
I  
S  
T  
A  
N  
C  
E  
  
L  
E  
V  
E  
L

6 Aggravated Physical

5 Aggressive Physical

4 Active Physical

3 Passive Physical

2 Verbal

1 Presence

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Arrival Interview Stance Dialogue Verbal Direction Touch Restraint Devices Transporters Take Downs Pain Compliance Counter Moves Intermediate Weapons Incapacitation Deadly Force

Checked areas represent suggested, acceptable, beginning response levels. Any response in an unchecked area requires explanation. Refer to definitions for each level of resistance and response.

Officer Presence 1      Communication 2      Physical Control 3      Intermediate Weapons 4      Incapacitating Control 5      Deadly Force 6

Source: Mesloh et al., 2008, 14

In order to ensure officers use no more force than is reasonably necessary to gain compliance, use-of-force policies should possess force continuums because they specify appropriate use-of-force practices in conformity with the legal and policy requirements (Garner et al., 1995, 151). From a manager's perspective, the extent to which police officers' behavior adheres to an "incrementalist" approach of escalating and deescalating force can be determined by using a force continuum (Terrill et al., 2003, 154).

Policies that possess continua such as these typically state officers should escalate their level of force as subject's resistance increases and deescalate the level of force as subject's resistance decreases. Furthermore, they allow officers to skip steps within the continuum, such as when a subject suddenly produces a gun and threatens the officer with deadly force (Alpert

and Smith, 1999, 60). Of course, it is good to remember that use of force is situational and any continuum serves only as a general guideline (May and Headley, 2008, 45).

But the fact is that officers are able to jump up or down the force continuum, escalating or deescalating swiftly to the appropriate level of force (Wolf et al., 2009, 743). Although force continuums may appear that an officer must use each “step” before climbing to a higher level, officers and the public need to know that officers are justified in responding to perceptions of force with equal reactions (Wolf et al., 2009, 744).

Still, some police departments and researchers in recent years have argued the fact that police use of force is highly situational. Therefore, they have moved toward utilizing situation-based responses in measuring policies regarding use of force, rather than a traditional force continuum model (Thomas et al., 2010, 298). Likewise, opponents suggest that the continuum provides a mechanical application when officers should be making a subjective threat assessment (Petrowski, 2002, 29). Regardless, while situation-based assessment of force deployment is necessary, it is still imperative that officers comprehend use-of-force policies in ways linked to a clear use-of-force continuum (Thomas et al., 2010, 298).

The next section discusses under what circumstances police officers can use deadly force. Establishing deadly force guidelines is important because when police officers discharge their weapon, the result could be the death of a human being, whether it is justified or not. Clear policy on when and when not to shoot is crucial.

### Establish Deadly Force Guidelines

Deadly force guidelines should address the circumstances which authorize and restrict the use of deadly force by police officers (Mays and Taggart, 1985, 310). Deadly force is defined as

“force that creates a substantial risk of causing death or serious bodily harm” (IACP, 2006, 2), and is not limited to the use of firearms. The definition of deadly force should be clearly stated in a use-of-force policy. Specific regulations and administrative policies should guide police decision making because of the serious nature of police misuse of deadly force and the importance of the decision when to use deadly force (Lee and Vaughn, 2010, 193).

The importance of policymaking and administration in this area can be identified by two reasons. First, while officer-involved shootings are relatively infrequent, these incidents have precipitated community conflict and violence. Second, the use of deadly force – whether justified or not – may subject police officers and police departments to civil rights lawsuits (Mays and Taggart, 1985, 310).

A use-of-force policy should contain clear deadly force guidelines. The following are guidelines, as a minimum standard, involving the use of deadly force:

- to protect the officer or others from what is reasonably believed to be a threat of death or serious bodily harm;
- to prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others;
- where practicable, prior to the discharge of the firearm, officers should identify themselves as law enforcement officers and state their intent to shoot (IACP, 2006, 4);
- when the officer reasonably believes that deadly force can be used without harm to others, deadly force may be used to destroy an animal that poses a threat to public safety;
- generally, warning shots should not be fired;

- firearms should not be discharged at moving vehicles unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. In particular, the moving vehicle itself does not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an approaching vehicle should move out of its path rather than discharging a firearm at it or any of its occupants (IACP, 2006, 1).

After identifying themselves and stating their intentions to discharge their firearm by shouting "Police! I'll shoot!" (Hatch and Dickson, 2007, 14), police officers should fire their weapons only to stop a subject from completing a potentially deadly act. The shot should be directed to the center of body mass for *maximum stopping effectiveness* and minimal danger to innocent bystanders (Hatch and Dickson, 2007, 14).

Police officers should not be trained to shoot to kill; rather, officers should be trained to stop the threatening behavior (May and Headley, 2008, 48). The phrase "shoot to kill" is not only inaccurate in practice but it generally proves insensitive and prejudicial to the layman (IACP, 2006, 4). Therefore, *officers should not shoot to wound or injure a subject*; due to high miss rates and poor stopping effectiveness, this can prove dangerous for police officers and others (IACP, 2006, 5).

Use-of-force policies should state that police should not use deadly force against subjects who are surrendering, voluntarily stopping to end police pursuit. Also, police should not use deadly force against unarmed, nonviolent, and non-threatening fleeing subjects (Lee and Vaughn, 2010, 196). Furthermore, use-of-force policies should take into account that deadly force against subjects attempting suicide has been found unreasonable in some federal courts (Lee and Vaughn, 2010, 197).

Deadly force guidelines must be provided in all use-of-force policies, followed by proper firearms training in the area. Because officers usually lack the time to consider the decision of using deadly force, to gather and review facts, to check policies, and to petition assistance from a supervisor, deadly force guidelines are most effective when they are clear and concise (Lindgren, 1981, 115). The practical ideal type use-of-force policy should employ deadly force parameters that are clear, based on legal principles, and should be strictly adhered to.

Next, less-lethal force guidelines will be discussed. Less-lethal guidelines are important because if not clearly established, inappropriate or reckless use of less-lethal weapons may cause serious bodily injury or death.

#### Establish Less-lethal Force Guidelines

There are many less-lethal force alternatives, such as Oleoresin Capsicum (OC) spray, impact weapons, foams, ballistic rounds, nets, and most recently, Conducted Energy Devices (TASER). Less-lethal weapons can be broken down into three basic categories: electrical, chemical, and impact (Trostle, 1990, 28). These less-lethal weapons are intended to provide officers with more alternatives when a situation requires the use of force but has not escalated to the point where deadly force is warranted (White and Ready, 2010, 72); therefore, adding response options to the use-of-force continuum (White and Ready, 2010, 72).

A use-of-force policy should establish guidelines for using less-lethal force. As a minimum standard, less-lethal force should be used in the following instances:

- where deadly force is not authorized, officers should use only that level of force that is objectively reasonable to bring an incident under control;

- officers are authorized to use department-approved less-lethal force techniques and issued equipment when one or more of the following apply:
  - to protect the officer or others from physical harm;
  - to restrain or subdue a resistant subject; and
  - to bring an unlawful situation safely and effectively under control (IACP, 2006, 2).

Less-lethal weapons can be defined as “devices or agents used to induce compliance with law enforcement personnel without substantial risk of permanent injury or death to the subject” (Trostle, 1990, 28). Literature on less-lethal force advocates the importance of the usage “less than lethal” rather than “non-lethal” to all department personnel and, in particular, police cadets (Trostle, 1990, 28). Adopting the term “less than lethal” or “less lethal” rather than “non-lethal” recognizes the fact that any such weapon is potentially lethal if used inappropriately (Trostle, 1990, 28).

Best practices state that policy should articulate the manner and environment in which less-lethal force is to be deployed. There are five types of encounters where less-lethal weapons are most effective and should be used: close proximity encounters; fleeing persons; hostage situations; barricaded subject situations; and riot or crowd control (Trostle, 1990, 29).

Because most use-of-force encounters involve defensive efforts by subjects to resist physical control (Alpert and Dunham, 2010, 251), less-lethal weapons would be most effective here. For example, a typical “resistance to control” involves an initial refusal by a subject to comply with an officer’s commands followed by the subject pushing or pulling against an officer’s attempt to gain physical control and apply handcuffs. Most of these encounters end up with the subject and the officer on the ground and the officer trying to use the ground for

leverage (Alpert and Dunham, 2010, 251). These “wrestling matches” increase the likelihood for officer and subject injuries. Therefore, policy should state that less-lethal weapons, such as OC spray and CEDs, should be authorized as response alternatives to *active threats of resistance* (Alpert and Dunham, 2010, 251).

Police administrators advocate less-lethal force as means of reducing deadly force incidents; yet at the same time they must provide guidelines on less-lethal force because it is also subject to misuse (McKewn, 1990, 41). This may be a difficult task for police administrators, but it will establish an appropriate balance between the degree of government intrusion by the use of less-lethal force and the protection of an individual’s 4<sup>th</sup> Amendment interests (Alpert and Dunham, 2010, 252).

When force is necessary, police officers should examine the incident to determine, based on training and experience, which less-lethal tools will best deescalate the situation and bring it under control in a safe and prudent fashion (Hatch and Dickson, 2007, 13). Police officers should only use department-authorized less-lethal force techniques (including physical force) and weapons for a safe resolution of the incident (Hatch and Dickson, 2007, 13).

Officers respond to many situations where less-lethal force is the necessary action. It is therefore imperative that agencies select the most appropriate less-lethal weapons for their officers, provide the necessary training, and create clear policies and procedures for less-lethal weapons use (McKewn, 1997, 40).



## Extensive Training in All Force Options

A significant purpose in use-of-force training programs is to shape officers' discretion and decision making in using deadly and less-lethal force. Police trainers know that officers and citizens occasionally use multiple types of force in single use-of-force encounters; hence, they should provide training that guides officers to move up and down the continuum of force (Gallo et al., 2008, 495).

Trainers must provide officers with comprehensive training vignettes that replicate actual use-of-force encounters, in many different scenarios, and using all force options (Gallo et al., 2008, 495). Training should also provide officers with force tasks that target responsibilities of not only the individual officer but also that of a team of officers (Gallo et al., 2008, 495).

Trainers must be mindful, however, that police officers have access to many potentially deadly weapons at any given time. Police administrators are concerned about officers having "too many tools on their belt," such as the TASER, an ASP, OC spray, a heavy flashlight, and a firearm (Taylor and Woods, 2010, 285). Thus, police trainers should address the issue of *weapon-option overload* and which option is appropriate for any given situation, at the same time recognizing the dynamics of a use-of-force encounter (Taylor and Woods, 2010, 285).

Use-of-force training must be ongoing because use-of-force tactics are perishable skill memories that can dilute over time, that can diminish without practice, and that can become less memorable without recall in work conditions (Gallo et al., 2008, 484). Therefore, law enforcement agencies must ensure that police officers are extensively trained in the use of all weapons they are permitted to carry (IACP, 2006, 6).

The goal of training is to ensure that officers are employing professional standards that are congruent with the law (Thomas et al., 2010, 294). Because police actions are preceded by

decisions, training must provide a background of knowledge directly related to each action (Kinnaird, 2007, 204). This judgment should be learned through actual or simulated experiences and through more cognitive applications such as testing procedures (Kinnaird, 2007, 204).

In order to achieve maximum officer and weapon effectiveness, *the cornerstone of use-of-force training should be threat assessment* (Petrowski, 2002, 25). A threat is “a capability to do harm joined by a hostile intent. Both elements must be present for an individual to present a threat” (Petrowski, 2002, 25). Police officers must possess the ability to recognize a threat and training should teach officers how to recognize and respond to that threat.

Training should focus on “cues of the subject that indicate a capability to harm and understanding the logical inferences of those cues” (Petrowski, 2002, 25). Threat assessment prepares officers to make reasonable use-of-force decisions when confronted with a threat or apprehending a non-threatening subject (Petrowski, 2002, 26). Threat assessment is comprised of the following two indicators:

- ❖ Hostile Intent Indicators – aggressive verbal and nonverbal communications, coupled with noncompliance with clear officer verbal commands; and
- ❖ Capability Indicators – possession of a weapon, a demonstrated combat ability or skill, size or fitness, or multiple subjects clearly present a threat (Petrowski, 2002, 25).

Use-of-force training should also focus on reacting to the *threat* of the attack and not the *actual* attack (Petrowski, 2002, 26). Here, officers are instructed to discern when they have probable cause to believe a threat exists and not having to wait until the actual assault commences (Petrowski, 2002, 26). During any use-of-force situation, threats should be addressed before the subject acts, responding to the threat of violence and not the violence itself (Petrowski, 2002, 27).

The concept of striking after the threat is identified but before the attack begins is referred to as “preemptive force” (Petrowski, 2002, 27). This mistakenly implies that using force after the assault begins is not preemptive. Nevertheless, any legal use of force is conceptually preemptive, irrespective of whether the assault has begun (Petrowski, 2002, 27). For example, once a subject has begun to resist or assault, the force used against that subject is not to address the previous assault, rather it is to prevent future ones (Petrowski, 2002, 28). Therefore, use-of-force training and policy should not identify pre-assault responses as “preemptive” as it suggests a distinction between pre and post uses of force – there is no such distinction (Petrowski, 2002, 28).

Furthermore, all training, whether firearms or less-lethal, must possess elements of stress-based training. Per *Zuchel v. City of Denver* (1988), departments are ordered to train their officers under realistic conditions (Kinnaird, 2003, 81). Stressed-based training serves the following purposes: it molds the behavior of police officers; it determines what skills are not being met through ordinary, static training methods; and it can be determined how each tactic or skill can be integrated with those already established through previous training (Kinnaird, 2003, 81).

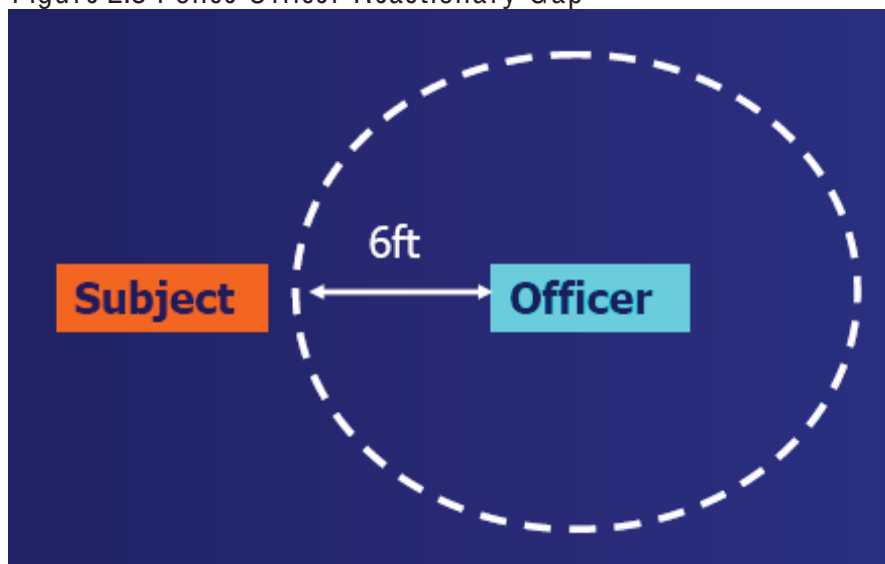
This area of training is important for police officers because of the short time period they are allotted to make use-of-force decisions. This short time period will quickly produce adrenal stress, which is “an involuntary reaction with substantial psychological and physiological results that significantly affect a person’s capacity to react, perceive information, and recall details” (Petrowski, 2002, 27).

With stress-based training, the trainer can set up a controlled environment for carrying out the training initiative (Kinnaird, 2003, 83). This stress simulation is enough for the student

to create a learned response to a stressful encounter. For example, under the pressures of fear, confusion, and hyper-simulation, the brain will seek out the first, not the best, solution to the problem (Kinnaird, 2003, 83). Any tactic that has an emotional connection to it is more likely to be used than one drilled in a static environment. Hence, stress-based training will help students streamline emotions (Kinnaird, 2003, 83) and mitigate effects of adrenal stress.

In addition to stress-based and threat assessment training, officers should be trained on the concept of the “Reactionary Gap” (Mesloh et al., 2008, 22). This gap is the amount of time and distance that an officer needs to react to a subject’s advances. For example, a subject can close a gap of 32 feet within approximately 2 seconds, therefore leaving officers less than 2 seconds to react (Mesloh et al., 2008, 23). Furthermore, the 21-foot rule “Tueller Drill” states that a subject can cross 21 feet in 1.5 seconds (Mesloh, 2008, 23), leaving the officer roughly one second to appropriately select the force option and respond to the advance.

Figure 2.3 Police Officer Reactionary Gap



Note: While officers are trained varying reactionary distances, most police training emphasizes that the greater the distance, the better reaction an officer can have to subject actions. The distance depicted above, 6 feet, is a minimum representation of the reactionary gap to a subject who is considered unarmed and potentially little threat.

Source: Mesloh et al., 2008, 23

Suitably, then, officers must be trained that an individual within 21 feet armed with a knife, blunt instrument, or even with fists can close that 21-foot gap faster than an officer may have the ability to react (May and Headley, 2008, 56). An officer must control the distance in relation to subjects, therefore creating the ability to react with enough time to display a less-lethal weapon, defensive tactic, or firearm (Mesloh et al., 2008, 23). Because an individual's reaction is always slower than the action, officers must react to a threat before it develops into an assault – action beats reaction (Petrowski, 2002, 28).

Next, firearms and less-lethal training policies and practices are discussed. Ideally, law enforcement should provide Extensive Training in:

- Firearms;
- Chemical Weapons;
- Electronic Weapons; and
- Impact Weapons and Impact Munitions

## Firearms

When police officers resort to their firearm, they are quite restricted in their ability to shoot accurately despite their rigorous training in marksmanship and gun-handling (Morrison and Vila, 1998, 513). Therefore, as a starting point, training should include minimizing officer vulnerability and thereby opponent opportunity. For example, training should focus on the use of cover and concealment, which can greatly lessen officer exposure to gunfire (Morrison and Vila, 1998, 512).

Training must be timely, include background on weapon development and use, and require the officer to demonstrate a level of expertise in the use of the weapon (Biggs, 1990, 42). Combat handgun shooting techniques such as “instinct” or point shooting, firing at moving targets, firing while moving, as well as in patrol rifle or carbine training should be exercised (Morrison, 2006, 236).

The acceptance of role-play scenarios into firearms training has become more prevalent in recent years (Sousa et al., 2010, 51). Simulation and scenario-based training has proven to be effective training practices in several fields that involve individuals performing complex, high-stress activities, including medical training for physicians and nurses, firearms training in the military, and flight training for aviators (Sousa et al., 2010, 51). For example, research states that officers experienced in hostage negotiations, involving role-play scenarios, perform better than inexperienced officers during role-play simulations (Sousa et al., 2010, 51).

This “learn-by-doing” approach has wide applicability in police training, but nowhere more than in the use of force, especially deadly force. Because even moderate levels of stress can have a deleterious impact on physical performance and decision-making ability, effective handling of stress is important in use-of-force training (Rahtz, 2003, 81). Effective real-world

training scenarios must equate to simulating high-stress environments in which police officers will actually be placed. Firearms training should include elements such as loud noises, screaming, sirens, car horns, urine-soaked stairways, dark hallways, and in trash filled alleys, just to name a few, to create approximate conditions police officers face in reality (Rahtz, 2003, 81). Incidentally, this realistic role-playing is said to strengthen an officer's ability to deal more effectively with the public (Barrett et al., 2009, 174).

The use of deadly force by a police officer requires a series of decisions, reactions, and movements. Therefore, firearms training conducted in realistic, high-stress environments reduce negative reactions and distortions of memory (Alpert, 2009, 113). The study of human factors usually involves the ways people react to their environment with the goal of improving operational performance, which is applicable specifically to the study of force and deadly force. In regard to the use of deadly force, attention and working memory are important operators to interpret, respond to, and recall information (Alpert, 2009, 113).

Firearms training, in particular, should also include night and reduced-light shooting and strong-hand/weak-hand firing (IACP, 2006, 7). Training in low-light situations and examining officers' behavioral responses is important because it helps mitigate the pressure and the short time available to discharge a firearm during deadly force encounters – this is called “split-second syndrome” (Lee and Vaughn, 2010, 198). Important firearms activities such as: supplemental static firing range courses; tactical exercises involving live-fire; role-playing scenarios using “non-gun” training props; and interactive computer simulations logically will improve officer field shooting potential (Morrison and Vila, 1998, 529; Morrison, 2006, 236).

Additionally, the physical contact and probable struggling over the officer's service weapon likely diminishes officer shooting accuracy. Officers who are physically struggling with

subjects – and are very close to the subject – usually shoot and miss the target (White, 2006, 324). Also, research indicates that in fatal shootings 10 feet or less appears to be the threshold distance as target accuracy beyond this decreases, dropping off considerably beyond 20 feet (White, 2006, 324).

Two training opportunities are evident here. First, even though only 11% of the shootings in White's research period occurred during a struggle, the probability of missing the target in those instances was extremely high (White, 2006, 324). Training in this area should focus on methods to improve accuracy at close range during a struggle, such as close-quarters combat/techniques – disentangling from an assailant by employing defensive tactics, creating separation, and using one-handed firing techniques (Morrison, 2006, 238). Also, concentrate on how to avoid getting into those types of situations by holstering the firearm prior to physical struggle or foot pursuit (White, 2006, 324), including a segment on handgun retention tactics and techniques (IACP, 2006, 6).

Second, there should be additional firearms training at longer distances, preferably in combat-like situations. Computer-based simulation training (Firearms Training Systems – also known as FATS), night sights, and even laser sights should be used to help improve officer shooting accuracy at greater distances (White, 2006, 324). Police training should also practice restraint in using deadly force when the subject is at greater distances, unless there is an immediate threat of serious bodily harm or death (White, 2006, 324).

FATS training is critical and all police officers should be subjected to it, ideally on a regular basis. Live fire training is essential to establish the officer's familiarity with their service weapon (May and Headley, 2008, 65). There is no replacement for firing a real firearm and



practicing with that firearm. So, the ideal firearms training should couple the consistent use of FATS and live fire training at the shooting range (May and Headley, 2008, 65).

In addition to the FATS training, officers should demonstrate knowledge of firearms safety, firearms maintenance, handgun shooting concepts, and acclimatization with authorized firearms (Kinnaird, 2003, 118). The officer should demonstrate effective methods in close encounter shooting, shooting from cover, reloading techniques, and weapon/reaction hand shooting (Kinnaird, 2003, 118).

Officers authorized to carry firearms should receive retraining on *at least* an annual basis in the legal concepts and departmental policies involving the use of firearms and deadly force. Officers should be obligated to demonstrate (through testing and performance) that they understand the applicable law and departmental policies and accurately apply them (IACP, 2007, 4). Changes in the law concerning the use of force and evolving techniques and technologies for training officers should also be addressed. Training in the principles of the use of force, and deadly force, is a significant element of a police agency's duty to meet the training requirements of its officers and extend sufficient protections for the community (IACP, 2007, 4).

Training should be tailored to the experiences and needs of the officers, and must be delivered on a continuous, consistent basis (McKewn, 1997, 52). Training should effectively translate the general guideline principles of an agency's policy and operational procedures through explication and practice (IACP, 2006, 4). The aforementioned police training methods will increase awareness of the departmental regulations, criminal law, and constitutional principles (Fincknauer, 2002, 165).

Nevertheless, when police officers are required to qualify with a firearm, it typically does not include meaningful measures of the critical elements that are experienced in police field

confrontations (Morrison, 2006, 242). To be valid, police handgun qualification must mirror the realities of armed confrontations, which requires research into things such as the nature and characteristics of field shooting, physiological limitations that cannot be mitigated by training, as well as the doctrine and specific practices taught to police officers for defeating lethal assaults and seizing dangerous fleeing felons (Morrison and Vila, 1998, 530).

The State of Texas, for example, has established its own minimum qualification standards for peace officers. At a minimum, and among other requirements, Texas peace officers must successfully complete firearms proficiency requirements at least once a year (Texas Administrative Code 2010, Title 7, Part 7, Chapter 217, Rule 217.21).

Ideally, however, in order to improve officer firearms proficiency, a use-of-force policy should additionally incorporate the following qualification guidelines and concepts:

- all officers authorized to carry firearms should be required to qualify with each authorized firearm on at least a semi-annual basis. Quarterly qualification is a desirable objective;
- all officers should be graded on a pass or fail basis for purposes of firearms qualification;
- at least once a year, all officers authorized to carry firearms should receive and should be required to demonstrate their understanding, through testing and performance, of the law and agency policy and procedures relating to the use of firearms and deadly force;
- officers who fail to qualify with the primary service weapon should be relieved of those firearms, reassigned to restricted duty, and subjected to the following:
  - remedial firearms training;
  - the officer shall be given additional attempts to re-qualify within a reasonable amount of time;

- if the officer fails to qualify within a reasonable amount of time he or she should be subject to termination.
- any officer who fails to qualify with a firearm that is not required for the officer's duty assignment should not be permitted to carry that firearm; and
- officers should be required to qualify with their primary service weapon and additional firearms following return to duty after a leave of absence when it appears reasonably necessary or their qualification date has been missed (IACP, 2007, 2).

In reality, many police officers have trouble meeting departmental qualification standards at the firing range, let alone during a combat situation (White, 2006, 304). For example, officer target hit rates rarely exceed 50% during real combat situations (White, 2006, 304). Nevertheless, because of liability concerns among police administrators in recent years, in-service qualification will remain crucial (Morrison, 2006, 333). Furthermore, lack of re-qualification and other refresher training will negatively affect the proficiency of departmental personnel with firearms. This will hold the department vulnerable to civil suit for failure to train, *deliberate indifference* to train, and comparable legal attacks along with adding additional risks to the community (IACP, 2007, 4).

Extensive firearms training and qualification is imperative to any use-of-force policy. Because of the intended or unintended consequences resulting from the discharge a firearm, police officers must be extensively trained on how to use and when to use that firearm under various conditions to mitigate stressors that can negatively affect shooting performance and accuracy.

Next, chemical weapons, sometimes known as OC spray, will be discussed. Chemical weapons are an important component to an effective use-of-force policy because it provides a less-lethal option for an officer to safely gain compliance of a resistant subject.

## Chemical Weapons

Less-lethal weapons called chemical agents (Oleoresin Capsicum/OC spray, Phenacyl Chloride/CN gas, and 2-chlorobenzalmalononitrile/CS gas) have been available to law enforcement for many years. They are packaged in individual size containers as spray and larger forms as a gas, do not need a great deal of training to become proficient, and are generally inexpensive (Biggs, 1990, 39). *For the purpose of uniformity, chemical weapons will be referred to as OC spray.*

OC spray is easily carried and easily concealed. Although no physical contact is needed for application, it is important to be close to the target when using a personalized size device (Biggs, 1990, 39). OC spray is an effective weapon for gaining compliance of a resistant subject – “effective” 70% to 85% of the time in one study, and 90% to 100% in another (Taylor and Woods, 2010, 262).

OC spray is derived from cayenne peppers which possess a naturally occurring inflammatory substance. As the facial area becomes exposed, eyes will tear and swell shut, mucus drains profusely from nasal passages, bronchial passages constrict, and breathing becomes difficult (Morabito and Doerner, 1997, 681). This consequently subdues the subject, significantly reducing further aggressive resistance, and safely enables the officer to place the subject in handcuffs (Morabito and Doerner, 1997, 681). OC spray is now supplanted in most

law enforcement agencies and is used the most in physical use-of-force scenarios (May and Headley, 2008, 58).

Figure 2.4 Chemical Agents



Source: Mesloh et al., 2008, 28

Training should instruct officers that OC spray should not be the preferred option in situations where subjects only verbally resist (Adang and Mensink, 2004, 216). Using OC spray in encounters where subjects are verbally resistive appears unreasonable and may even be seen as a form of abuse. Subjecting individuals to a

very painful stimulus when they are non-violent or non-cooperating will often be disproportionate provided there are less radical techniques available (Adang and Mensink, 2004, 217).

Alternatively, training should teach officers to use OC spray prior to the use of physical force (Smith and Alpert, 2000, 242). Since most officer and subject injuries occur when officers use weaponless control techniques or strikes, officers should utilize OC spray before engaging subjects physically. As a result, this may prevent the type of hand-to-hand struggles that most frequently result in injuries to officers and subjects (Smith and Alpert, 2000, 242).

For instance, 70% of officer injuries occur when they attempt to control a subject by punching, kicking, take-downs, wrestling, and joint locks (Alpert and Dunham, 2010, 239). Therefore, training should instruct that OC spray should be used as a response alternative to *active threats of resistance* (Alpert and Dunham, 2010, 251).

For example, when subjects fail to show hands, reaches inside a pocket, or makes a furtive movement, they have the potential to jeopardize the officer's safety. Officers usually

respond by grabbing the subject to prevent him/her from producing a gun or a knife (Morabito and Doerner, 1997, 691). Sometimes, subjects may offer resistance only after the officer begins to handcuff. Here, because of the close proxemics, OC spray is practically useless (Morabito and Doerner, 1997, 691).

Still, officers prefer physical contact with apparently more dangerous subjects even though departmental policy may permit escalation to a higher degree of force. “This line of reasoning is also consistent with the observation that half the officers murdered in the line of duty were within 5 feet of their assailants at the time of their deadly encounters” (Morabito and Doerner, 1997, 691).

Excessive use of chemical sprays should be a focal point of police departments and should be reflected in its policies. In addition, officers should be trained to use OC spray on subjects more than three feet away (McKewn, 1997, 53). It should be used on subjects less than that distance only in emergency situations. The duration of the application should be only that is required to effectively control the subject. Incidentally, this may require no more than a one-second application (McKewn, 1997, 53). Officers should not use OC spray as a threat to gain the compliance of an officer’s verbal command when no physical altercation is imminent, to elicit information from a person, or as a retaliatory act from a verbal or physical altercation brought upon the officer (McKewn, 1997, 54).

Ideally, a use-of-force policy should also provide these minimum usage guidelines and criteria:

- OC spray is a force option following verbal compliance techniques on the use-of-force continuum;

- OC spray may be used when verbal commands have failed to gain the subject's compliance, and the subject has made clear his intention to actively resist the officer's attempts to effectuate an arrest;
- officers should issue a verbal warning prior to using OC spray;
- *use of OC spray is no longer justified once a subject is incapacitated or restrained;*
- whenever possible, officers should be upwind from the subject before using OC spray and should refrain from entering the spray zone;
- one spray burst between one and three seconds should be directed at the subject's eyes, nose and mouth. Subsequent bursts may be necessary if the initial burst proves ineffective; and
- if at all possible, OC spray should be avoided under conditions where it may affect innocent bystanders (IACP, 1994, 1).

Incidentally, in exceptional cases, the use of OC spray may be one of the factors contributing to the death of a subject, in combination with other factors such as obesity, asthma, drug use, or the use of restraint techniques that restrict respiration (Adang and Mensink, 2004, 216), posing the additional risk of asphyxia (ACLU, 2005, 2).

It is reasonable to assume, however, that (a) subjects are less likely to resist or attack an officer for fear that OC spray will be used against them, and (b) even when resistance or an attack is attempted, the use of OC spray often presents, or at least significantly hinders, harmful physical contact by the subject (IACP, 1995, 1). As such, OC spray reduces the risk of injury by allowing officers to exercise force from a greater distance (Morabito and Doerner, 1997, 691).

Training policies that mirror these training guidelines have engaged in a considerable step forward in reducing subject and officer injuries without compromising arrest capabilities (Smith

and Alpert, 2000, 242). The next section discusses electronic weapons and describes the appropriate use and the circumstances warranting its use.

## Electronic Weapons

Another less-lethal force option is referred to as an electronic control weapon (ECW) – also referred to as a conducted electronic device (CED) or a conducted energy weapon (CEW). This weapon is another device added to the officer's choice of tools used to gain compliance of a resistant subject. A popular ECW that many police departments require its officers to carry is known as the TASER® - Thomas A. Swift Electric Rifle. *For the purpose of uniformity, electronic weapons will be referred to as the TASER.*

Figure 2.5 M26 TASER and X26 TASER



The TASER models M26 and X26 are the two most common stun devices used by police departments

Source: Mesloh et al., 2008, 24

(White and Ready, 2007,

172). They discharge two probes at a rate of 180 feet per second, a distance of 21 feet (some at longer ranges), and produce a 50,000 volt shock during a 5-second cycle (White and Ready, 2009, 869). The TASER is a method of incapacitating the subject through muscle contractions induced by the weapon (White and Ready, 2007, 172).

The electrical charge subdues the central nervous system, causing the loss of neuromuscular control, allowing the officer time to gain control of the subject and apply handcuffs (White and Ready, 2007, 172). Incidentally, the Bureau of Alcohol Tobacco Firearms and Explosives does not include in its list of firearms the TASER. Because the propellant is



compressed nitrogen rather than gunpowder, there are no federal restrictions or guidelines for the use of the TASER (White and Ready, 2007, 172).

The ideal use-of-force model should train officers on these minimum guidelines for TASER use:

- the TASER is generally authorized to be used in instances where cause to arrest or detain are present and the subject's actions cause a reasonable officer to believe that physical force will be used by the subject to resist arrest;
- the TASER is most effective at overcoming resistance when used in the "probe mode," the preferred deployment technique;
- the device should be aimed at the subject, fired, and cycled in a manner consistent with policy;
- the TASER can also be used in limited close-range, self-defense, and pain-compliance circumstances in the "contact mode," if there is no opportunity to use the device in the preferred "probe mode";
- another alternative method of close-range deployment involves firing the TASER cartridge at close range, then applying the TASER in "contact" mode to another part of the body. This develops a "probe spread" effect between the impact location of the probes and the point where the TASER is in contact with the subject's body, causing an increased probability of the subject control in comparison to the standard "contact" mode;
- the TASER should not be used on persons who passively resist;
- should not be used on handcuffed or secured prisoners;

- officers must be aware of the risks and concerns of a sensitive population group and the benefit of the use of the TASER during exceptional circumstances must outweigh those risks;
- officers should energize the subject no longer than *objectively reasonable* to overcome resistance and bring the subject under control;
- when determining the necessity for additional energy cycles, officers should be cognizant that an energized subject may not be able to react to commands during or immediately after exposure;
- officers should transition to other force options when the subject does not respond to the TASER deployment;
- the subject should be secured as soon as practical while affected by the TASER or immediately thereafter (IACP, 2010, 1).

Training should instruct officers to evaluate the following totality of circumstances and characteristics before using the TASER: the age, size, gender, apparent physical and health concerns of subjects, presence of flammable liquids, and events where falling would present itself unnecessary risks to the subject (Taylor and Woods, 2010, 284). Department trainers should focus on other methods to control subjects within these at-risk groups. Where TASERs are shown to be ineffective or pose a serious health risk, multiple applications of the TASER should be prohibited (Alpert and Dunham, 2010, 252).

Furthermore, policies and training should either entirely forbid the use of TASERs against subjects who are incapacitated, or limit them to clearly defined, aggravated situations (Alpert and Dunham, 2010, 252). Aggravated situations consist of “overtly assaultive, self-

destructive, or violently resistive behavior that cannot be reasonably controlled by other readily available means” (IACP, 2010, 3).

Training should instruct officers to not use the TASER against a non-resistant or passively resistant subject (Smith et al., 2007, 410). Policy language should be carefully developed and officers should be trained that they must be able to articulate a physical threat or potential threat prior to using the TASER against a verbally resistant subject (Smith et al., 2007, 410). The threat does not need to be an assault; rather, a reasonable fear of injury to the officer, the subject, or the public should suffice (Smith et al., 2007, 410).

Prior to the use of the TASER, training should emphasize the use of verbal warnings or commands (Smith et al., 2007, 410). Likewise, since studies indicate that target placement of probes beyond fifteen feet is difficult, best practices suggest restricting targeting to less than fifteen feet (Mesloh, 2008, 25). Also, only one officer should deploy the TASER against a subject at a time and that multiple or continuous cycles should be avoided. Training should emphasize that the TASER is not to be considered a panacea and officers should be ready to transition to other force options if it is ineffective (Smith et al., 2007, 410).

Additionally, police trainers need to study how officers are using TASERs in response to different amounts of resistance during field-training scenarios (Sousa et al., 2010, 40). Extensive training on the TASER could better condition officers to (a) recognize situations that may possibly require the use of deadly force and (b) deploy the TASER in a fashion that is most effective in incapacitating a resisting subject. Incidentally, TASERs’ placed higher on the use-of-force continuum – just below deadly force – has resulted in reported reductions in the use of deadly force (Thomas et al., 2010, 307).

The ideal type use-of-force policy will state under what circumstances the TASER is to be used and, more importantly, when not to be used. Safety concerns for the individual subjected to the TASER are crucial and, therefore, should be top priority to an agency's use-of-force policy and training practices. Next, impact weapons and impact munitions will be discussed – another less-lethal option available to police officers.

### Impact Weapons and Impact Munitions

Batons are the most common form of impact weapons carried by police officers. The aluminum PR-24 and the ASP telescoping baton are intended, initially, as a display of force similar to the uniform or the marked patrol car (May and Headley, 2008, 59). The mere display of a wood or metal baton can frequently serve to induce compliance with no further force necessary (May and Headley, 2008, 59) – this is called the “velcro effect” (White and Ready, 2009, 887). Yet, when display fails as an application of force, these batons are intended to be used as impact weapons and to gain compliance of the subject through body strikes (May and Headley, 2008, 59).

Although generally described as “less-lethal,” impact weapons such as the baton can represent a form of deadly force. Training protocols for the baton should identify areas of the subject's body where baton strikes should be delivered, determined by the situation (Rahtz, 2003, 50). For example, baton strikes should be delivered to primary target areas such as large muscle masses (Mesloh, 2008, 28). Conversely, a strike to the head or any other vulnerable area should only be used in a deadly force altercation (Rahtz, 2003, 50).

Figure 2.6 ASP Expandable Baton



Police officers should be trained that

(1) strikes capable of inflicting potentially fatal or permanent physical injury must be avoided.

For instance, strikes to the head,

temple or throat can bring about

Source: Mesloh et al., 2008, 26

serious bodily injury or death. Strikes to the abdomen, groin, or kidney areas can also be fatal and (2) the baton should not be raised over the head to deliver a strike. Overhead swings of the baton are easily blocked and make it possible for the baton to be taken from the officer and used against him or her (McKewn, 1997, 53).

Impact munitions, sometimes known as impact projectiles, are another important component of an agency's less-lethal force weaponry. Impact munitions are often referred to as bean-bags and rubber bullets. Impact munitions are designed to incapacitate a subject with minimal potential for causing death or serious bodily injury, as with any other less-lethal option (Klinger, 2007, 386). The two most common methods of delivery for impact munitions are 12-gauge shotguns and larger bore firearms of 37 or 40 millimeter diameter, often called "launchers" – these are more commonly used to deliver chemical agents (Klinger, 2007, 388).

Such as OC spray, the TASER, and the PR-24, impact munitions must be trained in accordance with policy and subjected to periodic examination of their effectiveness. Impact munitions can be described as a family of firearm-delivered projectiles that have a low probability of causing serious bodily injury or death, because they are softer and travel at much lower speed than lead bullets (Klinger, 2007, 386).

Since impact munitions are designed specifically with the intent to not seriously harm or kill, training should place them below deadly force on the force continuum with other impact weapons, such as the PR-24 and the ASP (Klinger, 2007, 387). Still, officers should be cognizant that impact munitions can cause serious injury, even death, when they strike certain areas of the body. Impact munitions can therefore represent a form of deadly force and officers should be trained that they are not to be fired towards sensitive areas of a subject's body – e.g. the head and neck (Klinger, 2007, 387).

Figure 2.7 Impact Munitions/Projectiles



Source: Mesloh et al., 2008, 32

Officers should be trained that impact munitions should be directed at subject target areas based on the situation, established safety priorities, the exigency of the situation, and the level of force that is permitted (IACP, 2002, 2). As with firearms

training, officers should receive agency training specific to simulate actual deployment circumstances and environments to improve officers' discretion and judgment in using impact munitions (IACP, 2002, 2).

Officers should be trained that munitions which contain multiple foam projectiles or large numbers of small rubber balls should be fired directly at individuals' center body mass (Klinger, 2007, 389). Alternatively, munitions containing multiple wood dowels should be fired into the ground in front of individuals. This causes them to bounce up and strike them in the lower legs – a tactic known as “skip firing” – in order to avoid serious injuries (Klinger, 2007, 389).

Figure 2.8 Less-lethal Launchers



Munitions containing multiple projectiles can also be used to subdue a lone subject, although single-projectile munitions are the preferred method for such encounters

(Klinger, 2007, 389).

Source: Mesloh et al., 2008, 32

Single-projectile munitions are inherently more accurate than multiple-projectile munitions and consequently provide officers with the ability to direct their shots to specific target areas of the subject's body (Klinger, 2007, 389).

Impact weapons and munitions are key components to a police department's less-lethal artillery. These weapons are effective options to help bring an incident safely under control, while decreasing the risk of subject and officer injury. The practical ideal type will establish clear training policy and procedure for their usage.

The next section will discuss the reporting and reviewing of the use of force. This is important because the review and oversight of the use of force can help deter or capture, or both, police misconduct and violations of policy and the law.

## Thorough Review of Use-of-Force Incidents

Police administrators recognize the valuable ways the public would be served by requiring officers to report and explain their actions. Policies, training, and resulting behavior could all be improved by reporting and analyzing data on use of force by officers (Alpert and Smith, 1999, 61). This data can help police departments make informed decisions regarding officer training needs (Gallo et al., 2008, 485), and help control officers' use of excessive force (Alpert and Smith, 1999, 61). Hence, "police departments that collect data on their practices can identify policies that work, policies that do not work, and areas of organizational behavior that should be regulated" (White and Ready, 2009, 886).

Therefore, a use-of-force policy should ensure a thorough review of use-of-force incidents by employing a comprehensive data collection strategy. The practical ideal type use-of-force policy should have:

- Comprehensive Use-of-Force Reporting; and
- Employ an Early Warning System

### Comprehensive Use-of-Force Reporting

In reporting a use-of-force incident in a narrative report, officers must clearly articulate details of the event from beginning to end as well as the events that preceded it (Kinnaird, 2003, 121). The officer should not write as if he or she were aware of what level of force was being used when the incident occurred. This is nearly impossible to justify given the mere dynamics of the use of force during a confrontation. The report should be accurate, complete (no gaps), clear, easy to read, concise and objective. It should be relevant, professional, truthful, and provide only the facts and circumstances of the event (Kinnaird, 2003, 122).



In addition to narrative reports, police use-of-force reports should be used because they are more structured and useful data than simple narrative reports (Garner et al., 2002, 708). These use-of-force reports gather data over a larger spectrum of police behavior in an entire jurisdiction for longer periods. Nevertheless, this practice can suffer from the presumable bias of officers self-reporting their own use of force (Garner et al., 2002, 708).

The best method of retrieving an officer's use of force is to have a comprehensive "Use-of-Force" or "Control-of-Persons" report that includes information relating to the situation, environment, participants, and injuries along with the subject's presumed mental state, level of resistance, level of force, and type of force used (Alpert and Smith, 1994, 493). Obtaining information from all persons involved and all witnesses to the event is essential. Police must focus their inquiry of the incident on these elements, and officers involved must report their exact recollection of what occurred during the use of force (Alpert and Smith, 1994, 493).

It is crucial that the use-of-force report records the multiple uses of both police force and subject resistance. To correctly document the application of force, officers or supervisors should identify all instances of police force and subject resistance, not simply the highest level of force used (Terrill et al., 2003, 154). This includes a description of *temporal sequencing* – the actions as they occurred and which actions preceded others (e.g., a subject struggles to evade an officer, the officer applies a pain compliance hold, the subject strikes the officer, and the officer uses an impact weapon) (Terrill et al., 2003, 154).

Ideally, reports should be required for all incidents when officers use any form of physical force, including handcuffing and come-alongs (Terrill et al., 2003, 153). Although, as this may produce an extreme burden for agencies, it is recommended, at a minimum, reports should be required of all incidents where officers use physical force beyond un-resisted

handcuffing and come-along holds (Terrill, et al., 2003, 153). Reports should also be completed when subjects physically resist regardless of whether the officers responded with physical force (Terrill et al., 2003, 153).

Ideally, use-of-force reporting should cover any use of force occurring while an officer is acting in his or her official law enforcement capacity, whether in uniform, in plainclothes, or an under-cover assignment (IACP, 1997, 2).

At a minimum, a use-of-force policy should contain the following procedures for use-of-force reporting:

- officers shall make a verbal report to their supervisors immediately after any use of force and file a use-of-force report;
  - each officer who uses force in an incident should submit a separate written use-of-force report
  - any officer who witnesses a use of force should advise a supervisor and should submit a use-of-force report
- all use-of-force reports must specify the actions of the subject that precipitated the use of force, the reasons why the officer used force, and any subject complaints of injury, medical treatment received, or refusal of medical treatment;
- the arresting officer should notify transporting officers if force was applied on the arrestee, or if the arrestee has an injury or complaint of pain; and
- supervisors should investigate and report on uses of force (IACP, 1997, 1).

Likewise, a department should investigate all use-of-force incidents to establish whether the use was justified and to correct any identifiable training deficiencies. Officers should notify their supervisor immediately after the following:

- a firearm is discharged outside the department's firearm range, excluding discharges occurring during hunting or competitive shooting;
- the use of force causes death, injury, or complaint of injury;
- a less-lethal weapon is used on a person;
- an optional rifle is deployed for any reason; or
- another action, including intentional traffic collision and forcible stopping, resulted in death or injury (Hatch and Dickson, 2007, 16).

Additionally, an officer use-of-force report coupled with a "Supervisor Control-of-Persons Report" is ideal. Combining these reports offer the most practical and systematic way of effectively retrieving use-of-force data (Terrill et al., 2003, 151). This method requires supervisors to travel to the incident scene on a priority basis (IACP, 1997, 2), and interview the officers, subjects, and witnesses and subsequently record their findings (Terrill et al., 2003, 152). It should be recognized that reporting the subject's version of the encounter is a critical element to the use-of-force management system (Alpert and Smith, 1999, 76).

The supervisor should write a sequential account of all relevant actions: the original call or observation, officer and subject behaviors, why the subject resisted, and levels and types of resistance (Terrill et al., 2003, 153). In addition, the supervisor should document the officer's and subject's statements of actions taken, injuries sustained and medical treatment necessary. It is crucial for the supervisors to comprehend that their job is to capture the accounts provided by the parties and not to justify the officer's actions or defend the officer (Terrill et al., 2003, 153). The supervisor should also document the scene of the incident and interview any health care provider concerning the injuries sustained and their consistency with uses of force (IACP, 1997,

2). Most importantly, *“an immediate establishment of facts protects both the officers and the department from later charges arising from the incident”* (IACP, 2000, 2).

Consequently, it is important to stress the need for supervisor training, prompt reporting of force incidents by officers, and prompt response by the supervisor. These reports need to be verified and reviewed to determine use-of-force trends and practices (Alpert and Smith, 1999, 68). This method of having a supervisor write a report based on interviews with involved parties adds a level of oversight into the reporting process (Alpert and Smith, 1999, 76).

The responding supervisor is to notify the shift commander in cases involving injury or complaint of injury, hospitalization, or death of a person resulting or allegedly resulting from the use of force (IACP, 1997, 2). In cases involving death or hospitalization, internal affairs should be notified, with the shift commander assisting internal affairs in conducting the investigation. Any investigation not investigated by internal affairs should be supported by a completed review of any use of force by the shift commander to the officer's unit commander (IACP, 1997, 2).

The unit commander should review the shift commander's report, conduct a further investigation of the incident if need be, and submit findings to internal affairs (IACP, 1997, 2). Internal affairs should review all use-of-force reports to ascertain compliance to policy and procedures, along with completeness of the report. If further documentation or investigation is needed, appropriate personnel should be advised by internal affairs investigators (IACP, 1997, 2).

Combining force reports with a force continuum serves as the basic building blocks to review and assess use-of-force incidents (Terrill et al., 2003, 151). Assessment of officer deviation from the force continuum coupled with examination of use-of-force reports will help identify training opportunities and personnel issues. Incidentally, agencies which require

supervisors to fill out use-of-force reports, in addition to officer use-of-force reports, display significantly lower rates of force than agencies that do not (Alpert and MacDonald, 2001, 393).

The next section discusses the elements of an early warning system. Early warning systems are crucial to any police department because they identify employees whose misconduct, including the use of force, could become problematic.

### Employ an Early Warning System

Interest in early warning systems has increased in response to growing evidence that in most law enforcement agencies, a small percentage of officers are responsible for a disproportionate share of citizen complaints, use-of-force incidents, and other performance problems (Walker et al., 2000, 134). Early warning systems act on the basis of performance indicators that do not necessarily require disciplinary action, but suggest that the officer may have work related problems. These data driven programs identify officers whose behaviors are problematic and provide some intervention to correct those problems through an evaluation of the collected material (Lersch et al., 2006, 59).

These findings suggest that police departments should employ early warning systems to identify police misconduct (Hassell and Archbold, 2010, 483). It could be that officers who are more aggressive and pro-active, consequently, generate more complaints. It may also be that in highly discretionary instances, officers may travel beyond the professional boundaries of the job. Early warning systems are the best tools to monitor these behaviors (Hassell and Archbold, 2010, 484). Therefore, commanders and supervisors should be systematically provided with information that can be used to identify problem officers, and departments should respond to

officers before they become self-destructive or develop a pattern of violating departmental orders (Walker et al., 2000, 139).

Early warning systems consist of three basic components: selection criteria, intervention, and post-intervention monitoring:

- Selection Criteria – early warning systems function on the basis of a set of formal criteria for identifying officers and selecting them for intervention. The indicators used as criteria include, but are not limited to, use-of-force reports, involvement in civil litigation, and violation of administrative rules;
- Intervention – this may consist of either an informal counseling session with the officer and his or her chain of command or a training class, possibly involving a group of officers;
- Post-intervention Monitoring – one extreme exhibits *highly formal systems* with considerable documentation. The other extreme represents *highly informal systems* with no documentation. In highly formal systems, officers were monitored for six months following intervention, with supervisors observing subject officers and evaluating performance every two weeks. Informal systems typically require supervisors to monitor the officer's performance and, should indicators of poor performance arise, take steps as they feel necessary (Walker et al., 2000, 146).

“Multiple indicators are more likely to identify officers whose performance is genuinely problematic and in need of some official intervention” (Walker et al., 2000, 146). In order to properly identify and address those indicators, departments should collect and review data on the following incidents: firearms discharge; excessive force incidents; motor vehicle damage; loss

of departmental equipment; injury on duty; excessive use of sick leave; and all complaints, including supervisory disciplinary actions (IACP, 2002, 3).

The Office of Professional Standards (OPS) should be responsible for establishing and administering the EWS and generating the following reports to identify indicators:

- complaints submitted by one employee against another;
- disciplinary action taken by the supervisor *with or without a formal complaint*;
- complaints submitted by citizens against department personnel;
- incidents of spousal abuse;
- disciplinary actions taken against employees;
- administratively defined incidents of improper actions or misconduct, or both;
- use-of-force reports to include: name, rank, badge number, and the assignment of the officer; case number, date of the incident and the report; name of subject(s); location of the incident; nature of force and any weapons used by either party, and injuries sustained by either party; and a narrative report of the incident;
- performance-based and related information should also be included in the EWS, including: traffic accidents; vehicle or foot pursuits within or out of policy; lawsuits and claims; assaults on the officer; officer reports of resisting arrest, and obstruction; sick leave used; criminal arrests made; and commendations and awards (IACP, 2002, 2).

The OPS should collect and report on this data by comparing it to historical norms of all agency personnel functioning in the same or similar assignments (IACP, 2002, 2). These reports should be developed on a routine basis for all personnel but should be generated whenever an officer has exceeded the threshold established by the agency requiring supervisory review and

intervention. Reports should provide a brief summary of complaints, uses-of-force incidents, and performance indicators and their associated dispositions where available (IACP, 2002, 2).

Supervisors should then review the reports with the subject officer and request that he or she provide insight to the incident and issues found in the report (IACP, 2002, 2). The subject officer's commander and supervisor should then discuss options available to correct the action, if necessary, such as: refer the officer to an agency counselor; refer the officer to a mental health professional; require the officer to participate in further training; reassign or transfer the officer; or conclude no corrective action is necessary (IACP, 2002, 2).

Subsequently, a report of action recommendations and justification for them should be forwarded through OPS to the Chief Executive Officer – Chief of Police (IACP, 2002, 2). When approved, the employee should follow the plan to completion. The progress of the employee should be monitored and reported to the Chief Executive Officer. Proof of employee compliance or non-compliance of the agreed upon plan should be included in the employees early warning system jacket for future use (IACP, 2002, 2).

While the focus of early warning systems is reducing officer misconduct, there are possible benefits for individual officers. Misconduct and poor use-of-force decisions could stem from personal problems, alcoholism, and other stress-related factors that plague many officers. The system should be tailored to include referral to a variety of services including an Employee Assistance Program (Rahtz, 2003, 99). Early warning systems have proven a clear ability to reduce use-of-force incidents by “high-risk” officers identified in these programs. If correctly structured, these programs can directly benefit officers and enhance police agency operations (Rahtz, 2003, 119).



If effective, these systems will thin the ranks of officers whose conduct undermines the legitimacy of the agency (McKluskey and Terrill, 2005, 525). Departments should adopt an early warning system because it demonstrates a pro-active position in the oversight of their employees (Lersch et al., 2006, 72), and there is a greater expectation of attention to issues of accountability (Hickman and Piquero, 2009, 13). Consequently, an early warning system serves as one of many management tools created to suppress misconduct and raise the quality of services provided to the public (Walker et al., 2000, 149).

## Chapter Summary

This chapter presented the conceptual framework of a practical ideal type use-of-force model found through a review of the literature. The three categories of the conceptual framework model are the following: Clear Use-of-Force Guidelines; Extensive Training in All Force Options; and Thorough Review of Use-of-Force Incidents. The following chapter presents the research methodology based on the conceptual framework and the methods of research.

## CHAPTER III: METHODOLOGY

### Chapter Purpose

The purpose of this chapter is to present the research methods used to assess the use-of-force policies and practices of the Austin Police Department. The three categories and the subcategories of the practical ideal model will be utilized to guide data collection. This chapter discusses the data collection methods included in the research design, and discusses the advantages and disadvantages of each.

### The Austin Police Department

A case study method is used to examine the use-of-force policies and practices of an accredited law enforcement agency – the Austin Police Department. The Austin Police Department, employing over 1,600 police officers, is an excellent choice for the case study because it is a nationally accredited, dynamic, diverse, and community-oriented policing agency. The Austin Police Department, however, in recent years, has come under scrutiny because of its use of deadly force. While none of the uses of deadly force in 2010 have been found to be unjustified, there are still questions about the frequency and the level of force used by Austin Police officers.

For example, in 2008, of the 79,427 *arrests* made by Austin Police officers, force – excluding un-resisted handcuffing or come-alongs – was used in 1.1% of the those arrests. In 2009, however, of the 69,130 *arrests* made, force – excluding un-resisted handcuffing and come-alongs – was used in 1.7% of the arrests (APD Response-to-Resistance Report, 2009, 1).

To calculate the percentage change in arrests by APD, subtract the older year's arrests from the newer year, divide by the older year, and then multiply by 100 (newer year – older year / older year \* 100):

	<u>2009</u>	<u>2008</u>
<i>Austin Police Department's arrests</i>	69,130	79,427

$$69,130 - 79,427 = -10,297$$

$$-10,297 / 79,427 * 100 = -12.96\%$$

As a result, the Austin Police Department had a 12.96% decrease in the number of *arrests* from 2008 to 2009, yet an increase in the use of force by .6% in those *arrests* during the same time period.

Nevertheless, in 2009, of the 649, 660 police *contacts*, Austin Police officers resorted to force in less than one half of one percent of the time (APD Response-to-Resistance Report, 2009, 1). Generally speaking, however, initiated equally by citizens and officers alike, police officers typically use force in roughly 1% of police-citizen contacts (McElvain and Kposowa, 2008, 506). Therefore, using the Austin Police Department as a case study is an ideal choice as it combines commendation with controversy.

## Case Study Method

The research design selected for this project is a case study. A case study method is necessary to perform a comprehensive assessment of the Austin Police Department's use-of-force policies and practices. A case study method requires multiple sources of evidence which provide a clearer picture of organizational behavior and issues. According to Yin (2009, 4), a case study method is "used to contribute to our knowledge of individual, group, organizational, social, political, and related phenomena." Furthermore, case studies are the preferred method

when (a) “how” or “why” questions are being posed, (b) the investigator has little control over events, and (c) the focus is on a contemporary phenomenon within a real-life context (Yin, 2009, 2).

A case study method allows investigators to exhibit the holistic and meaningful characteristics of real-life events – such as individual life cycles, small group behavior, organizational and managerial processes, neighborhood change, school performance, international relations, and the maturation of industries (Yin, 2009, 4). Within case study research, multiple research methods are included into one study. The ability to use multiple research techniques is the strength of the case study method.

Rather than using a single research method, such as experiments, a case study uses many different research methods. Per Yin (2009, 18), the case study method “relies on multiple sources of evidence, with data needing to converge in a triangulation fashion.” These multiple sources of evidence allow an investigator to address a broader range of historical and behavioral issues; hence, developing converging lines of inquiry, the most important advantage (Yin, 2009, 115). The Austin Police Department’s use-of-force policies and practices may be viewed as a “case.” This case study uses documents analysis, direct observation, and structured interviews as techniques to collect data.

### Operationalization of the Practical Ideal Type

Structured interviews, document analysis, and direct observation encompass this case study method. Document analysis, direct observation, and structured interviews are used to supplement information obtained from each other. Based on the evidence obtained from each research method, a scoring system is used to gauge how closely the Austin Police Department’s

use-of-force policy measured to the practical ideal type model. The scoring system is applied as follows: 0 = *Does Not meet Standard*; 1 = *Meets Standard*; and 2 = *Exceeds Standard*.

The Operationalization Table is presented in Table 3.1. The purpose of the table is to connect the conceptual framework, the research methodology, the evidence, and the sources. The table establishes the operational relationship between each model component and the corresponding methodology used to explore it.

Table 3.1 Operationalization Table

Operationalization			
Practical Ideal Type Categories	Research Method	Evidence	Sources
Clear Use-of-Force Guidelines			
<i>Instruct on Legal Standards</i>	Document Analysis	Existence of legal concepts defining reasonable force should be present	General Orders
<i>Employ a Force Continuum Model</i>	Document Analysis	Existence of a force continuum model should be present	Training Documents
	Structured Interview	Question the existence of a force continuum model	Managers
<i>Establish Deadly Force Guidelines</i>	Document Analysis	Deadly force guidelines should be present	General Orders
<i>Establish Less-lethal Force Guidelines</i>	Document Analysis	Less-lethal force guidelines should be present	General Orders
Extensive Training in All Force Options			
<ul style="list-style-type: none"> <li>• <i>Firearms</i></li> <li>• <i>Chemical Weapons</i></li> <li>• <i>Electronic Weapons</i></li> <li>• <i>Impact Weapons and Impact Munitions</i></li> </ul>	Document Analysis	Existence of firearms and less-lethal training requirements and practices should be present	General Orders, Training Documents
	Structured Interview	Question the extent of firearms and less-lethal weapons training requirements and practices	Managers
	Direct Observation	Observe firearms and less-lethal training practices to ensure real-world simulation is included	APD Training Academy
Thorough Review of Use-of-Force Incidents			
<i>Comprehensive Use-of-Force Reporting</i>	Document Analysis	Comprehensive procedures for reporting use-of-force incidents should be present	General Orders
	Structured Interview	Question extensiveness of the procedures for reporting use-of-force incidents	Manager
<i>Employ an Early Warning System</i>	Document Analysis	Existence of an early warning system should be present	General Orders
	Structured Interview	Question the program in place that reviews use-of-force incidents by officers	Manager

## Document Analysis

Document analysis is one of the three research methods selected for this case study. Yin (2009) describes the most important use of documents is to corroborate and augment evidence from other sources. Also, documents play an explicit role in any data collection in doing case studies (Yin, 2009, 103). Documents can assist in verifying information from an interview, they can corroborate or contradict information from other sources, and inferences can be drawn from them.

Documents have many strengths, among them include: stable – they can be reviewed repeatedly; unobtrusive – not created as a result of the case study; exact – contains exact names, references, and details of an event; and contain broad coverage – long span of time, many events, and many settings (Yin, 2009, 102). Conversely, documents have weaknesses, as well. Included in their weaknesses are: retrievability – can be difficult to find; biased selectivity – if collection is complete; reporting bias – reflects (unknown) bias of author; and access – may be deliberately withheld (Yin, 2009, 102). Here, document analysis will attempt to identify similarities and differences between existing use-of-force policies and practices within the Austin Police Department and the practical ideal type model established in the literature.

Document analysis is used to assess all of the ideal type categories. This type of research determines the existence of use-of-force policies and practices within the Austin Police Department that reflect clear use-of-force guidelines, extensive training in all force options, and a thorough review of use-of-force incidents. This will be accomplished by analyzing Austin Police Department's training documents and General Orders.

General Orders is a policy consisting of principles and values that guide the performance of departmental activity (APD General Orders, 2010, 18). It is not, however, a statement of what

must be done in a particular situation. Rather, it is a statement of guiding principles which should be adhered to during activities directed toward the achievement of Department objectives (APD General Orders, 2010, 18). General Orders are documents that may change in order to meet best practices or statutory mandates (Hutto, 2009, 29). Training documents are those that list specific areas and the description of training officers are provided. For example, training documents provide the manner and under what circumstances an electronic weapon (TASER) should be used.

Table 3.2 provides the documents analyzed in this study. Additionally, documents analyzed in this study will be provided in the appendix.

Table 3.2 List of Documents

Documents
<ul style="list-style-type: none"><li>• Austin Police Department General Orders</li><li>• Austin Police Department Training Documents</li></ul>

The researcher will select the above presented documents of the Austin Police Department to be analyzed. The assessment will help determine how well the use-of-force policies and practices of APD meet the ideal standard. Document analysis will be used in support of direct observation and structured interviews to establish a comprehensive assessment of use-of-force policies and practices at the Austin Police Department.

#### Direct Observation

The researcher will conduct direct observation to assess use-of-force policies and practices at the Austin Police Department. Direct observation will include observing firearms



and less-lethal training practices at the APD academy. Observational evidence is useful in providing additional information about a topic being studied. Observations of a neighborhood or of an organizational unit add dimensions for comprehending either the context or the phenomenon being analyzed (Yin, 2009, 110). Likewise, direct observation is an invaluable aid for understanding the actual uses of new technology or curriculum or any potential problems that may be encountered (Yin, 2009, 110).

The strengths of utilizing direct observation include: reality – covers events in real time; and contextual – covers context of “case” (Yin, 2009, 102). Nevertheless, there are weaknesses of direct observation that include: time-consuming; selectivity – broad coverage is difficult without a team of observers; reflexivity – event may proceed differently because it is being observed; and cost – hours needed by human observers (Yin, 2009, 102). Additionally, Yin (2009) explains a common procedure to increase reliability of observational evidence is to have more than a single observer making observations – either casually or formally (Yin, 2009, 111). Unfortunately, this research only includes one observer to conduct the direct observations.

Direct observation will be used to determine if APD uses real-world simulation to conduct firearms and less-lethal training. Direct observation should yield some type of real-world firearms training to support the practical ideal type model. The researcher will observe the type of firearms and less-lethal training provided to officers to determine how close it is to the ideal standard. Direct observation will be used in conjunction with structured interviews and document analysis to provide a comprehensive assessment of the Austin Police Department’s firearms and less-lethal training.

## Structured Interviews

Structured interviews will also be used to assess the Austin Police Department's use-of-force policies and practices. Structured interviews are an important component to a comprehensive assessment of the Austin Police Department's use-of-force policies and practices, and an essential source of case study information (Yin, 2009, 106). Interviews are an important source of case study evidence as most case studies relate to human affairs or behavioral events. Well-informed interviewees can provide essential insights into these affairs or events (Yin, 2009, 108).

The advantages of interviews are: targeted – focuses directly on case study topics; and insightful – provides perceived causal inferences and explanations (Yin, 2009, 102). Another advantage of interviews is the use of “probing” during questioning. Probing is a request or solicitation for an elaboration of an interviewee's inappropriate or incomplete answer (Babbie, 2007, 267). Examples of probing to a question are “Anything more?” and “How is that?” Probing allows the researcher to seek additional information in order to ensure that the respondent's answer was thorough and clear. Disadvantages to interviews are: bias due to poorly articulated questions; response bias; inaccuracies because of poor recall; and reflexivity – interviewee gives what the interviewer wants to hear (Yin, 2009, 102).

The interview sample, or informants, will encompass managing personnel from the APD training academy, patrol operations, and the Professional Standards Division. The sampling method used to select APD personnel is known as purposive or judgmental sampling. This type of non-probability sampling is selected because these informants will be the most useful or representative for general comparative purposes (Babbie, 2007, 184). Purposive or judgmental sampling is appropriate, for instance, if you wish to study a small subset of a larger population

where many members of the subset are easily identified, but the sampling of them all would be almost impossible (Babbie, 2007, 184).

Table 3.3 – 3.9 presents the structured interview questions developed from the Conceptual Framework. Questions are established to assess policies on use-of-force guidelines, training, and the reviewing of use-of-force incidents by the Austin Police Department.

#### Clear Use-of-Force Guidelines

Table 3.3 presents the interview question, the follow up questions, and the scores that operationalize the extent that use-of-force guidelines are clearly established. The initial question asks whether the Austin Police Department uses a force continuum model and either a yes or no answer is sought. If the respondent answers yes, the respondent is asked to describe the force continuum model. This description will be compared to the ideal type model characteristics. If the respondent answers no, then the respondent is asked to provide reasons why a force continuum model is not used. There should be no reason why the Austin Police Department does not employ a force continuum model. In the case that the Austin Police Department is exploring a force continuum model, the respondent is asked to describe the different models considered and how soon it will be implemented if adopted.

Based on the answers to these questions, the Austin Police Department will be assigned a score that measures the extent that the Austin Police Department's use-of-force guidelines use a force continuum model.

Table 3.3 Interview Questions – Employ a Force Continuum Model

Does the Austin Police Department employ a force continuum model?
<ul style="list-style-type: none"> <li>• If yes, can you describe the force continuum model in place?</li> <li>• If no, what are the reasons the Austin Police Department does not employ a force continuum model?</li> <li>• If no, is the Austin Police Department considering employing a force continuum model in the future?</li> </ul> <p><i>Scores</i>  0=Does not employ a force continuum model  1=Does employ a force continuum model</p>

### Extensive Training in All Force Options

Tables 3.4 - 3.7 presents the interview questions, the follow up questions, and the scores that operationalize the extent that the training in all force options is extensive.

The initial question in Table 3.4 presents the interview question, the follow up questions, and the scores that operationalize the extent that firearms training is extensive. The initial question asks whether the Austin Police Department provides firearms training and either a yes or no answer is sought. If the respondent answers yes, the respondent is asked to describe the firearms training provided. The respondent will be asked to consider training material, SOP's, and General Orders when answering. This description will be compared to the ideal type model characteristics. If the respondent answers no, then the respondent is asked to provide reasons why firearm training is not provided. As established in the literature, there should be no reason why Austin Police officers are not provided training on firearms.

Based on the answers to these questions, the Austin Police Department will be assigned a score that measures the extent that the Austin Police Department's firearms training is extensive.

Table 3.4 Interview Questions – Firearms

Does the Austin Police Department provide firearms training?
<ul style="list-style-type: none"> <li>• Does training consist of FATS or a type of computer-based simulation?</li> <li>• Does training consist of live-fire? Is it scenario-based?</li> <li>• Does training consist of night and reduced light shooting, shooting at moving targets, and strong-hand and weak-hand firing?</li> <li>• Does training consist of close-quarters combat, reloading techniques, and gun-retention methods?</li> <li>• How often are officers retrained on the legal concepts and departmental policies involving the use of firearms and deadly force?</li> <li>• How often are officers required to qualify with their firearm? Which firearms are they required to qualify with?</li> <li>• What steps are taken if they fail to qualify?</li> </ul> <p><i>Scores</i>            0=Firearms training is limited to static and rudimentary methods            1=Firearms training is delivered on a continuous and consistent basis but is not realistic            2=Firearms training is realistic and is delivered on a continuous and consistent basis</p>

Table 3.5 presents the interview question, the follow up questions, and the scores that operationalize the extent that chemical weapons training is extensive. The initial question asks whether the Austin Police Department provides chemical weapons training and either a yes or no answer is sought. If the respondent answers yes, the respondent is asked to describe the chemical weapons training provided. The respondent will be asked to consider training material, SOP's, and General Orders when answering. This description will be compared to the ideal type model characteristics. If the respondent answers no, then the respondent is asked to provide reasons why chemical weapons training is not provided. As established in the literature, there should be no reason why Austin Police officers are not provided training on chemical weapons.

Based on the answers to these questions, the Austin Police Department will be assigned a score that measures the extent that the Austin Police Department's chemical weapons training is extensive.

Table 3.5 Interview Questions – Chemical Weapons

Does the Austin Police Department provide chemical weapons training?
<ul style="list-style-type: none"> <li>• Under what circumstances are officers trained to use OC spray?</li> <li>• Are officers trained to use OC spray prior to engaging in physical force/physical control measures?</li> <li>• Are officers trained to use OC spray on active threats of resistance? Passive resisters?</li> <li>• Are officers trained to give verbal commands prior to using OC spray?</li> <li>• Does training establish a minimum or maximum distance between the officer and the subject prior to the burst? If so, what is the range?</li> <li>• Are officers trained to apply the burst for specific duration of time? If so, what is it?</li> </ul> <p><i>Scores</i>            0=OC is trained on but restrictions and guidelines are deficient            1=OC is consistently trained on and has sufficient restrictions and guidelines on its use            2=OC is consistently trained on and has extensive restrictions and guidelines on its use</p>

Table 3.6 presents the interview question, the follow up questions, and the scores that operationalize the extent that electronic weapons training is extensive. The initial question asks whether the Austin Police Department provides electronic weapons training and either a yes or no answer is sought. If the respondent answers yes, the respondent is asked to describe the electronic weapons training provided. The respondent will be asked to consider training material, SOP's, and General Orders when answering. This description will be compared to the ideal type model characteristics. If the respondent answers no, then the respondent is asked to provide reasons why electronic weapons training is not provided. As established in the literature, there should be no reason why Austin Police officers are not provided training on electronic weapons.

Based on the answers to these questions, the Austin Police Department will be assigned a score that measures the extent that the Austin Police Department's electronic weapons training is extensive.

Table 3.6 Interview Questions – Electronic Weapons

Does the Austin Police Department Provide electronic weapons training?
<ul style="list-style-type: none"> <li>• Under what circumstances are officers trained to use the TASER?</li> <li>• Are officers trained to use the TASER on active threats of resistance? Passive resisters?</li> <li>• Under what circumstances should officers not deploy the TASER?</li> <li>• Are officers required to evaluate subject characteristics prior to deploying the TASER? If so, what are they?</li> <li>• Does training establish a minimum or maximum distance between the officer and the subject prior to deployment ? If so, what is the range?</li> <li>• Are officers trained to give verbal commands prior to using the TASER?</li> <li>• Are officers trained to use multiple TASER applications on a subject if previous cycles are deemed ineffective? If so, is there a limit?</li> </ul> <p><i>Scores</i>  0=TASER is trained on but restrictions and guidelines are deficient  1=TASER is consistently trained on and has sufficient restrictions and guidelines on its use  2=TASER is consistently trained on and has extensive restrictions and guidelines on its use</p>

Table 3.7 presents the interview question, the follow up questions, and the scores that operationalize the extent that impact weapons and impact munitions training is extensive. The initial question asks whether the Austin Police Department provides impact weapons and impact munitions training and either a yes or no answer is sought. If the respondent answers yes, the respondent is asked to describe the impact weapons and impact munitions training provided. The respondent will be asked to consider training material, SOP's, and General Orders when answering. This description will be compared to the ideal type model characteristics. If the respondent answers no, then the respondent is asked to provide reasons why impact weapons and impact munitions training is not provided. As established in the literature, there should be no reason why Austin Police officers are not provided training on impact weapons and impact munitions.

Based on the answers to these questions, the Austin Police Department will be assigned a score that measures the extent that the Austin Police Department's impact weapons and impact munitions training is extensive.

Table 3.7 Interview Questions – Impact Weapons and Impact Munitions

Does the Austin Police Department Provide impact weapons training?
<ul style="list-style-type: none"> <li>• Are officers trained to avoid striking subjects on sensitive/vulnerable areas of the body with a baton? If so, what are those areas?</li> <li>• What primary areas of the body are officers trained to strike?</li> <li>• Are officers trained not to raise the baton over the head to deliver a strike?</li> <li>• Are officers trained not to fire impact projectiles at sensitive/vulnerable areas of the body? If so, what are those areas?</li> <li>• At what area of the body are officers trained to aim impact projectiles?</li> </ul> <p><i>Scores</i>  0=Impact weapons and munitions are trained on but restrictions and guidelines are deficient  1=Impact weapons and munitions are consistently trained on and has sufficient restrictions and guidelines on its use  2=Impact weapons and munitions are consistently trained on and has extensive restrictions and guidelines on its use</p>

#### Thorough Review of Use-of-Force Incidents

Tables 3.8 - 3.9 present the interview questions, the follow up questions, and the scores that operationalize the extent that a thorough review of use-of-force incidents is in place.

The initial question in Table 3.8 asks whether the Austin Police Department reports all use-of-force incidents and either a yes or no answer is sought. If the respondent answers yes, the respondent is asked to describe the procedures for reporting use-of-force incidents. This description will be compared to the ideal type model characteristics. The respondent will be asked to consider training material, SOP's, and General Orders when answering. If the respondent answers no, then the respondent is asked to provide reasons why a system for



reporting use-of-force incidents is not in place. As established in the literature, there should be no reason why procedures for reporting use-of-force incidents are not in place.

Based on the answers to these questions, the Austin Police Department will be assigned a score that measures the extent that the Austin Police Department's reporting of use-of-force incidents is comprehensive.

Table 3.8 Interview Questions – Comprehensive Use-of-Force Reporting

Does the Austin Police Department Report All Use-of-Force Incidents?
<ul style="list-style-type: none"> <li>• Does the Austin Police Department use a “Use of Force” or “Control of Persons Reporting” form? If so, what does the form consist of?</li> <li>• Does the Austin Police Department use a “Supervisor Control of Persons” report? If so, what does the form consist of?</li> <li>• When documenting use of force, what are supervisors required to include relevant to the subject/officer interaction?</li> <li>• Under what circumstances is use-of-force reporting required?</li> <li>• Do force reporting procedures include <i>temporal sequencing</i>?</li> <li>• What reporting actions are officers required to do immediately after using force?</li> </ul> <p><i>Scores</i>  0=Does not have system for reporting use-of-force incidents  1=Use-of-force reporting is systematic but lacks precision  2=Use-of-force reporting is systematic, detailed, and comprehensive</p>

Table 3.9 presents the interview question, the follow up questions, and the scores that operationalize the extent that the early warning system employed is thorough. The initial question in Table 3.9 asks whether the Austin Police Department reviews use-of-force incidents through an early warning system and either a yes or no answer is sought. If the respondent answers yes, the respondent is asked to describe the early warning system in place. This description will be compared to the ideal type model characteristics. The respondent will be asked to consider training material, SOP's, and General Orders when answering. If the respondent answers no, then the respondent is asked to provide reasons why an early warning

system is not in place. As established in the literature, there should be no reason why an early warning system is not in place.

Based on the answers to these questions, the Austin Police Department will be assigned a score that measures the extent that the Austin Police Department's use of an early warning system is thorough.

Table 3.9 Interview Questions – Employ an Early Warning System

Does the Austin Police Department employ an Early Warning System?
<ul style="list-style-type: none"><li>• If so, what are the components of the early warning system?</li><li>• What behavioral indicators are assessed to identify officers meriting intervention?</li><li>• What data is reviewed and collected in order to properly identify and address indicators?</li><li>• What role do supervisors play in administering the early warning system?</li><li>• What role does Professional Standards Division play in administering the early warning system?</li></ul> <p><i>Scores</i></p> <p>0= Does not have an early warning system</p> <p>1= An early warning system is in place and utilized but should capture more elements to effectively review officer behavior</p> <p>2= The early warning system in place is actively utilized and captures a significant amount of elements to effectively review officer behavior</p>

## Human Subjects Protection

This study is exempt from full review by the Texas State Institutional Review Board (IRB). A copy of the IRB exemption is included in the Appendix (Confirmation of Approval: IRB Application Number 2011k9485). This study used a structured interview, focusing on policies and procedures rather than people or their thoughts. Disclosure of this information will not place the human subjects at risk of criminal, civil, or financial liability as the information collected is concerned with best practices, not legal standards. Identifiable, personal characteristics of the participants were not relevant to this study, nor were they included in the results of this study. There were no children studied in any form or fashion.

The participants received a consent form, which is also included in the Appendix, prior to participation in the study. Structured interviews were conducted with informed consent. The participants had the right to refuse to answer any questions, or end the interview at any time. The participants did not receive compensation for participation in this study. The interviewees are referred to as “Manager(s)” to protect the identity of the participants.

## Chapter Summary

This chapter presented the research methods used in this research project. This chapter described use-of-force data of the Austin Police Department, the case study method along with its strengths and weaknesses, and presented the operationalization of the practical ideal type. Tables 3.1 – 3.9 presented the operationalization of the conceptual framework and the structured interview questions. Lastly, this chapter explained the human subject protection obligations for this research project.

## CHAPTER IV: RESULTS

### Chapter Purpose

The purpose of this chapter is to present how closely the Austin Police Department's use-of-force policies and practices mirror the practical ideal type use-of-force model developed through the review of literature. The practical ideal type model identifies three categories that should be present in a use-of-force policy: Clear Use-of-Force Guidelines; Extensive Training in All Force Options; and a Thorough Review of the Use of Force. Structured interviews, document analysis, and direct observation were conducted to identify how closely the Austin Police Department meets best practices.

Using the evidence gathered from structured interviews, document analysis, and direct observation, the Austin Police Department was given a score of "0" = *Does not Meet Standards*, "1" *Meets Standards*, or "2" *Exceeds Standards* for each of the subcategories of the practical ideal type model. This chapter presents the results of the structured interviews, document analysis, and direct observation.

### Clear Use-of-Force Guidelines

Clear Use-of-Force Guidelines is the first category of the practical ideal type use-of-force model. The subcategories of Clear Use-of-Force Guidelines that should be present are: Instruct on Legal Standards; Employ a Force Continuum Model; Establish Deadly Force Guidelines; and Establish Less-lethal Force Guidelines. Table 4.1 provides the results of each research method used to assess the subcategories.

### *Document Analysis – Instruct on Legal Standards*

Generally speaking, the Austin Police Department meets the standard that officers are instructed on legal standards involving the use of force, as identified in the practical ideal type. Table 4.1 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

The Austin Police Department's General Orders (B101a Response to Resistance) clearly states that “*objectively reasonable*” use of force may be used to accomplish lawful objectives. This is consistent with the practical ideal type standards. Also stated in General Orders is that the use of force is judged from the perspective of a reasonable officer, not with the hindsight vision of 20/20.

General Orders includes the four components of *Graham v. Connor* (1989) to apply to each case to determine whether or not a particular application of force is reasonable, as well. General Orders also includes the elements of *Tennessee v. Garner* (1985). For example, General Orders states that deadly force may be used on a fleeing subject that presents an imminent danger of serious bodily injury or death to an officer or another person.

Consistent with the practical ideal type, the Austin Police Department does instruct on the use-of-force legal standards that police officers are held to. All Austin Police officers are instructed on, and required to abide by, all policies contained in the General Orders. These legal standards are, as noted above, established in General Orders (B101a Response to Resistance). The Austin Police Department meets the standard for instructing on legal standards, therefore receiving a score of 1 out of a possible 2 points.

### *Document Analysis – Employ a Force Continuum Model*

The Austin Police Department meets the standard of employing a use-of-force model to guide officers' decision making during police-subject confrontations. Table 4.1 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

This use-of-force model is known as the Dynamic Response-to-Resistance Model (DRRM). The DRRM emphasizes that the subject's level of resistance determines that force, or response, used by an officer to counter that resistance. The DRRM guides officers to respond with proportional force according to that resistance provided by the subject, escalating and de-escalating the level of force based on the situation. Specifically, the officer will assess the subject's level of resistance and place that resistance into one of six categories and, based on training and experience, respond to it with the appropriate level of force:

- No Resistance (Compliant) – The subject does not resist. The only force used by the officer is presence and verbal commands; no physical coercion is required;
- Passive Resistance – The subject fails to follow commands and may be verbally questioning or disagreeing. The subject's behavior is neutral and non-assaultive. The officer response may include firm grip, control holds, and pressure points to gain compliance;
- Defensive Resistance – The subject physically attempts to prevent the officer's control. In determining whether the subject is passively or defensively resisting, the officer must consider the *totality of circumstances* when choosing the force option necessary to control the situation and safely gain compliance. The officer can respond with soft-

empty hand techniques, take downs, pain compliance techniques, impact, chemical, or electronic weapons;

- Aggressive Resistance/Active Aggression – The subject takes offensive action by attempting to strike, push, tackle, or physically harm the officer or another person. If the officer perceives a threat by the subject's actions, the officer must respond with the appropriate force to stop the attack to defend him or herself;
- Deadly Resistance – The subject attempts to seriously injure or take the life of the officer or another person. The officer may use up to and including deadly force to stop the threatening behavior;
- Preparatory Resistance – The subject may show signs that he or she is preparing to advance greater resistance or attack through behavioral signs (verbal, non-verbal, and/or physical). The officer must be prepared to adjust tactically for the attack.

Training documents state that the DRRM's goal is to bring every confrontation to a compliant resolution. After placing the subject's resistance into one of the aforementioned categories, the officer then responds appropriately to that level of resistance guided by the model.

The DRRM concentrates the use-of-force analysis on the resistance of the subject to accurately reflect the events that precipitate a police-subject use-of-force confrontation. This model also streamlines training on use-of-force options and allows officers to explain a use-of-force confrontation through a resistance/response formula. The Austin Police Department, therefore, received a score of 1 out of a possible 1 point.

See the Austin Police Department's Dynamic Response-to-Resistance Model at the following link: [http://www.ci.austin.tx.us/police/downloads/training\\_documents/drrm.pdf](http://www.ci.austin.tx.us/police/downloads/training_documents/drrm.pdf)

### *Structured Interview – Employ a Force Continuum Model*

Resulting from the responses given from the structured interview, the Austin Police Department employs a force training model, meeting the practical ideal type standards. Table 4.1 presents the score of the structured interview findings. The remainder of this section presents the supporting evidence for the score.

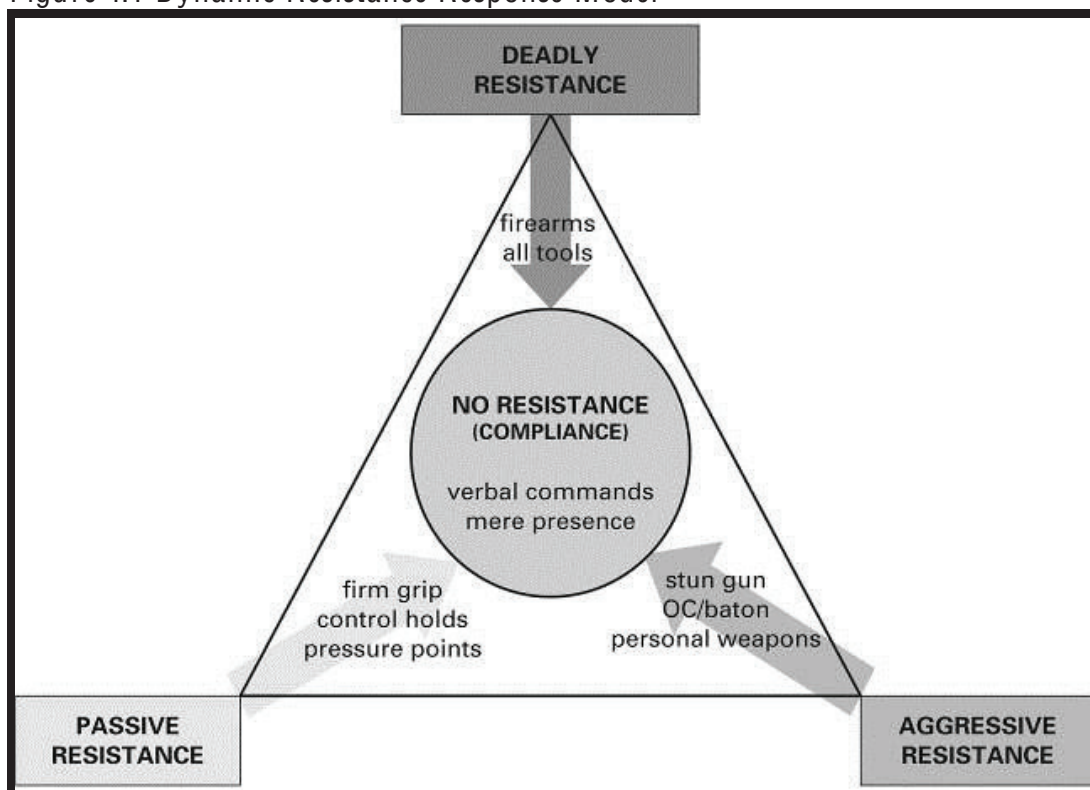
According to the responses from the interview, the Austin Police Department employs the Dynamic Response-to-Resistance Model (DRRM) as a training model for police officers in replacement of the “ladder” force continuum model (See Figure 2.1). Respondents stated that the DRRM is more fluid and guides officers, based on the totality of circumstances, to select the force option that is necessary to safely gain compliance. According to the respondents, the DRRM is a training model that guides the officer’s level of force based upon the precipitated resistance by the subject.

Respondents also stated that using the ladder force continuum model suggests to the public that officers are required to climb each “rung” one step at a time until compliance is gained. Therefore, the public has the mistaken perception that officers should use all intermediate weapons and tactics before advancing to the next force option presented on the ladder force continuum model.

Generally speaking, the Ausitn Police Department meets the standards for employing a force continuum model as identified in the practical ideal type. The following is a figure of the original *Dynamic Resistance Response Model*, slightly different than the Austin Police Department’s model, but the concept is similar. From the evidence gathered from the structured interview, the Austin Police Department received a score of 1 out of a possible 1 point.



Figure 4.1 Dynamic Resistance Response Model



Source: Joyner and Basile, 2007, 19

### *Document Analysis – Establish Deadly Force Guidelines*

The Austin Police Department does not meet the standards of establishing deadly force guidelines as identified in the practical ideal type. Table 4.1 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

As provided in General Orders (B101a Response to Resistance), the Austin Police Department includes most of the deadly force guidelines identified in the practical ideal type model. Clearly stated throughout the deadly force guidelines is the “objectively reasonable” standard to remind APD officers that the use of deadly force must meet this criteria.

Additionally, as previously mentioned, elements of *Tennessee v. Garner* (1985) are included.

General Orders establishes criteria for the use of deadly force similar to the practical ideal type model. For example, General Orders restricts the display of firearms in an “intimidating or threatening fashion unless it is objectively reasonable to believe that there is a substantial risk that the situation may escalate to the point where deadly force may be permitted.”

Additionally, General Orders states that firearms – unless objectively reasonable belief that deadly force is necessary – should not be discharged: in any misdemeanor case; from a moving vehicle or at a moving or fleeing vehicle; or to effect the detention or arrest of an individual attempting to escape. While these additional restrictions are laudable, some vital elements are missing.

General Orders does not meet the practical ideal type because it does not clearly state that deadly force should not be used against subjects who are surrendering, voluntarily stopping to end police pursuit. Also, it should state that police should not use deadly force against unarmed, non-violent, and non-threatening fleeing subjects, which it does not. Therefore, the Austin Police Department’s deadly force guidelines does not meet the standards of the practical ideal type model, receiving a score of 0 out of a possible 2 points.

### *Document Analysis – Establish Less-lethal Force Guidelines*

The Austin Police Department meets the standards for establishing less-lethal force guidelines as identified in the practical ideal type model. Table 4.1 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

General Orders (B101a Response to Resistance) is consistent with the practical ideal type model establishing where less-lethal force would be appropriate and under what circumstances

less-lethal force is permitted. As stated with deadly force guidelines, the “objectively reasonable” standard is stated to remind officers that their use of less-lethal force is measured through this lens.

General Orders also indicates that a verbal warning will be provided to the subject prior to less-lethal force deployment if reasonable and the warning will not significantly endanger the officer or another. The Austin Police Department’s less-lethal force guidelines meets the standards of the practical ideal type model. Therefore, the Austin Police Department received a score of 1 out of a possible 2 points.

The following integrated table provides the scores assigned to each practical ideal type subcategory derived from each research method.

Table 4.1 Clear Use-of-Force Guidelines Findings

Clear Use-of-Force Guidelines			
Practical Ideal Type SubCategory	Research Method	Source	Evidence
Instruct on Legal Standards	Document Analysis	General Orders	1 = Meets Standards
Employ a Force Continuum Model	Document Analysis	Training Documents	1 = Meets Standards
	Structured Interview	Managers	1 = Meets Standards
Establish Deadly Force Guidelines	Document Analysis	General Orders	0 = Does Not Meet Standards
Establish Less-lethal Force Guidelines	Document Analysis	General Orders	1 = Meets Standards

## Extensive Training in All Force Options

Extensive Training in All Force Options is the second category of the practical ideal type model. The subcategories of Extensive Training in All Force Options that should be present are: Firearms; Chemical Weapons; Electronic Weapons; and Impact Weapons and Impact Munitions. Table 4.2 provides the results of each research method used to assess the subcategories.

### *Document Analysis – Firearms*

The Austin Police Department meets the standards for firearms training as identified in the practical ideal type. Table 4.2 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

Per General Orders (B101b Duty Weapons), officers are required to qualify with their firearms on an *annual* basis, meeting the minimum qualification standard set forth in the Texas Administrative Code. Officers who routinely work part or all of their shift under low-light conditions must qualify on the nightfire course. All qualification scoring is done on a pass/fail basis. Officers will be given another opportunity to pass qualification if they fail to qualify. If the officer does not qualify, the officer will be placed in a non-enforcement capacity and scheduled for a remedial training class. Generally speaking, officers who fail to qualify during remedial training classes will be subject to termination.

As a result of document analysis, the Austin Police Department meets the standards for providing firearms training identified in the practical ideal type, receiving a score of 1 out of a possible 2 points.

### *Structured Interview – Firearms*

Through the structured interview, however, it was determined that the Austin Police Department exceeds the standards for firearms training identified in the practical ideal type. Table 4.2 presents the score of the structured interview findings. The remainder of this section presents the supporting evidence for the score.

The respondents confirmed that Austin police officers are trained on the following elements: computer-based simulation; live-fire, scenario-based methods; shooting at moving targets; shooting while moving; strong-hand/weak-hand firing; close-quarters combat; reloading techniques; gun-retention methods; and reduced-light/low-light shooting.

In addition to FATS (Firearms Training Simulator) training identified in the practical ideal type model, respondents stated that training is also completed utilizing the Mobile Forced Option Simulator (MFOS) to train officers using live-fire and laser-based less-lethal tools (Similar to Figure 4.2). The MFOS is a tractor-trailer container that projects real-world scenarios onto a projector screen/wall. The MFOS moves from sub-station to sub-station (East Sub, North Sub, and South Sub) on a monthly basis, allowing officers to train at their leisure, and allows officers to train on firearms and less-lethal weapons. This provides officers with additional training opportunities through increased frequency of availability. Respondents stated that beginning in 2012, officers will be required to complete firearms training using the MFOS on a monthly basis, exceeding the standards of the practical ideal type model.

Respondents also stated that officers are annually trained on legal concepts and departmental policies involving the use of firearms and deadly force. Consistent with the document analysis findings, respondents said that officers will receive remedial training if they fail to qualify, and will be “benched” and not allowed to patrol until they do qualify. Therefore,

because the Austin Police Department exceeded the practical ideal type standards, it received a score of 2 out of a possible 2 points.

### *Direct Observation – Firearms*

From direct observation, the researcher concluded that the Austin Police Department exceeds the standards for firearms training identified in the practical ideal type. Table 4.2 presents the score of the direct observation findings. The remainder of this section presents the supporting evidence for the score.

The researcher was allowed the opportunity to visit the MFOS and observe firearms training methods and practices on March 7, 2011. It was important to directly observe firearms training methods and practices because it provided the researcher the ability to see the extent that the Austin Police Department's firearms training was extensive.

Here is how the MFOS works:

- A video (with audio) of a scenario-based incident is projected onto a wall/projection “screen” with the officer standing in the trailer, facing the wall, as if he or she is actually “on-scene” and included in the incident. For example, the officer responds to a domestic violence call outside of a home, making contact with an individual in the yard. The individual exhibits “resistance” and the officer responds using, say, empty-hand strikes or knee strikes, literally hitting an actual heavy bag next to the officer – the heavy bag represents the subject. Note: the incident is playing out on the screen while the officer is striking the bag.

- On the projection screen, a “relative” of the resistant subject comes out of the home, yelling at the officer, but he is standing on the porch approximately 10 yards away. At this time, the officer begins to shout verbal commands to the “relative” to stay back, still administering body strikes to the heavy bag/subject.
- The relative then enters back into the home and exits with a video camera, recording the incident taking place with the subject and the officer, and still yelling at the officer. During this time, the officer may select his/her ASP or PR-24 and begin administering strikes to the heavy bag/subject, or continue with empty-hand strikes.
- The relative enters back into the home, again, and returns with what appears to be an object in his hand. The object is not easily discernable because the relative is walking on the porch and behind a set of stairs on his way toward them, attempting to conceal it.
- Once the relative reaches the yard, he brandishes the object – a knife – in a threatening manner and advances toward the officer. The officer shouts commands to drop the knife and to get back but the relative continues toward him.
- The officer disengages that heavy bag/subject and draws his duty weapon, firing a live round(s) at the relative/wall. The wall is rubber and the round penetrates the wall. The impact of the round on the rubber creates friction (heat) and an obvious hole. The hole in the wall is then highlighted by a laser that captures the heat from the friction of the bullet, marking exactly where the bullet hit in relation to the relative. The officer can fire his/her weapon more than once if the target (center body mass) is not hit.
- The round that penetrates the rubber is captured behind the wall by metal slats that angle the round in a downward direction. The round finally comes to rest at this point.

The Austin Police Department has the ability to create all types of scenarios for MFOS training. Because these scenarios are taped using real actors and actual places, such as a traffic stop, a house or building, or a school setting, it is literally left up to the imagination of training personnel on the types of scenarios officers are trained on.

The Austin Police Department also utilizes a firearms training exercise known as “Shoot/Don’t Shoot.” This method used to train APD officers is known as the “Quick-Skill Drill.” This drill will quickly produce targets that resemble either the “Good Guy” or “Bad Guy” and the officer will have to quickly make a decision and react, or not react. This weapon/reaction hand shooting, also known as instinct shooting, is an effective training method. Realistic, live-fire, scenario-based, computer-simulated training methods are effective because they improve operational performance and help reduce negative reactions and distortions of memory. The Austin Police Department, exceeding the practical ideal type standards, received a score of 2 out of a possible 2 points

Figure 4.2 CHP Training Simulator



Source: California Highway Patrol (FOTS)  
Forced Option Training Simulator



### *Document Analysis – Chemical Weapons*

The Austin Police Department does not meet the standards for chemical weapons training identified in the practical ideal type. Table 4.2 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

Consistent with the practical ideal type model, General Orders (B101a Response to Resistance) states that officer should not use OC spray on subjects who are only verbally or passively resisting. But General Orders also has conflicting OC spray restrictions on handcuffed prisoners, stating that OC spray will not be used *unless* they are aggressively resisting and other means of controlling the subject have failed.

The practical ideal type model states that officers *should not* use OC spray on a handcuffed subject because of the possible correlation between OC spray and the restriction that handcuffing causes to respiration. Therefore, an analysis of documents concluded that the Austin Police Department does not meet the standards for chemical weapons training identified in the practical ideal type. It should be noted that a thorough analysis of documents, however, yielded a limited amount of useful information on chemical weapons training. Here, the Austin Police Department received a score of 0 out of a possible 2 points.

### *Structured Interview – Chemical Weapons*

The Austin Police Department meets the standards for chemical weapons training identified in the practical ideal type. Table 4.2 presents the score of the structured interview findings. The remainder of this section presents the supporting evidence for the score.

Respondents stated that officers should give verbal warnings, as much as possible, prior to administering OC spray on a resistant subject. Also, consistent with the practical ideal type,

officers should apply a burst of roughly 1 to 2 seconds on the subject, targeting the forehead area, and not directly into the eyes. Respondents stated that an ideal maximum distance between the subject and the officer for deploying OC spray is 6 to 8 feet, but no closer than roughly 18 inches.

When asked whether or not OC spray should be used on a passive resisters or active threats of resistance, the respondents stated that the circumstance for using OC spray is guided by the DRRM and the officer must be able to articulate the factors that led to its use. A *clear guideline* on OC spray use was not provided during the structured interview. Rather, the decision to use OC spray on a passive resister, or active threats of resistance by a subject, is at the discretion of the officer. Therefore, the Austin Police Department received a score of 1 out of a possible 2 points.

### *Direct Observation – Chemical Weapons*

The Austin Police Department exceeds the standards for chemical weapons training identified in the practical ideal type. Table 4.2 presents the score of the direct observation findings. The remainder of this section presents the supporting evidence for the score.

The researcher was provided the opportunity to directly observe chemical weapons training methods and practices on March 7, 2011. Similar to firearms training at the MFOS, officers are able to use less-lethal weapons (intermediate weapons) during real-world training scenarios, as well. For example, where deadly force is not permitted, officers can train to use less-lethal weapons during MFOS training. Guided by the DRRM, if the officer is able to articulate a threat not rising to the level of deadly, officers may use less-lethal force, such as OC spray, to gain compliance of a resistant subject.

Personnel demonstrated to the researcher that rather than drawing their duty weapon during MFOS training, officers can deploy “OC spray;” however, the “spray” is a laser beam rather than the actual spray – for obvious reasons. The laser beam marks where the OC spray were to have hit had it actually been deployed. This allows the officer to determine if he or she hit the target, thereby, addressing performance opportunities and necessary training needs. This training, similar to the firearms training, allows officers to train using real-world scenarios through scenario-based, computer simulation. Consequently, through direct observation, the Austin Police Department received a score of 2 out of a possible 2 points for exceeding the practical ideal type standards.

#### *Document Analysis – Electronic Weapons*

The Austin Police Department exceeds the standards for electronic weapons training identified in the practical ideal type. Table 4.2 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

Generally speaking, components of the practical ideal type model are found to be consistent with General Orders (B101a Response to Resistance) and training documents. For example, training documents revealed that extended duration of the TASER should be avoided if possible. Likewise, training documents stated TASER cycles “shall stop” once the subject is under control (achievement of NMI – neuromuscular incapacitation). In addition, training documents stated that the best range for deployment is 7-15 feet, and also included examples of population risks to consider when deploying the TASER, consistent with the practical ideal type.

Nevertheless, General Orders states that “Unacceptable Uses” of an electronic weapon include: deployment of a CED against a subject operating a motor vehicle, bicycle, skateboard,

or riding any conveyance where they may fall while the vehicle is in motion. A thorough review of the literature did not reveal this distinct restriction on the use of the TASER. This standard exceeds the practical ideal type's guidelines and restrictions on its use, therefore providing the Austin Police Department a score of 2 out of a possible 2 points.

### *Structured Interview – Electronic Weapons*

The Austin Police Department meets the standards for electronic weapons training identified in the practical ideal type. Table 4.2 presents the score of the structured interview findings. The remainder of this section presents the supporting evidence for the score.

Generally speaking, respondents provided consistent guidelines and restrictions identified in the practical ideal type model. For example, respondents stated that officers should not deploy the TASER at subjects who are pregnant, elderly, near flammable objects or areas, or on an elevated structure. Respondents provided no minimum distance to use the TASER because the TASER may be used in “contact” or “drive-stun” mode. Respondents also stated that officers should provide verbal warning prior to TASER deployment if reasonably able to do so.

Respondents stated to obtain the maximum effectiveness of the TASER is to create the greatest “probe spread” on the subject. For example, when the TASER is deployed, two probes discharge vertically at the subject. The maximum effectiveness occurs when the probes connect and shock the subject at a greater distance from each other – probe spread. If the subject is still resisting or non-compliant at this point, the officer may approach the subject and apply a “contact” or “drive-stun” charge, incapacitating the subject long enough to safely apply handcuffs.

If previous TASER cycles do not work, respondents stated continuous cycles may be used. Furthermore, respondents stated that the TASER may be used on non-compliant, handcuffed subjects if its use is “reasonable” to gain compliance. This structured interview yielded a score for the Austin Police Department of 1 out of a possible 2 points.

### *Direct Observation – Electronic Weapons*

The Austin Police Department exceeds the standards for electronic weapons training identified in the practical ideal type. Table 4.2 presents the score of the direct observation findings. The remainder of this section presents the supporting evidence for the score.

The researcher was provided the opportunity to directly observe electronic weapons training methods and practices on March 7, 2011. Using the MFOS, officers have the ability to train on the TASER under real-world, scenario-based simulations, similar to firearms training. Consistent to chemical weapons training, officers “deploy” the TASER using a laser that pinpoints where the probes would have hit if actually deployed during a real-life situation. Using the MFOS, officers can train using the TASER under different scenario-based simulations to identify training needs and improve operational performance in the field. Direct observation yielded a score of 2 out of a possible 2 points for the Austin Police Department.

### *Document Analysis – Impact Weapons and Impact Munitions*

The Austin Police Department meets the standards for impact weapons and impact munitions training identified in the practical ideal type. Table 4.2 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

Document analysis of training documents yielded three areas of instruction on impact weapons: Portation – carrying the weapon; Presentation – how to draw the weapon; and Striking Techniques – actual strikes conducted. Areas of impact weapons training also include: safe separation (Check and Redirect); stances (interview and combat); target areas (center mass of the arm, center mass of the leg, and center mass of the body); how to grip the impact weapon; hand position; and components of power. Furthermore, training documents provided methods on close-mode strikes and open-mode strikes. Close-mode strikes consists of the weapon strike, reaction strike, and straight strike; while open-mode strikes consists of weapon strike, reaction strike, straight strike, and rapid-response strike.

Generally speaking, General Orders (B101a Response to Resistance) and training documents are consistent with the practical ideal type. Location of strikes to the body, avoiding vulnerable areas of impact, and methods used to apply the strike are consistent with the practical ideal type model. For example, General Orders states that impact weapon strikes should only be delivered to vulnerable areas of the body which may render the subject temporarily incapacitated. General Orders states that impact weapon strikes to the head should only be used in deadly force altercations.

General Orders' impact munitions restrictions and guidelines (B101a Response to Resistance) are generally consistent with the practical ideal type model, meeting the standards. Most importantly, General Orders reminds officers that the use of impact munitions creates a risk of death or serious bodily injury. The Austin Police Department received a score of 1 out of a possible 2 points.

### *Structured Interview – Impact Weapons and Impact Munitions*

Based on the responses from the interview, the Austin Police Department exceeds the standards for impact weapons and impact munitions training identified in the practical ideal type. The remainder of this section presents the supporting evidence for the score.

Respondents stated that large muscle groups are target areas for the ASP or PR-24 – the Austin Police Department utilizes both. Respondents stated that areas to avoid are the head, groin, and neck region – preferably, the abdomen down. Overhead strikes are forbidden, as well, because this will increase the risk of an impact strike to the subject’s head. As for impact munitions, respondents stated that target areas are nearly the same as impact weapons.

Respondents, although, stated that the less-lethal shotgun target areas are the thigh, buttocks, and rear – a lower target area than the practical ideal type model describes. Consequently, this guideline is more restrictive than the practical ideal type model. Because of this more extensive safeguard, the Austin Police Department received a score of 2 out of a possible 2 points.

The following integrated table provides the scores assigned to each practical ideal type subcategory derived from each research method.

Table 4.2 Extensive Training in All Force Options Findings

Extensive Training in All Force Options			
Practical Ideal Type SubCategory	Research Method	Source	Evidence
Firearms	Document Analysis	General Orders	1 = Meets Standards
	Structured Interview	Managers	2 = Exceeds Standards
	Direct Observation	Training Academy	2 = Exceeds Standards
Chemical Weapons	Document Analysis	General Orders	0 = Does Not Meet Standards
	Structured Interview	Managers	1 = Meets Standards
	Direct Observation	Training Academy	2 = Exceeds Standards
Electronic Weapons	Document Analysis	General Orders, Training Documents	2 = Exceeds Standards
	Structured Interview	Managers	1 = Meets Standards
	Direct Observation	Training Academy	2 = Exceeds Standards
Impact Weapons and Impact Munitions	Document Analysis	General Orders, Training Documents	1 = Meets Standards
	Structured Interview	Managers	2 = Exceeds Standards

### Thorough Review of Use-of-Force Incidents

Thorough Review of Use-of-Force Incidents is the third category of the practical ideal type use-of-force model. The subcategories of a Thorough Review of Use-of-Force Incidents that should be present are: Comprehensive Use-of-Force Reporting; and Employ an Early



Warning System. Table 4.3 provides the results of each research method used to assess the subcategories.

### *Document Analysis – Comprehensive Use-of-Force Reporting*

Generally speaking, the Austin Police Department meets the standards for use-of-force reporting identified in the practical ideal type. Table 4.3 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

The elements of use-of-force reporting found in the practical ideal type are generally consistent with reporting policies and procedures found in General Orders (B101c Response-to-Resistance Inquiry, Reporting, and Review). Officer reporting protocols and supervisor duties in reporting the use of force are generally consistent. Elements of the use-of-force incident that are required to be reported are consistent, as well.

Document analysis yields a system of reporting the use of force; however, R2R Levels, or the “buckets,” that uses of force are placed into could dilute, or completely eliminate, precise details of officers’ use-of-force confrontations. Still, through document analysis, the Austin Police Department received a score of 1 out of a possible 2 points.

### *Structured Interview – Comprehensive Use-of-Force Reporting*

Generally speaking, consistent with the document analysis findings, the Austin Police Department meets the standards for use-of-force reporting identified in the practical ideal type. Table 4.3 presents the score of the structured interview findings. The remainder of this section presents the supporting evidence for the score.

Based on the response from the structured interview, officers reporting the use of force are required to document the use-of-force incident through Versadex, including a Detail Page and Response-to-Resistance Report (Title Code 8400). In addition to these reports, officers are required to document the subject's medical requests, injuries, etc., on the "Effects Page."

The Versadex Report contains a narrative of what occurred up to, during, and after the incident. The Details Page will provide supplemental information to the incident: call type; employee name/badge#; how the officer got there/route; intoxication level of the subject (if any); resistance by the subject; and the force used by the officer to respond to that resistance.

The respondent stated that officers are to document any and all uses of force beyond un-resisted handcuffing and come-along holds. Any and all officers engaged in the use of force, or witnesses to the use-of-force incident, are required to submit a Response-to-Resistance Report, as well. For example, the respondent stated that if a group of officers are attempting to apply handcuffs on a resistant subject who is on the ground, and another officer arrives on-scene and places his/her knee on the subject's back to help control the subject, that officer is required to fill out a Response-to-Resistance Report because of the force used.

The respondent stated that supervisor responsibilities include traveling to the scene for all Level 1 and Level 2 use-of-force (Response-to-Resistance) incidents. Determining on the method and circumstances involved for Level 3 incidents, the supervisor may or may not respond to the scene. Nevertheless, most, not all, Level 3 use-of-force incidents require supervisors to respond to the scene. After reviewing, the supervisor is tasked with updating the officer's Title Code 8400 R2R Report to an 8403 (Level 3 R2R), 8402 (Level 2 R2R), or 8401 (Level 1 R2R).

The respondent stated that the supervisor that responds to the scene will assess the use-of-force incident and ensure there are no discrepancies with what the officer is reporting and what the subject is reporting. The respondent stated that if discrepancies exist, the officer will have to explain the discrepancies. The supervisor is also tasked with identifying witnesses to the incident and interviewing them, and securing evidence such as the MVR (in-car video) for review.

Consistent with document analysis, the respondent stated that Level 3 R2R reports will be reviewed by the shift lieutenant. Level 2 R2R reports will be reviewed by the Chain of Command (COC) and the Force Review Board. Level 1 R2R reports will be reviewed by Special Investigations Unit (SIU) and Internal Affairs Division (IAD). Hence, the Austin Police Department received a score of 1 out of a possible 2 points.

### *Document Analysis – Employ an Early Warning System*

In general, the Austin Police Department meets the standards for employing an early warning system identified in the practical ideal type. Table 4.3 presents the score of the document analysis findings. The remainder of this section presents the supporting evidence for the score.

Document analysis provides most elements of the practical ideal type model to be employed by the Austin Police Department's early warning system – otherwise known as the Guidance Advisory Program (GAP). Nevertheless, document analysis yields two indicators that should be captured and reviewed by GAP to address officer issues, but it does not. These indicators are *involvement in civil litigation* and *injuries sustained while on duty*. The Austin

Police Department's GAP system already captures most of the indicators listed in the practical ideal type model.

Most of those indicators are captured through a "Complaint" generated by the Professional Standards Division. For example, an officer who is involved in a traffic accident or "spousal abuse" will automatically generate a complaint in the database. Therefore, a complaint is an umbrella that captures specific indicators or identifiers warranting intervention. An analysis of documents yielded a score of 1 out of a possible 2 points for the Austin Police Department.

#### *Structured Interview – Employ an Early Warning System*

Generally speaking, consistent with the document analysis findings, the Austin Police Department meets the standards for use-of-force reporting identified in the practical ideal type. Table 4.3 presents the score of the structured interview findings. The remainder of this section presents the supporting evidence for the score. Also, consistent with the document analysis findings, the respondent stated that the indicators captured by GAP (APD's early warning system) are Response-to-Resistance Reports (Title Code 8400), Internal Affairs complaints (Internal and External), and sick time usage.

For example, if an officer uses more than 160 hours of sick time in a 12 month period, GAP will "trigger," indicating an intervention is warranted. The respondent stated if, however, the 160 hours of sick time used is due to FMLA issues, an intervention is not warranted. Also, as provided in General Orders, if a patrol officer produces 6 or more R2R reports in any rolling 12 month period, an intervention is warranted. The respondent stated that 2 or more Internal Affairs

complaints (either A, B, C, D, or Administrative Inquiry levels) in any rolling 12 month period will trigger GAP, as well.

The respondent stated that these GAP reports are produced on a quarterly basis. The reports are generated from four separate programs that filter into the GAP system for analysis. Professional Standards Division (Internal Affairs and Risk Management) then reviews to determine if any intervention is in fact needed. Professional Standards will send the activity to the officer's supervisor and the chain of command.

The respondent stated that the supervisor will address the issue(s) with the officer and respond back to Professional Standards indicating what corrective measures were taken, if any. A detective in Professional Standards will then review responses, look for concerns with the measures taken, if any, and address those concerns about the intervention with the supervisor and chain of command. The respondent stated that this review of responses, or "quality check," is a form of "oversight," and ensures performance or behavioral concerns are properly addressed with the officer. The Austin Police Department received a score of 1 out of a possible 2 points from the structured interview.

The following integrated table provides the scores assigned to each practical ideal type subcategory derived from each research method.

Table 4.3 Thorough Review of the Use of Force Findings

Thorough Review of the Use of Force			
Practical Ideal Type SubCategory	Research Method	Source	Evidence
Comprehensive Use-of-Force Reporting	Document Analysis	General Orders	1 = Meets Standards
	Structured Interview	Manager	1 = Meets Standards
Employ an Early Warning System	Document Analysis	General Orders	1 = Meets Standards
	Structured Interview	Manager	1 = Meets Standards

### The Austin **Police Department** “Meets Standards”

The Austin Police Department generally received a “Meets Standards” scoring for their use-of-force policies and practices. Nevertheless, there are recommendations for some of the use-of-force policies and practices that will be discussed in the Conclusion chapter. Irrespective of the concerns that will be addressed in Chapter IV, the Austin Police Department’s use-of-force policies and practices, generally speaking, have standards that meet police best practices established in the practical ideal type model. Finally, the overall score for the Austin Police Department’s use-of-force policies and practices is 24 out of a possible 38 maximum points.

## Chapter Summary

This chapter presented the results of the case study conducted on Austin Police Department's use-of-force policies and practices. The results were presented reflecting the operationalization of the conceptual framework. Each subcategory was provided with a description of how the Austin Police Department's use-of-force policies and practices measured against the best practices for use-of-force policies and practices within law enforcement.

Additionally, a table was provided to exhibit the research method, source, and evidence found for each subcategory. Relating to the evidence found, each subcategory of the conceptual framework was given a score to measure how closely it compared to best practices standards. Finally, an overall score of the Austin Police Department's use-of-force policies and practices was presented. The next chapter provides a conclusion, recommendations to the Austin Police Department, strengths and weaknesses of the research, and future research recommendations.

## CHAPTER V: CONCLUSION

### Research Purpose

The purpose of this research is threefold. The first purpose is to establish a practical ideal model to assess use-of-force policies and practices in law enforcement. Second, using a case study method, current use-of-force policies and practices at the Austin Police Department are examined. Finally, the project will provide recommendations for improving use-of-force policies and practices at the Austin Police Department.

Public administrators frequently use research findings to make recommendations to improve programs (Shields and Tajalli, 2005, 27). A way to evaluate the effectiveness of a program processes is to develop criteria and then collect empirical evidence to contrast the reality of the program against the criteria. The practical ideal type is the best components found after engaging in a careful review of the literature (Shields and Tajalli, 2005, 27). Practical ideal types are useful because they can be viewed as standards or points of reference for policy recommendations (Shields, 1998, 215).

### Chapter Summaries

The first chapter provided an introduction to the research project, discussing background on police use of force, the Austin Police Department, and use-of-force policies. The second chapter presented the ideal components of a practical ideal type model, based on a review of the literature, to gauge use-of-force policies and practices at the Austin Police Department. The third chapter outlined the research methodology and operationalization of the practical ideal type. This research encompassed a case study method using document analysis, structured



interviews, and direct observation to provide a comprehensive assessment of the Austin Police Department's use-of-force policies and practices.

The fourth chapter presented the results of the case study of the Austin Police Department's use-of-force policies and practices. This chapter presents recommendations based on the research to improve use-of-force policies and practices at the Austin Police Department. Subsequent to recommendations, strengths and weaknesses of this research will be discussed, future research recommendations will be provided, and concluding remarks will follow.

#### Recommendations for the Austin Police Department

The practical ideal type model for this case study comprises three ideal categories of use-of-force policies and practices. These categories are developed and broken down into subcategories through an extensive literature review and presented in the conceptual framework. Table 5.1 identifies the three major categories, along with the subcategories, the respective research method, whether or not the evidence supports each subcategory, and recommendations for each.

Table 5.1 Recommendations

Clear Use-of-Force Guidelines			
Practical Ideal Type Subcategory	Research Method	Evidence	Recommendation
Instruct on Legal Standards	Document Analysis	Meets Standards	<ul style="list-style-type: none"> <li>Regularly review General Orders to ensure consistency with legal standards</li> </ul>
Employ a Force Continuum Model	Document Analysis	Meets Standards	<ul style="list-style-type: none"> <li>Research further the DRRM to determine effectiveness and efficiency</li> </ul>
	Structured Interview	Meets Standards	

Establish Deadly Force Guidelines	Document Analysis	Does Not Meet Standards	<ul style="list-style-type: none"><li>• Policy should include additional deadly force restrictions</li></ul>
Establish Less-lethal Force Guidelines	Document Analysis	Meets Standards	<ul style="list-style-type: none"><li>• Routinely review less-lethal force guidelines so that they are appropriately crafted around legal standards</li></ul>
Extensive Training in All Force Options			
Firearms	Document Analysis	Meets Standards	<ul style="list-style-type: none"><li>• If resources permit, require officers to qualify on a quarterly basis. Other than this, no recommendations.</li></ul>
	Structured Interview	Exceeds Standards	
	Direct Observation	Exceeds Standards	
Chemical Weapons	Document Analysis	Does Not Meet Standards	<ul style="list-style-type: none"><li>• Train officers to use OC spray before physical control techniques</li><li>• Do not use OC spray on handcuffed subjects under any circumstances</li></ul>
	Structured Interview	Meets Standards	
	Direct Observation	Exceeds Standards	
Electronic Weapons	Document Analysis	Exceeds Standards	<ul style="list-style-type: none"><li>• Train officers to use the TASER before physical control techniques</li><li>• Research further the effects of the TASER on handcuffed subjects</li></ul>
	Structured Interview	Meets Standards	
	Direct Observation	Exceeds Standards	
Impact Weapons and Impact Munitions	Document Analysis	Meets Standards	<ul style="list-style-type: none"><li>• Train officers to use the ASP or PR-24 before physical control techniques</li></ul>
	Structured Interview	Exceeds Standards	
Thorough Review of the Use of Force			

Comprehensive Use-of-Force Reporting	Document Analysis	Meets Standards	<ul style="list-style-type: none"> <li>Incorporate Force Factor Scores and the Resistance Force Comparative Scale (RFCS) to establish a more detailed approach to use-of-force reporting</li> </ul>
	Structured Interview	Meets Standards	
Employ an Early Warning System	Document Analysis	Meets Standards	<ul style="list-style-type: none"> <li>Additional indicators should be included to effectively capture, assess, and address officer behavior</li> </ul>
	Structured Interview	Meets Standards	

- Instruct on Legal Standards

The Austin Police Department should continue to review of General Orders to ensure consistency with case law; this is vital to any use-of-force policy. Consistency with use-of-force legal standards and concepts will ensure that the Austin Police Department's efforts to provide the best service to the public are indeed the objective. Instruction on use-of-force legal standards to Austin Police officers is the foundation to all use-of-force training.

- Employ a Force Continuum Model

The DRRM (Dynamic Resistance Response Model), developed by two FBI agents (Figure 4.1), is a relatively new, yet innovative, approach to use-of-force training models. For that reason, further research by the Austin Police Department into the DRRM to assess its effectiveness and efficiency is important. Based on previous use-of-force continuums, which, incidentally, are utilized by over 70 percent of police agencies in the United States (Wolf et al., 2009, 743), officers are provided with clear steps to guide their decision making when confronted with a resistant subject. The DRRM, however, creates a fluid response to the

resistance, possibly relying too much on the “common sense” of the officer to make the appropriate decision(s).

The Austin Police Department also, possibly adding confusion to the DRRM, added a “Defensive Resistance” category to their DRRM (Dynamic Response-to-Resistance Model). The original DRRM appears to be more streamline, direct, and clear than APD’s DRRM. Developing this hybrid approach by “reinventing the wheel” possibly adds to the level of confusion officers may already have during dynamic, rapidly evolving use-of-force confrontations.

Because of the DRRM’s infancy stage, further evaluation of the DRRM is necessary to accurately assess its effectiveness and practical application in the field. By tying detailed use-of-force reports to the DRRM there becomes a clearer understanding of how effective the DRRM is, along with identifying training opportunities for officers.

- Establish Deadly Force Guidelines

The Austin Police Department must establish policies that effectively govern the use of deadly force. Therefore, as stated in the results chapter, deadly force policy should include these additional restrictions: *police should not use deadly force against subjects who are surrendering, voluntarily stopping to end police pursuit. Also, police should not use deadly force against unarmed, nonviolent, and non-threatening fleeing subjects.*

Additionally, the Austin Police Department should continue to review case law to ensure changes in deadly force requirements are adhered to. Congruency with case law in the use of force, especially deadly force, is essential to any use-of-force policy because of the legal ramifications it holds. Moreover, the unreasonable use of deadly force by a police officer could

result in the unwarranted taking of a human life. Therefore, the Austin Police Department must be proactive in its efforts to safeguard the public's constitutional rights.

- **Establish Less-lethal Force Guidelines**

Because less-lethal weapons could potentially be lethal, appropriate guidelines and restrictions for their use should continue to be monitored. Less-lethal weapons are devices to assist a police officer's reasonably intrusive, coercive actions to effect a seizure. Nevertheless, inappropriate use of less-lethal weapons should be a concern for police administrators. Hence, less-lethal force guidelines should be closely monitored and ensure they are strictly adhered to.

- **Firearms**

The Austin Police Department utilizes a state-of-the-art training simulator to provide officers with scenario-based, real-world training. The benefits to officer training using the MFOS are numerous. Additionally, firearms training in all of the elements identified in the practical ideal type model will enhance officers' proficiency and performance in the field. But in addition to the extensive firearms training already received, officers should be required to qualify with their firearms on a quarterly basis. Now, in recognition of budget constraints and decreased federal funding, this may not be a possibility right now for the Austin Police Department. Still, it should be explored as a useful option in the future.

- **Chemical Weapons**

The Austin Police Department should train its officers to, when practical, deploy OC spray prior to engaging in physical control techniques with resistant subjects. Because officers and subjects are more likely to be injured when physical control techniques are used, utilizing OC spray when confronted with active threats of resistance will decrease the probability of officer and subject injuries alike. The goal of any use-of-force confrontation is to safely gain

compliance. Therefore, in order to safely bring the encounter to a resolution, officers should be trained to deploy OC spray before empty-hand/physical control techniques are used.

Example:

*An officer, working criminal interdiction, initiates a traffic stop (IH-35 N/B; rental vehicle - Illinois plates; various empty to-go food containers on the floor board; driver is nervous with conflicting stories; several car fresheners throughout the vehicle, etc.) and asks the driver to exit and step to the right side (grassy area) of the vehicle. Based on a road-side interview, the officer is under the suspicion that contraband may be inside of the vehicle. The officer also learns that the subject has a warrant for his arrest. The officer tells the subject to turn around and place his hands behind his back. The subject tells the officer “No!” and takes a defensive stance while clinching his fists. Before physically engaging the subject, and because of the active threat of resistance displayed, the officer deploys her OC spray and incapacitates the subject long enough for her to place the subject in handcuffs. In addition to the “objectively reasonable” force used by the officer, no injuries inflicted on the subject or on the officer. The subject subsequently “goes for a ride” to the nearest county jail for possession with intent to deliver 200 lbs of marijuana.*

Furthermore, the Austin Police Department should ensure that OC spray is never used on handcuffed subjects. The practical ideal type states that OC spray on handcuffed or restrained subjects should be forbidden. The use of OC spray may be a factor – not the sole factor – contributing to in-custody deaths of subjects who are handcuffed because of respiratory restriction. Nevertheless, the Austin Police Department allows the use of OC spray on a restrained or handcuffed subject if the subject is still aggressively resisting and lesser means of controlling the subject have failed. Given the training on various force tools and pain

compliance techniques, Austin Police officers should have no reason to spray a burst of OC into the face of a handcuffed prisoner.

- **Electronic Weapons**

Similar to chemical weapons, the Austin Police Department should train its officers to, when practical, deploy the TASER prior to engaging in physical control techniques with resistant subjects. The TASER, being the recommended intermediate weapon, can be used in the probe mode, allowing for greater reactionary gap (up to 15 feet for best accuracy), and contact/drive-stun mode. When officers are confronted with active threats of resistance, officers should use the TASER rather than engaging in a physical confrontation. See the previous Chemical Weapons example – the TASER could have been used under the same circumstances.

The Austin Police Department should also further research TASER usage on handcuffed subjects. Albeit the practical ideal type model states that both it should not be used AND it may be used during aggravated situations, further research should be conducted by the Austin Police Department to ensure the health and safety of individuals subjected to the TASER. Granted the Austin Police Department's use of the TASER on handcuffed subjects meets the practical ideal type model standards, the department must maintain its cognizance that TASERs have been known to be a factor, not the primary cause, in deaths resulting from TASER usage.

For example, White and Ready's (2009) research concluded the following predictors of subject death, although not the primary cause of death, from TASER deployment:

- ❖ subject resistance after the TASER was deployed (the likelihood of death was two times greater)
- ❖ subject was handcuffed (i.e. in custody) when the TASER was deployed (subject death was more than three times as likely)

- ❖ subject was transported to the hospital after the TASER was deployed (the likelihood of death was more than three times greater)
- ❖ subject was under the influence of drugs (subject death was four times more likely)
- ❖ subject was emotionally disturbed or mentally ill (subject death was nearly twice as likely) (White and Ready, 2009, 880).

The Austin Police Department should strongly consider mirroring the IACP Model Policy on electronic weapons provided in the practical ideal type model. As White and Ready (2009, 886) suggest, “departments would be well advised to consult these guidelines carefully when crafting their own policies. Adherence to PERF/IACP standards regarding suspect resistance level, use against vulnerable persons, multiple deployments, and reporting practices will likely reduce the potential for controversial and inappropriate deployments.”

- **Impact Weapons and Impact Munitions**

Similar to OC spray and the TASER, Austin Police officers should be trained to use the ASP or PR-24 before physically engaging a resistant subject. In order to reduce officer and subject injuries, using an impact weapon to respond to active threats of resistance will reduce the likelihood of injuries. Austin Police officers know that because of the pain it represents, the mere expanding or telescoping of the impact weapon may likely gain compliance with no strikes ever being delivered – “velcro effect”. Nevertheless, if this does not work, strikes to large muscle masses will cause only short-term pain, last only long enough to safely apply handcuffs, and therefore create a minimal chance of subject injuries if correctly applied.

- **Comprehensive Use-of-Force Reporting**

The Austin Police Department, in an effort to establish a more precise system of use-of-force reporting, should employ Force Factor Scores and couple it with the Resistance Force



Comparative Scale (RFCS) (Terrill et al., 2003). The Austin Police Department's Response-to-Resistance reports do not accurately capture the concept of *temporal sequencing*; rather, these R2R reports are useful to capture and analyze only the highest level of force used within that R2R Level (Level 1, Level 2, or Level 3).

As a result, the intricacies of a use-of-force encounter are excluded, leaving only minimal amount of information left to examine. Coupled with the DRRM, the Austin Police Department can provide a more detailed system of reporting use-of-force incidents by doing so, consequently creating a more effective way of analyzing officers' uses of force.

### *Force Factor Scores*

Table 5.2 Force Factor Scores

<i>Subject Resistance Levels</i>	<i>Officer Force Levels</i>
1. Cooperative and/or no resistance	1. No Force
2. Verbal noncompliance, passive resistance, and/or psychological intimidation	2. Strong verbal order (minimal contact)
3. Defensive resistance and/or attempted to flee	3. Forcibly subdued – hands or feet (defensive use – open hand or OC)
4. Active Resistance	4. Forcibly subdued – hands or feet (offensive use – open hand)
5. Aggravated Active Resistance	5. Forcibly subdued – intermediate weapon
6. Active resistance (with a deadly weapon)	6. Deadly Force

Source: Terrill et al., 2003, 155

Presented by Alpert and Dunham in 1997 (Terrill et al., 2003, 154), the force factor is calculated by subtracting the level of resistance from the level of force (force – resistance = force factor) (Terrill et al., 2003, 155). For instance, no force with a cooperative subject would calculate as  $1 - 1 = 0$ , demonstrating a commensurate level of force and resistance; subduing with hands or feet in an offensive manner on a passive resister would be calculated as  $4 - 2 = 2$ ,

demonstrating a higher level of force relative to resistance; and a verbal command and active resistance would calculate as  $2 - 4 = -2$ , presenting a lower level of force relative to resistance.

The problem with analyzing force simply through force factor scores is that they only capture the highest level of force and resistance used. This excludes the method of *temporal sequencing* identified in the practical ideal type model.

### *Resistance Force Comparative Scale*

Table 5.3 Resistance Force Comparative Scale

<i>Subject Resistance Levels</i>		<i>Officer Force Levels</i>	
1. No Resistance		1. No Force	
2. Passive or Verbal		2. Verbal or Command Threat	
3. Defensive		3. Restraint and control (including Oleoresin Capsicum spray)	
4. Active (including intermediate weapons)		4. Pain compliance or takedown	
5. Deadly Force		5. Intermediate Weapons	
		6. Deadly Force	
<i>Resistance Level</i>	<i>Less Force</i>	<i>Commensurate Force</i>	<i>More Force</i>
1	----	1, 2	3, 4, 5, 6
2	1	2, 3	4, 5, 6
3	1, 2	3, 4	5, 6
4	1, 2, 3	4, 5	6
5	1, 2, 3, 4, 5	6	----

Source: Terrill et al., 2003, 156

The RFCS takes each instance of resistance and force and codes it into sequences within each encounter. This links multiple resistance and force behaviors to determine if the level of force used falls within a continuum of force, or in this case, the Austin Police Department's DRRM. This provides a series of force factor scores as opposed to just one for each encounter (Terrill et al., 2003, 156).

To determine if the continuum or DRRM is followed for each sequence of resistance and force, the bottom portion of the RFCS is used. For example, no resistance (Level 1) and a verbal

command (Level 2) falls within the continuum – commensurate force; verbal resistance (Level 2) and a takedown (Level 4) would present a higher level of force than the continuum provides – more force; and defensive resistance (Level 3) and verbal force (Level 2) would present a lower level of force than the continuum provides – less force (Terrill et al., 2003, 156).

Once the outcome of individual sequences is determined, the entire string of sequences is examined and it is concluded whether the continuum or DRRM is followed as it should. The advantage of the RFCS is that *temporal sequencing* is taken into account as opposed to only the highest level of force, which provides “an incomplete depiction of the encounters” (Terrill et al., 2003, 157).

Example:

*An officer responds to a domestic disturbance call at an apartment complex. A subject exits the apartment upon arrival of the officer and walks toward the officer, showing no signs of aggression. The subject demonstrates no resistance, yet the officer deploys his TASER, striking him. The subject then defensively resists followed by the officer cycling his TASER once more.*

Use of the force factor, here, would only consider the highest levels of resistance and force, which would calculate, using the force continuum and the DRRM alike, to  $3 - 3 = 0$ . Nevertheless, using the RFCS produces a different picture, taking multiple uses of resistance and force into account. By looking at the sequencing of events, it is obvious that the initial use of force is not commensurate with the level of resistance. The incident began with a nonresistant subject who became resistant only after the officer deployed his TASER.

The intent of the RFCS is to uncover the extent to which officers respond to various levels of resistance with similar levels of force and whether an incremental approach is used when administering force (Terrill et al., 2003, 157).

### *How does APD couple the DRRM with the RFCS?*

The Austin Police Department can use data collected on force incidents and assess or track force by individual officer, assignment, length of service, ethnicity, gender, unit, or other variables (through DRRM analyses) (Terrill et al., 2003, 158). Using the DRRM and the RFCS can provide the Austin Police Department with “important information about the behavior of officers, the need for training, or the need to modify policy” (Terrill et al., 2003, 158).

Here are the eight stages of processing the RFCS and force factor scores, along with a summarization of each table.

Table 5.4 Reliability

STAGE 1 – RELIABILITY	<ul style="list-style-type: none"><li>❖ Designate someone to determine reliability of the reports</li><li>❖ Review report to ensure relevant information is provided</li><li>❖ Any conflict in reports should be noted</li></ul>
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This stage requires determining the reliability of the reports. The Austin Police Department should designate someone whose primary responsibility is to determine reliability, prepare reports for entering into a database, and subsequently, assess or compare both individual officers and groups of officers. This task should be relatively simple. Determining reliability starts with a review of the report to ensure all relevant information is provided. In cases where there is a conflict between written reports and subject or witness accounts, it should be noted and can eventually be incorporated into the analysis process in the following stages.

Table 5.5 Sequence Force Factor Scores

<p>STAGE 2– SEQUENCE FORCE FACTOR SCORES</p>	<ul style="list-style-type: none"> <li>❖ Tailor the force factor scores and the coding scheme to the DRRM</li> <li>❖ Force factor scores will consist of -1, 0, or 1</li> <li>❖ -1 = less force than the DRRM allows; 0 = commensurate force with level of resistance; and 1 = more than the DRRM allows</li> </ul>
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Stage 2 involves developing individual force factor scores for each temporal sequence within a police-subject encounter by gauging whether the officer behaved in a manner consistent within a force continuum, or APD’s DRRM. This is where the two techniques of the force factor scores and the RFCS merge.

This involves APD creating force factor scores similar to those shown in Table 5.2 and applying those scores in the manner described in Table 5.3. For the purposes of following the description, the researcher will refer to the model that mirrors Table 5.3. Nevertheless, any model design can be used, even the DRRM. Departments should tailor the scale and coding scheme according to its own needs (Terrill et al., 2003, 159).

The definition of a sequence is any occurrence of citizen resistance, police force, or both (Terrill et al., 2003, 159), therefore pairing the citizen behavior with that of the officer. Hence, APD should lay out each sequence of behaviors and give each one a force factor score of *-1, 0, or 1*. Force factor scores are categorized by how they relate to a specific continuum of force. For example, a sequence is coded -1 when officers use less force than the continuum, or the DRRM, allows (a higher level of resistance than force used); a score of 0 means force that is commensurate with the level of resistance (a level of resistance and force commensurate or are similar); and a score of 1 indicates that the officer uses more force than the continuum, or the DRRM provides (a higher level of force than resistance) (Terrill et al., 2003, 159).

The following examples show how force factor scores can be applied. Imagine an encounter that has three temporal sequences where the officer follows the DRRM in the first (no resistance and verbal command), follows it in the second (verbal resistance and physical restraint), and uses more force than resistance in the third (defensive resistance and intermediate weapon).

Here, the force factor coding would be 0, 0, and 1. Now imagine the same scenario, however in the third encounter, the officer uses less force than resistance (defensive resistance and verbal command). The scores coded here are 0, 0, and -1. Likewise, if the officer follows the DRRM in all three sequences, the score is coded 0, 0, and 0.

Table 5.6 Overall Incident Force Factor Scores

<p style="text-align: center;"><b>STAGE 3 – OVERALL INCIDENT FORCE FACTOR SCORES</b></p>	<ul style="list-style-type: none"> <li>❖ Compute an overall force factor for each police-subject encounter using -1, 0, 1; -1 = less force than resistance, 0 = commensurate force and resistance, and 1 = more force than resistance</li> <li>❖ Utilize a sliding scale</li> <li>❖ The coding structure can be manipulated to give an officer one or two increments that could be considered commensurate force</li> </ul>
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This stage entails computing an overall force factor for each police-subject encounter (determined by what happened in each sequence), using the force factor range of -1 to 1 (-1 = less force than resistance, 0 = commensurate force and resistance, and 1 = more force than resistance).

If the result for each sequence is the same for all of the sequences, then the final outcome should also stay the same. For instance, if there are three sequences and in each of them the DRRM is followed, then the final outcome is that the officer used commensurate force and is

coded as 0. Where an officer uses less force than the DRRM allows in one or more sequences and follows the DRRM in others, the final outcome should be that the officer used less force.

So, as long as less force is used in at least one of the sequences and there is no sequence involving the use of more force, the case will be coded as -1. Alternatively, if the officer in at least one of the sequences uses more force than the DRRM provides and follows the DRRM in others, then the final result is that the officer used more force, and should be coded as 1. But in cases where the officers uses less force in some sequences and more force than the DRRM permits in others, the final score will be given a special score of, say, -8 to distinguish it.

The Austin Police Department should utilize a sliding scale when encounters move from one sequence to another, and when repeated subject resistance or force is used (Terrill et al., 2003, 161). For example, if a resistant subject continues the same level of resistance in consecutive sequences, commensurate officer force should be coded at the next highest level of force.

Therefore, if in Sequence 1 the subject passively resists (lays on the ground) and the officer attempts a subtle form of physical control, and in Sequence 2 the subject again passively resists, the officer should not have to be restricted to physical control, which is what the basic continuum coding structure requires without using a sliding scale. In situations as these, the officer should be permitted to use a pain compliance technique as commensurate force – one step up on the continuum or the DRRM (Terrill et al., 2003, 161).

This continuum coding structure is a means to help identify cases when it appears officer force is not congruent with subject resistance according to its criteria. The Austin Police Department can manipulate the coding structure to give an officer one or two increments that could be considered as commensurate force (Terrill et al., 2003, 162). The intent here is to

provide adequate discretion without being too restrictive. The goal is to identify only those situations where subject resistance is substantially different than the level of force by the officer, as defined by APD's own predetermined threshold (Terrill et al., 2003, 162).

*“A most important aspect of classifying force using this analytical scheme is that it not only highlights instances when officers use more force but also details instances when officers resolve incidents with less force than what is justified, a strategy rarely used in assessing police use of force”* (Terrill et al., 2003, 162).

Table 5.7 Data Management

STAGE 4 – DATA MANAGEMENT	<ul style="list-style-type: none"><li>❖ Input captured information into database for assessment</li><li>❖ Create a temporal account of subject resistance and police force that includes individual sequence of force factor scores</li><li>❖ Include officer and subject characteristics</li><li>❖ Incorporate a variable indicating the overall force factor score</li></ul>
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This stage involves inputting the captured information into a database for assessment purposes. A temporal account of subject resistance and police force can be created that includes individual sequence force factor scores. Officer and subject characteristics such as gender, age, ethnicity, demeanor, and impairment should be included. The database should incorporate a variable indicating the overall force factor score of -1, 0, or 1 (Terrill et al., 2003, 162). Creating a database with the incident as the unit of analysis permits further aggregation of the data for analysis on officers, and by any number of categories (Terrill et al., 2003, 162).



Table 5.8 Individual Officer Assessment and Comparison

STAGE 5 – INDIVIDUAL OFFICER ASSESSMENT AND COMPARISON	<ul style="list-style-type: none"> <li>❖ APD can view individual officers and compare to one another</li> <li>❖ Focus attention to those officers who fall on the positive and, likewise, negative side of the equation</li> </ul>
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Here, individual officers can be systematically monitored by APD. Once the data are entered into the database, APD can look at individuals and compare one to another. Tables 5.9, 6.0, and 6.1 present 3 officers, each with 10 encounters and 3 sequences involving forceful or resistant behavior.

Table 5.9 More Force

<i>Officer 1</i>										
Sequence 1				Sequence 2			Sequence 3			Final
<i>Event</i>	<i>Citizen</i>	<i>Police Officer</i>	<i>Force Factor Score 1</i>	<i>Citizen</i>	<i>Police Officer</i>	<i>Force Factor Score 2</i>	<i>Citizen</i>	<i>Police Officer</i>	<i>Force Factor Score 3</i>	<i>Force Factor Score</i>
1	1	2	0	3	4	0	1	2	0	0
2	1	2	0	2	3	0	3	4	0	0
3	3	5	1	2	3	0	1	2	0	1
4	3	4	0	1	2	0	2	2	0	0
5	1	2	0	2	5	1	3	4	0	1
6	1	2	0	2	2	0	1	2	0	0
7	1	2	0	2	2	0	1	2	0	0
8	2	3	0	1	2	0	1	2	0	0
9	1	2	0	2	3	0	1	2	0	0
10	1	2	0	1	2	0	2	2	0	0

Note: Average final force factor score = .20.

Source: Terrill et al., 2003, 163

Table 5.10 Less Force

Officer 2											
Sequence 1				Sequence 2			Sequence 3			Final	
	Police		Force		Police		Force		Police		Force
Event	Citizen	Officer	Factor Score 1	Citizen	Officer	Factor Score 2		Citizen	Officer	Factor Score 3	Factor Score
1	2	2	0	1	2	0		1	2	0	0
2	1	2	0	2	3	0		1	2	0	0
3	3	2	-1	2	3	0		1	2	0	-1
4	1	2	0	1	2	0		2	2	0	0
5	2	2	0	2	1	-1		3	4	0	-1
6	1	2	0	2	3	0		1	2	0	0
7	3	3	0	1	2	0		1	2	0	0
8	2	3	0	1	2	0		1	2	0	0
9	1	2	0	2	3	0		1	2	0	0
10	1	2	0	1	2	0		2	2	0	0

Note: Average final force factor score = -.20

Source: Terrill et al., 2003, 163

Table 5.11 Commensurate Force

Officer 3										
Sequence 1				Sequence 2			Sequence 3			Final
		Police	Force		Police	Force		Police	Force	Force
Event	Citizen	Officer	Factor Score 1	Citizen	Officer	Factor Score 2	Citizen	Officer	Factor Score 3	Factor Score
1	2	2	0	1	2	0	1	2	0	0
2	1	2	0	1	2	0	2	3	0	0
3	3	5	1	2	3	0	1	2	0	1
4	1	2	0	1	2	0	2	2	0	0
5	2	2	0	2	1	-1	3	4	0	-1
6	3	3	0	1	2	0	1	2	0	0
7	1	2	0	4	4	0	1	2	0	0
8	2	3	0	1	2	0	1	2	0	0
9	1	2	0	2	3	0	1	2	0	0
10	1	2	0	1	2	0	5	5	0	0

Note: Average final force factor score = .00

Source: Terrill et al., 2003, 164

Thus, APD can examine on which side of the equation officers fall. Scores that are closer to zero indicate that the officer is matching the level of force to the resistance. The more often officers refrain from using force relative to resistance, the more officers fall on the negative side of the equation. Conversely, officers that fall on the positive side of the equation apply greater levels of force relative to resistance (Terrill et al., 2003, 163). “The ability to numerically score

individual officers allows managers to not only get a better sense of subject resistance but also to look at relative differences between officers” (Terrill et al., 2003, 164).

Table 5.12 Group Assessment and Comparisons

STAGE 6 – GROUP ASSESSMENT AND COMPARISONS	❖ Use same procedures as individual officer assessment to track and compare shifts, sectors, assignments, etc.
--------------------------------------------	----------------------------------------------------------------------------------------------------------------

In Stage 6, APD managers can use the same procedures used to assign force factors for individual sequences and an overall force factor to create unit or group force factors.

For example, APD can incorporate the RFCS to compare shifts, sectors, age groups, genders, tenure, levels of education, assignments, etc., uses of force. As data are collected over time, APD will have the ability to track groups of officers and compare them to past results.

Table 5.13 Shift Summary

<i>IDA 600's</i>											
Sequence 1				Sequence 2				Sequence 3			Final
<i>Officer</i>	<i>Citizen</i>	<i>Police Officer</i>	<i>Force Factor Score 1</i>	<i>Citizen</i>	<i>Police Officer</i>	<i>Force Factor Score 2</i>	<i>Citizen</i>	<i>Police Officer</i>	<i>Force Factor Score 3</i>	<i>Force Factor Score</i>	<i>Force Factor Score</i>
1	1	2	0	3	3	0	1	2	0	0	0
2	1	2	0	1	2	0	2	3	0	0	0
2	3	4	0	3	1	-1	2	1	-1	-1	-1
2	1	2	0	1	2	0	2	1	-1	-1	-1
2	2	2	0	2	3	0	3	4	0	0	0
3	1	4	1	1	2	0	1	2	0	0	0
4	1	2	0	1	2	0	2	2	0	0	0
4	2	3	0	3	4	0	1	2	0	0	0
4	2	1	-1	2	1	-1	2	5	1	-9	-9
4	3	4	0	1	2	0	1	2	0	0	0

Note: Average final force factor score = -.11

Source: Terrill et al., 2003, 166

Table 5.14 Special Case Assignments

<p>STAGE 7 – SPECIAL CASE ASSIGNMENTS</p>	<ul style="list-style-type: none"> <li>❖ Develop a separate database for special case assignments</li> <li>❖ Special case #1: officers’ use of force oscillates within a single incident</li> <li>❖ Special case #2: disagreement about version of the incident amongst involved parties</li> <li>❖ “Totality of cues” approach</li> </ul>
-----------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

There are two specific types of situations that would involve particular assessment by APD. The first one is where officers use both more force and less force than the continuum or DRRM allows within an incident. This involves officers swinging from one end of the continuum or the DRRM to another as the incident plays out. Here, as noted in Table 6.3 (Officer 4), the case is scored -9 and not computed into the final average. Rightfully so, these types of cases should not be examined in the same manner as other cases.

A separate database should be created for these types of situations, allowing a more in-depth analysis to be conducted (Terrill et al., 2003, 167). For example: Why the pattern of fluctuation? Do officers tend to hold back first and then skip levels on the continuum of force or move to too freely about the DRRM? APD should thoroughly evaluate these cases, identify officers with a high number of these, and consider additional training on the DRRM.

The second type of special case involves those where disagreements between the officers’, subjects’, and witnesses’ version of the incident are present. APD supervisors can manage these types of cases in either of two ways. A “totality of cues” approach can be taken where supervisors determine reliability by taking into account all versions and choose which is the best fit (Terrill et al., 2003, 167). The other approach is to tag cases and track officers through the number of special cases (Terrill et al., 2003, 167).

Table 5.15 Interventions

<p>STAGE 8 – INTERVENTIONS</p>	<ul style="list-style-type: none"> <li>❖ Incorporate scores into the GAP system</li> <li>❖ Use GAP as a vehicle for providing review and intervention of officers who deviate from DRRM</li> <li>❖ Combine with other resources, as well</li> </ul>
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Here, APD can incorporate scores into the GAP system to identify officers who deviate from the DRRM. Officers and groups can be ranked in numerical order from -1 to 1. Officers who score on the far ends of the distribution can be identified for review and possible intervention (Terrill et al., 2003, 168).

The benefits to APD by incorporating force factor scores and the RFCS are numerous. For example, incorporating and accounting for arrest and officer and citizen safety issues within the coding process provides comparative and relational analysis (Terrill et al., 2003, 168). Furthermore, not only can force factor scores be used by APD to assess police use of force, they can also be used with other resources, such as GAP and citizen complaint data, to target certain officers for intervention (Terrill et al., 2003, 168).

The approach provided here “challenges traditional use-of-force management systems by demonstrating that many citizen complaints may be unfounded and that police departments are doing what is necessary to police themselves” (Terrill et al., 2003, 169). “Agencies that adopt the force factor approach and the sequential ordering of events (through RFCS) can possibly help themselves by learning more about their officers, supervisors, and encounter with the public they serve” (Terrill et al., 2003, 169).

- Employ an Early Warning System

In order to properly assess and address officer behavior, APD's GAP system should include in its list of indicators *civil litigation* and *injuries sustained while on duty*. As identified in the practical ideal type model, the more indicators there are to assess, the more effective an early warning system will be. Furthermore, APD should ensure that GAP captures all complaints, not only formal complaints, including supervisor informal inquiries in order to properly address problematic behavior.

### Strengths and Weaknesses of the Research

An area of strength for this research is that the researcher was afforded the opportunity to meet APD personnel, interview them, and observe practices that may not have been as easily and quickly accessible to others. Thus, this case study was able to encompass several lines of inquiry to provide a comprehensive assessment of the Austin Police Department's use-of-force policies and practices.

An area of weakness is that because this research project was broken down into three categories and numerous subcategories, some areas of use of force in this project may have been attenuated or bereft where more extensive, supporting research would have been necessary. Research on the use of force is so vast that any single category would have had sufficient amount of information to successfully complete an applied research project.

Additionally, while recognizing that the researcher attempted to conflate critical areas in the use of force, and acknowledging that going "hands-on" with a subject is a force option, physical control techniques and defensive tactics were not included in this research project. Research into these crucial use-of-force elements resulted in a paucity of scholarly literature to

include in the practical ideal type model, and thus could not be used to operationalize or measure, unfortunately.

### Future Research

Future research in, say, five years could study how use-of-force complaints have either increased or declined since the implementation of the Austin Police Department's Dynamic Response-to-Resistance Model (DRRM). Future research could also include a practical ideal type that examines various strategies and practices on use-of-force reporting and provide them to the Austin Police Department for consideration.

Alternatively, rather than a practical ideal type, survey research on a particular segment of the community exploring perceptions about APD's use of force would be helpful. Using these results, APD could target their community-policing efforts on the specific area whose perceptions are negative to help foster and build relationships among those residents.

### Concluding Remarks

The Austin Police Department has made significant improvement to its use-of-force policies and practices within the past few years. APD continues to adopt new use-of-force technology for its officers coupled with innovative practices to assist in its community-policing efforts, thereby improving public safety and creating community partnerships.

Nevertheless, the Austin Police Department's use-of-force policies and practices, regardless of how elegantly crafted, are unlikely to possess much influence on officer behavior if executed without significant organizational support. But a sound policy, supported by continuous training, enforced by effective supervision and communicated by a committed

management team will not only control officer use of force, but improve officer safety and tactical practices, as well (Rahtz, 2003, 91).

Thus, because administrative policy can be used as a discretion control for police behavior in the use of force (White, 2001, 131), policies and practices that govern departmental protocol are arguably the most influential means available to disseminate information and establish the Austin Police Department's philosophy and mission.

For additional information and guidelines on best police policies and practices in the use-of-force, police departments are encouraged to see the following authors and literature:

Table 5.16 Additional Information

✓ Howard Rahtz	✓ <i>Understanding Police Use of Force, 2003</i>
✓ Brian Kinnaird	✓ <i>Use of Force: Expert Guidance for Decisive Force Response, 2003</i>
✓ Thomas D. Petrowski	✓ <i>Use-of-Force Policies and Training: A Reasoned Approach (Part 1 &amp; 2), 2002</i>
✓ Geoffrey P. Alpert and Michael R. Smith	✓ <i>Police Use-of-Force Data: Where We Are and Where We Should be Going, 1999</i>
✓ William Terrill, Geoffrey P. Alpert, Roger G. Dunham, and Michael R. Smith	✓ <i>A Management Tool for Evaluating Police Use of Force: An Application of the Force Factor, 2003</i>
✓ Gregory B. Morrison	✓ <i>Police Department and Instructor Perspectives on Pre-service Firearm and Deadly Force Training, 2006</i>

## Chapter Summary

Chapter five summarized the research project chapters and descriptions.

Recommendations for the Austin Police Department were provided. Additionally, strengths and weaknesses of the research were discussed, along with future research recommendations.

Finally, concluding remarks were included.



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## APPENDIX





*The rising STAR of Texas*

## Institutional Review Board Application

# Certificate of Approval

**Applicant: Rolando Delgado**

**Application Number : 2011K9485**

**Project Title: An Ideal Use of Force Model for Law Enforcement: An Assessment of the Austin Police Department**

**Date of Approval: 01/24/11 13:58:17**

**Expiration Date: None(Application Approved - Exempt)**

A handwritten signature in black ink, appearing to read "M. Blundo".

Assistant Vice President for Research  
and Federal Relations

A handwritten signature in black ink, appearing to read "Jon Lane".

Chair, Institutional Review Board

[Return to IRB Home](#)



## Consent Form

**Researcher: Rolando A. Delgado**

**Phone: 512-507-0687, Email: [rolando.delgado@ci.austin.tx.us](mailto:rolando.delgado@ci.austin.tx.us)**

This study encompasses research for the Texas State University Master of Public Administration Applied Research Project. The purpose of this study is to research the best practices of use-of-force policies and practices within law enforcement. The Austin Police Department has been chosen to participate in order to assess how closely the organization's use-of-force policies are to the ideal standard, derived from the literature review.

This study will involve interviews lasting approximately 1 hour. The researcher will ask questions targeting use of force in these specific areas: Guidelines, Training, Reporting, and Monitoring.

Interview questions will be asked in a format similar to the question below:

*How often are officers retrained on the legal concepts and departmental policies involving the use of firearms and deadly force?*

This study may be beneficial to the participants by identifying best practices of use-of-force policies and practices. There will be no compensation offered to the participants. Participation is voluntary, and refusal to participate will involve not penalty or loss of benefits to which the participants are otherwise entitled, and the participant may discontinue participation at any time. The participant has the right to refuse to answer questions at any time, for any reason, and participants may withdraw from the study at any time without prejudice or jeopardy to their understanding with the University and any other relevant organization/entity with which the participant is associated.

Pertinent questions about the research, research participants' rights, and/or research-related injuries to participants should be directed to the IRB chair, Dr. Jon Lasser (512-245-3413 – [lasser@txstate.edu](mailto:lasser@txstate.edu)), or Becky Northcut, Compliance Specialist (512-245-2102).

The confidentiality of the participants will be maintained as a result of this project.

A summary of the findings will be provided to participants upon completion of the study, if requested. Participants may access the results of the study by contacting the aforementioned researcher.


Participant

Researcher

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IRB Approval#

2011K9485

	<b>AUSTIN POLICE DEPARTMENT</b>		<b>B101a</b>
	<b>GENERAL ORDERS, POLICIES, AND PROCEDURES</b>		
	<b>Part B – Enforcement Operations</b>		
	<b>Chapter 1 – Critical Policies</b>		

## **B101a - Response to Resistance**

The Austin Police Department (APD) values human dignity, life, and legal protections. The use of force by members of law enforcement in response to a subject's resistance to the lawful exercise of police authority is a matter of critical concern both to the public and department. It is recognized that some individuals will not comply with the law or submit to lawful control unless compelled to do so by the appropriate use of force. Officers who fail to respond to resistance when appropriate may endanger the community, victims, bystanders, themselves, and fellow officers.

This document establishes departmental directives regarding the use of force by APD employees. This policy is more restrictive than state and federal laws that govern the use of force. Violation of this order may result in administrative discipline of an officer, up to and including indefinite suspension. This order does not create a higher standard of care for criminal or civil liability.

An officer's duty is to protect life and property. Employees shall use no greater force than is objectively reasonable to accomplish lawful objectives. When a situation has been brought under control, continuing force is no longer reasonable. Employees who use unreasonable force degrade the confidence of the community we serve, expose the Department and officers to legal and physical hazards, and violate the rights of individuals against whom unreasonable force was used.

This policy is written in terms to apply to sworn officers. In incidents where civilian employees are authorized to use force, they are subject to the same policies and procedures as officers, but the test of reasonableness is judged from the perspective of a reasonable civilian employee.

### **.01 Definitions**

For the purpose of the policy:

- A. Force – Any physical contact with a person by an employee using the body or any object, device, or weapon, not including unresisted escorting or handcuffing a person. Any complaint by a subject that an employee caused pain or injury will be treated as a use of force, except complaints of minor discomfort from un-resisted handcuffing.
- B. Deadly Force – Force that is intended or known by the officer to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.
- C. Excessive Force – Force that is not objectively reasonable.
- D. Reasonable Belief – The facts or circumstances the officer knows, or should know, are such as to cause an ordinary and prudent officer to act or think in a similar way under similar circumstances.
- E. Physical or Bodily Injury – A complaint of pain, apparent injury, or subsequent claim of injury by an individual caused by an employee's use of force. The temporary discomfort associated with the initial arrest procedure does not constitute a complaint of injury.
- F. Serious Physical or Bodily Injury – A bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.

### **.02 Use of Objectively Reasonable Force**

- A. Officers may use only that amount of force to achieve lawful law enforcement objectives that is objectively reasonable based on the totality of the circumstances they confront. This test of objective reasonableness embodies allowance for the fact that officers often are forced to make split second judgments about the amount of

force that is necessary in circumstances that are tense, uncertain, and rapidly evolving. "Reasonableness" is judged from the perspective of a reasonable officer, not with the 20/20 vision of hindsight. This test of reasonableness is not capable of precise definition or mechanical application – it requires careful attention to the circumstances of the particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether the suspect is actively resisting or attempting to evade arrest by flight or concealment.

- B. Officers must be able to articulate the facts and circumstances that made the use of force objectively reasonable. Factors that may be considered in determining whether a use of force is objectively reasonable may include, but are not limited to:
1. Information reported to the officer;
  2. Opportunity for de-escalation;
  3. Opportunity to develop a coordinated plan or approach;
  4. The subject's response or lack of response to police commands;
  5. Actions of the subject, including the degree of resistance by the subject;
  6. Statements of intent by the subject;
  7. Availability and utility of lesser force options;
  8. The severity of any crime at issue;
  9. The degree and immediacy of any threat posed by the subject;
  10. The potential for injury to the officer, subject, bystanders, or other persons;
  11. Risks posed by escape of the subject;
  12. Physical differences between the subject and the officer that may affect the level of threat posed (including age, size, strength, skills, injuries, level of exhaustion);
  13. Influence of drugs or alcohol on a subject;
  14. Possession or proximity of weapons;
  15. Experience and skill level of the officer;
  16. Relative numbers of subjects and officers; or
  17. Any exigent circumstances.
- C. This policy provides guidance on specific situations, and the use of specific techniques and weapons, the violation of which may result in discipline. The department recognizes, however, that unusual or unanticipated circumstances do occur. The ultimate test is whether the use of force was objectively reasonable.

### .03 Use of Deadly Force in Response to Resistance

- A. Deadly force may only be used when the officer has an objectively reasonable belief that lethal force is reasonably necessary to defend the officer's or another's life that is in imminent danger of serious physical injury or death, based on the totality of the circumstances. This test applies to all situations including those in which the subject is attacking and when the subject is fleeing but still presents an imminent danger of serious physical injury or death to the officer or another.
- B. Verbal Warning to Subject  
A verbal warning to submit to police authority shall be given prior to using lethal force if reasonable and if the warning will not significantly increase the danger to the officer or another.
- C. Warning Shots Prohibited  
The firing of a warning shot(s) is prohibited.
- D. Display of Firearms:  
Firearms shall not be displayed or pointed in a threatening or intimidating fashion unless it is objectively reasonable to believe that there is a substantial risk that the situation may escalate to the point where lethal force would be permitted. If it is later determined that lethal force is not necessary, the firearm shall be secured or re-holstered as soon as reasonably practical.

- E. Other force or restraint techniques, that by their manner of use or intended use are likely to cause death or serious bodily injury, may only be used when the use of deadly force is authorized.

**.04 Less or Non-Lethal Force**

- A. Less or non-lethal force may be used when that force is objectively reasonable to:
  - 1. Overcome resistance to a lawful detention, search, or arrest.
  - 2. Overcome the use or threatened use of force directed against any person, including the officer,
  - 3. Prevent a subject from escaping,
  - 4. Prevent a person from injuring themselves or committing suicide.
- B. Verbal Warning to Subject: A verbal warning to submit to police authority shall be given prior to using less or non-lethal force if reasonable and if the warning will not significantly increase the danger to the officer or another.

**.05 Firearms**

- A. Firearms may be readied for use in situations in which it is anticipated they may be required. Firearms shall not be displayed or brandished as a threat unless their actual use in the situation would be objectively reasonable based on the belief that lethal force may be reasonably necessary to defend the officer's or another's life that is in imminent danger of serious physical injury or death, based on the totality of the circumstances.
- B. Firearms shall not be discharged:
  - a. As a warning;
  - b. Unless the officer has an objectively reasonable belief that deadly force is reasonably necessary to defend the officer's or another's life that is in imminent danger of serious physical injury or death:
    - (i) In any misdemeanor case;
    - (ii) From a moving vehicle, or at a moving or fleeing vehicle; or
    - (iii) To effect the detention or arrest of an individual attempting to escape
  - c. When circumstances do not provide a probability of striking the intended target; or
  - d. When there is significant risk to the safety of an innocent bystander or other police officer and that risk exceeds any imminent risk posed by the subject.
- C. Firearms shall be secured as soon as practical after determining that the use of deadly force is no longer necessary.
- D. Any use of force involving firearms requires the officer to comply with the reporting procedures specified in this order.

**.06 Chemical Agents**

- A. Chemical agents are considered soft intermediate weapons, and training in their proper application is required prior to their issue or use. They are designed to result in temporary dysfunction without causing physical injury. Some practical uses of chemical agents are to:
  - 1. Repel human and animal attacks;
  - 2. Temporarily incapacitate aggressively resisting subjects;
  - 3. Compel barricaded subjects to leave an enclosure; and
  - 4. Disperse violent crowds or riots.
- B. Oleoresin Capsicum (OC) Spray [a.k.a. "Pepper Spray"]
  - 1. Employees designated to be issued OC spray must be properly trained in its use before being authorized to carry or use it.
  - 2. Only departmentally approved OC spray is authorized for use when on-duty or in a Department uniform.
- C. Officers will not use chemical agents on subjects exhibiting only verbal and/or passive resistance to arrest or authority.



- D. Officers will not use chemical agents on subjects who are under physical restraint; unless the subject is still aggressively resisting and lesser means of controlling the subject have failed.
- E. Civilian employees may use issued chemical agents for self-defense only. Civilian employees will be required to qualify annually with issued chemical agents.
- F. Persons who have been subjected to chemical agents will, as soon as they are under police control, be afforded means of cleansing the chemical agent to lessen the discomfort. If aggravated symptoms persist, medical attention shall be afforded to the subject.
  - 1. Officers will ensure when transporting prisoners who have been subjected to chemical agents that the prisoner is not placed in a prone position and stays upright with a clear airway to avoid possible positional asphyxia. Officers must be especially careful when tightly restraining combative subjects following use of chemical agents.
- G. Before booking, officers will advise jail personnel when an arrested subject has been subjected to chemical agents.
- H. Any use of chemical agents requires employees to comply with Response to Resistance reporting procedures.

**.07 Impact Weapons**

- A. Impact weapons are defined as:
  - a. Baton (long, short, side-handle, or expandable);
  - b. Any other weapon or object that is used to strike.
- B. Only department issued or authorized impact weapons may be carried. The Training Division will maintain a list of authorized impact weapons.
- C. Officers may not carry an impact weapon unless they have successfully completed a departmentally approved training program on the use of that weapon.
- D. Impact weapon strikes:
  - 1. Are not designed to be used as a club or bludgeon and should not ordinarily be raised above the head to strike a blow to a person.
  - 2. Should be delivered only to the vulnerable areas of the body (target areas) which may render the opponent temporarily incapacitated.
  - 3. To a person's head should only be used when deadly force is authorized.
- E. No impact weapon or other object will be thrown at anyone unless the possible injury inflicted by use of such force would be authorized by departmental policy.
- F. Any use of impact weapons requires the officer to comply with the reporting procedures specified in this order.
- G. Slap-jacks, blackjacks, brass knuckles or other illegal clubs are prohibited.
- H. Officers shall not alter or modify an approved impact weapon.

**.08 Conductive Energy Devices**

Conductive Energy Devices (CED) use electro-muscular disruption technology to cause temporary incapacitation to an individual. A CED is a less-lethal weapon. Its use is not likely to cause injury but does constitute the use of force and it may not be used unless the use of force is objectively reasonable.

- A. Only departmentally approved CEDs and cartridges are authorized for use.
- B. Officers will not be allowed to carry a CED unless they have successfully completed a departmentally approved training program and have been specifically authorized to carry it. Authorized officers are required to complete an annual recertification training conducted by the Training Division.
- C. Officers shall not, in any way, alter or modify approved CED's.
- D. CEDs shall be carried in the approved holster on the side of the body opposite of the duty weapon.
- E. Deployment of Conductive Energy Devices  
CED's are intended for use as defensive, less lethal weapons.
  - 1. CED's may only be used to:

- a. Incapacitate, control, and apprehend a dangerous or violent subject;
  - b. Attempts to subdue the subject by other conventional tactics have or will likely be ineffective;
  - c. Apprehend a subject resisting or fleeing lawful arrest or detention; or
  - d. There is reasonable expectation that it will be unsafe for officers to approach within contact range of the subject.
2. Only one officer will deploy a CED on an individual, unless it is obvious the deployment was not effective. Officers should communicate with one another to try to avoid simultaneous or near simultaneous CED deployments, as circumstances permit.
3. Officers should give an explicit warning to the subject that the CED will be deployed if the subject does not submit to police authority, except when the subject, officers, or others might be placed in significantly increased danger by first warning the subject that use of the CED is imminent;
4. Medical Treatment:
  - a. Officers will remove probes as trained, once the suspect is in custody.
  - b. In all instances where probes have penetrated sensitive tissue areas (groin, female breast, face, neck) EMS will be summoned to the scene. EMS will make a determination to remove probes or transport the suspect to the hospital.
  - c. To avoid the potential of positional asphyxia, all suspects, once handcuffed and in control, will be placed in an upright position.
  - d. After a CED's use, officers will attempt to ascertain from the subject whether preexisting medical conditions (such as a history of heart problems) would warrant summoning EMS personnel to the scene.
  - e. Officers will notify jail medical personnel, at the time of booking, that the subject has been struck with CED probes or received a drive stun. An examination should be conducted by jail medical personnel to determine whether the individual has suffered any injury, either directly from the CED's discharge or indirectly, such as by falling after incapacitation.
5. Additional CED Reporting and Documentation Requirements:
  - a. Images will be taken with a digital camera of probe/drive stun impact sites and any other related injuries. The digital image(s) will be downloaded into the Digital Crime Scene Management System.
  - b. Probes and cartridge(s) should be carefully placed, sharp tip first, back into the expended cartridge bores and secured. Removed probes that have penetrated the body, should be treated as biohazards and safety precautions used.
  - c. Cartridge(s) will be placed in a plastic property bag, a biohazard label attached, and submitted to the property unit for proper disposal.
  - d. Officers will document the submission of the probes and cartridge(s) in the offense report.
  - e. Officers will download the firing data from the CED and include a copy of this report to the Response to Resistance Packet for review by the officer's chain of command. A second copy of the firing data report will be tagged for retention as evidence. This information is invaluable when investigating claims of improper or excessive use of force involving the device.
6. Required Download of CED data  
Officers will download data from their assigned CED when the CED is reassigned to another officer or retired from active police inventory. For one year from the date of the downloading:

- a. One copy of the data report will be filed with the officer's property inventory retained by Police Equipment.
  - b. One copy of the data report will be retained by the officer.
- F. Unacceptable uses of CED:
  - 1. Horseplay or practical jokes;
  - 2. Demonstrations, without the permission of a supervisor;
  - 3. To harass or punish a suspect or prisoner;
  - 4. To overcome passive resistance (passive resistance means a subject offers no physical resistance to arrest, simply goes limp, and makes no overt act of aggressive behavior as in demonstrations, e.g. protest rallies). The weapon is not designed for use as, nor will it be used as, a prod to get a suspect or prisoner to move in these types of situations.
  - 5. When flammable liquids or gases are present, or
  - 6. Generally, not against a woman who is obviously pregnant; a child, which by physical stature and size appears to be under the age of 14; a disabled individual, or an elderly individual, as defined by section 22.04 of the Texas Penal Code. At times it may be difficult to determine the age or special circumstances which may exist.
  - 7. CED's may not be used on a restrained subject unless the subject is engaged in active, violent resistance.
  - 8. Officers should avoid:
    - a. Hitting the subject in sensitive tissue areas such as head, face, neck, groin or female breast area;
    - b. The deployment of the CED against a subject operating a motor vehicle, bicycle, skateboard, or riding on any conveyance where they may fall while the vehicle is in motion.

#### **.09 Impact Munitions**

- A. Impact munitions are extended range impact weapons designed to temporarily incapacitate non-compliant suspects who are armed with weapons other than firearms or who are exhibiting violent or aggressive behavior.
- B. Impact munitions may be used:
  - 1. To incapacitate an armed subject who is threatening harm to others;
  - 2. To incapacitate an armed suicidal subject;
  - 3. To effect the arrest of an unarmed non-compliant subject whose behavior is such that it poses a serious danger to the public or arresting/restraining officers; or
  - 4. In riot control. Officers may not fire impact munitions indiscriminately into a crowd, but may use area target munitions to clear specific areas or disperse crowds.
- C. Unless the employee is assigned to a unit specifically trained and authorized, impact munitions should never be used against a subject armed with a firearm or when the subject is an immediate threat to the officer or the public.
- D. Officers should remember that the use of impact munitions creates a risk of death or serious injury.
- E. Any time an officer strikes a subject with impact munitions, the officer will, as soon as reasonably possible, obtain medical treatment for the subject.
- F. Before booking, officers will advise jail personnel when an arrested subject has been struck with impact munitions.
- G. Any use of impact munitions requires the officer to comply with the reporting procedures specified in this order.

#### **.10 Medical Treatment**


Appropriate medical aid will be given to a person when an employee used force resulting in physical injury, potential non-visible trauma, or a complaint of pain or injury. Appropriate medical aid may include increased observation to detect obvious changes in condition,

flushing chemical agents from the eyes, applying first aid, evaluation by paramedics, or for more serious or life threatening incidents, immediate aid by medical professionals.

**.11 Use of Force to Seize Evidence**

Pressure point techniques are the maximum amount of force authorized to seize evidence when there is probable cause to believe it is being held or hidden in the mouth of a person.



	<b>AUSTIN POLICE DEPARTMENT</b> <b>GENERAL ORDERS, POLICIES, AND PROCEDURES</b>		<b>B101b</b>
	<b>Part B – Enforcement Operations</b>		
	<b>Chapter 1 – Critical Policies</b>		

## **B101b - Duty Weapons**

Officers may carry approved weapons on or about their persons for any legitimate law enforcement purpose or as otherwise authorized by law. Officers are expected at all times to handle any firearm with a high degree of care and caution. Officers must act responsibly in the handling of firearms and will be accountable for their discharge, whether intentional or unintentional.

This policy sets guidelines on the types of authorized weapons and ammunition, as well as procedures for registration, qualification and proficiency with authorized weapons.

### **.01 General Specifications**

- A. Officers will not carry any weapon or ammunition in a law enforcement capacity until the officer and the weapon/ammunition meet all the requirements of this order. Nothing in this directive, however, shall be construed to prevent officers from using any weapon at their disposal to protect themselves or third parties from death or serious bodily injury in a bona fide emergency.
- B. Departmentally approved weapons and ammunition are those authorized by the Commander of Training for use by this Department.
- C. Firearms range personnel will:
  - 1. Examine and test any weapon being considered for use by the Department.
  - 2. Maintain a list of weapons and ammunition authorized for departmental use.
- D. The Training Division will maintain the records of which weapon(s) each officer is authorized to carry. Changes in weapons used by an officer must be coordinated through firearm range personnel who will forward the appropriate paperwork to the administrative supervisor of Training for data entry.
- E. Each employee will, by every practical means, secure all weapons from unauthorized access.
- F. Before an employee is authorized to carry a weapon as outlined in this policy, they must be issued copies of, and be instructed in, the law and Department policy relating to:
  - 1. Use of force in response to resistance;
  - 2. Provision of medical care after the application of force;
  - 3. Reporting and review procedures for use of force; and
  - 4. Proficiency testing requirements for each type of weapon authorized.
  - 5. This instruction will be documented in the employee's training records maintained by the Training Division. Employees will also receive refresher training in the foregoing subjects at the time of their annual weapons qualification. The annual refresher training will also be documented in the employee's training records maintained by the Training Division.
- G. Any negligent discharge of a firearm by an employee is considered a violation of this policy.

### **.02 Registration of Personally Owned Firearms**

Personally owned handguns carried on- or off-duty must be registered with the Department by the officer requesting to carry them. Officers who desire to carry personally owned AR15s while on duty must register the weapon with the department and meet the requirements listed in section Personally-Owned Long Rifles of this policy. All handguns added to an officer's registered weapons list are required to be equipped with night sights.

- A. Officers may have a maximum of three handguns and one personally-owned long rifle registered for police use.
- B. Handguns/rifles can be registered (added or deleted) at any time during the calendar year; however, officers will only be able to register (add or delete) two handguns per