



ASSOCIATION OF
CHIEF POLICE OFFICERS

MODULE 03

Use of Force

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RESTRICTED



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USE OF FORCE LEGISLATION

Introduction

As in all police/public interactions officers have a duty to act professionally and only use force that is proportionate, reasonable and justifiable in the circumstances. An officer must remember that they may subsequently be called to defend and justify their actions and to prove that their actions were reasonable having regard to all the circumstances at the time.

Any act by a person which causes another to fear the immediate application of unlawful force against them is an assault.

Any intentional or reckless application of unlawful force to another is a battery. A use of force may only be deemed to be **lawful** where it is exercised:

- With the consent of the individual (either given or implied) in the defence of ones self or another or to protect property.
- In the reasonable chastisement of a child by a parent or guardian.
- Under a lawful power provided by either statute or common law.

The lawful use of force in any circumstance includes the overriding principle that it must be reasonable and necessary.

The use of force by police continues to be an extremely emotive subject. It may generate large-scale media attention and public debate. Officers may also be required to justify their use of force to a Court Tribunal or a Hearing. It is therefore extremely important that officers are fully aware of their powers in relation to the use of force.



The basic proposition in law is that the use of force is unlawful unless it is justified. Therefore in order to make an appropriate decision regarding a tactical option for dealing with conflict, a sound knowledge and understanding of the law of use of force is essential.

The powers for police officers and designated police staff and, in some circumstances, members of the public generally to use force are contained in a limited number of common law and statutory provisions (outlined in this section).

However, in the light of the Human Rights Act 1998, it is also extremely important for officers and staff to understand the applicability and scope of the provisions of the European Convention on Human Rights (ECHR). Officers/staff who have a sound grasp of the relevant use of force legislation will be better prepared to apply force appropriately, effectively and within the boundaries set for its reasonable use.

Common Law and Statutory Provisions

The main powers relating to the use of force are contained within:

- Common Law
- Section 3 of the Criminal Law Act 1967
- Section 117 of the Police and Criminal Evidence Act 1984

Other legislation specifies in certain circumstances use of force may be used. Examples of this legislation are:

- Section 114(2) Terrorism Act 2000
- Section 3(3) Anti-social Behaviour Act 2003
- Section 38(8) Police Reform Act 2002
- Section 6 Mental Capacity Act 2005
- Section 76 Criminal Justice and Immigration Act 2008

Common Law

Common law refers to law and the corresponding legal system developed through decisions of courts and similar tribunals rather than through legislative statutes or executive action.

The common law is created and refined by judges.

A decision in the case currently pending depends on decisions in previous cases and affects the law to be applied in future cases.

When there is no authoritative statement of the law, judges have the authority and duty to make law by creating precedent.



Common law – use of force

The common law recognises that there are many circumstances in which one person may use force upon another without committing a crime, for instance, in sporting contests or surgical operations. If no more force is used than is reasonable to repel the attack, such force is not unlawful and no crime is committed.

These common law principles will be interpreted according to the following:

- minimum use of force
- proportionality of force to be used
- seriousness of circumstances to be prevented
- right of self defence.

This covers saving life, self defence and defence of others, defence of one's property and prevention of a Breach of the Peace.

Common Law applies to all persons.

Self defence and the defence of others

It is well recognised that any person is entitled to use 'reasonable force' to defend themselves or others against attack.

The force must be reasonable and proportionate to the threat being offered. The person must also have an honestly held belief that they, or another, are in imminent danger of attack. This highlights the need for some evidential basis for the officer's belief and would therefore require justification within any subsequent notes made.

Common Law states that the person does not have to wait for the first blow to be struck before using any necessary force to defend himself, herself or another. This is referred to as a pre-emptive strike. Again there

would need to be an evidential basis for this use of force and clear comprehensive notes justifying such force would have to be completed.

Saving life

The Common Law allows for the use of reasonable force in the preservation of life or prevention from serious harm of another.

Defence of property

Common Law allows for the eventuality of property being damaged and not the person. In such a case a person may defend their property from damage. Again the degree of force being used must be in proportion to the threat being offered.

Preventing a Breach of the Peace

Lord Justice Watkins of the Court of Appeal said that a breach of the peace is likely to occur under the following circumstances.

"Whenever harm is actually done or is likely to be done to a person or in his presence to his property or a person is in fear of being harmed through an assault, an affray, a riot, unlawful assembly or other disturbance." (R v Howell 1982)

Force may be used in order to stop a Breach of the Peace which is actually taking place, or where a Breach of the Peace is imminent, or to prevent it taking place. The force used must be reasonable and necessary in the circumstances. The courts recognise the difficulty in assessing what force is reasonable in the heat of the moment.

An honest held belief of the perceived threat can be relied upon in future proceedings, if the force used is proportionate. Where force is used to prevent or stop a Breach of the Peace, then there must be evidential grounds to say it was taking place or was imminent.

Criminal Law Act 1967 Section 3(1) and 3(2)

Section 3 (1) of the Criminal Law Act 1967 states:

"A person may use such force as is reasonable in the circumstances in the prevention of crime, or in the effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large."

Section 3 CLA 1967 is an '**any**' person power.

It makes no reference to terms such as:

- minimum force
- proportionality
- police officer.

There is no specific reference to police in section 3(1) of the Criminal Law Act 1967 and neither is there any reference to a police officer's use of equipment such as batons, handcuffs, incapacitant spray, etc.

Officers who, during the course of duty, use force against another person are personally responsible for such use and may ultimately be required to justify their actions in a court of law.

Officers cannot simply rely on their status or orders given to them by any other person as a means of defence.

It must be remembered that any use of force by officers carries with it the risk of injury.

It must also be clearly understood that the use of higher levels of force may result in serious injury or even possibly death.

Therefore any force used must at all times be proportionate and reasonable in the circumstances.





The interpretation of the word 'reasonable' is a key concept concerning use of force.

Section 76 of the Criminal Justice and Immigration Act 2008 seeks to clarify the 'what is reasonable' within common law and section 3(1) of the Criminal Law Act 1967.

The concept of 'reasonableness' is a question of fact to be decided in each individual case.

Use of force by police is related to the circumstances as perceived by individual officers at the time of the incident.

It must be borne in mind that what is regarded as reasonable in one set of circumstances may well be unjustified in another. Force used in civil disorder or where there is a high threat or risk of injury to police or

public may not be justified in a more tranquil setting or at a different time.

Where force is used in the prevention of crime or in effecting an arrest, officers must consider whether there are any viable alternatives available.

Force must only be used when it is:

- reasonable in the circumstances
- an absolute necessity
- the minimum amount necessary
- proportionate to the seriousness of the case.

Police and Criminal Evidence Act 1984

Section 117 Police and Criminal Evidence Act 1984

"Where any provision of this Act -

- a. confers a power on a constable; and
- b. does not provide that the power may only be exercised with the consent of some person, other than a police officer,
- c. the officer may use reasonable force, if necessary, in the exercise of the power."

i INFO POINT

Powers under PACE can only be exercised by a 'constable' or 'designated' officer.

This refers to such individuals as some UKBA and SOCA personnel and NOT those 'designated' under the Police Reform Act 2002.

It permits the use of reasonable force in exercising any power under PACE 1984 unless it specifically requires the consent of a person who is not a police officer.

Again, the responsibility for the use of force rests with the individual officer, who will be answerable to both criminal and civil courts.

Section 117 of PACE 1984 applies to the following powers to use reasonable force:

- Section 1 and 2 Powers of search and detention for the purpose of search
- Section 16 Entry of premises to execute a search warrant
- Section 17 Entry and search of premises to make an arrest
- Section 18 Entry and search of premises following arrest for an offence
- Section 19 Seizure of evidence
- Section 24 General power of arrest without warrant (constables)
- Section 26 and Schedule 2 of PACE 1984 Preserved powers of arrest
- Section 27 Arrest for fingerprinting
- Section 31 Arrest at police station for further offence
- Section 32 Search of person and premises on arrest
- Section 36 and 37 Detention at police station
- Section 54 and section 54A Search of arrested person at police station (examine for marks/features)
- Section 55 Intimate search of detained person
- Section 61 Fingerprinting without consent
- Section 63 Taking a non-intimate sample without consent
- Section 64A Taking of photographs without consent (removal of head /face coverings).

This is not an exhaustive list.

Police and Criminal Evidence Act (PACE) 1984 Codes of Practice

The Codes of Practice to PACE regulate police powers and procedures and set down safeguards and protections for members of the public.

The Codes of Practice provide clear statements regarding the rights of the individual and the powers of the police including the use of force in a variety of situations.

The Codes of Practice identifies circumstances when reasonable force may be used, when it may not be used and explains how reasonable force may be applied.

An example of when reasonable force can be used is highlighted in Code D paragraph 4.6 when in certain circumstances, reasonable force can be used to take fingerprints without a person's consent. An example of when force may not be used is highlighted in Code C paragraph 17.14 which states that "Force may not be used to take any sample for the purpose of drug testing."

The Codes of Practice also give guidance around the circumstances when reasonable force may be applied. For example during a stop and search under the provisions of Code A paragraph 3.2 states that "The co-operation of the person to be searched must be sought in every case, even if the person initially objects to the search.

A forcible search may be made only if it has been established that the person is unwilling to co-operate or resists. Reasonable force may be used as a last resort if necessary to conduct a search or to detain a person or vehicle for the purposes of a search".

Generally speaking an officer is permitted by virtue of S117 PACE

to use reasonable force when exercising any provision under the Act unless it specifically requires the consent of another person who is not a police officer. Officers should bear this in mind in conjunction with the Codes of Practice.

The PACE Codes of Practice are available at:



<http://police.homeoffice.gov.uk/operational-policing/powers-pace-codes/pace-code-intro/>

Police Reform Act 2002

Chief Officers can designate civilian employees as one or more of the descriptions specified. Powers are limited to those stated in Schedule 4 to the Act and apply to England and Wales only. Chief Officers can impose restrictions and/or conditions to these powers (for example by limiting them to a particular geographical area).

Section 38 of the Police Reform Act 2002 refers to the designation of suitably skilled and trained civilian employees.

These members of Police Staff fall into the following four main categories:

- Police Community Support Officers
- Designated Detention Officers
- Escort Officers
- Investigating Officers.

(Police) Community Support Officers (CSO)

Community Support Officers are members of support staff employed, directed and managed by their Police Service. They will work to complement and support police officers, providing a visible and accessible uniformed presence to improve the quality of life in the community and offer greater public reassurance.

PCSO's are not replacement police officers but are there to address some of the tasks that do not require the experience or powers granted to police officers, which often take officers away from more appropriate duties.

Designated Detention Officers (DDO)

DDO's are responsible for the safety, security and welfare of detainees whilst in custody.

They will also take responsibility for the search and ongoing risk assessment of detained persons, carrying out the booking in procedure and placing detainees in the cell.

Escort Officers

A designated Escort Officer has the authority to transport an arrested / detained person to and from a police station, court or other appropriate venue. For these functions, a designated escort officer is treated as having that person in their lawful custody, under a duty to prevent their escape and entitled to use reasonable force to keep that person in their charge.

They also have the same power as a constable to carry out a non-intimate search of a person and to seize or retain anything found on that search.

Investigating Officers

A suitably designated investigating officer will be able to exercise some or all of the following powers, in the same manner as a constable under PACE:

- Apply for search warrants, seizure and retention of items.
- Enter and search premises occupied or controlled by a person who is under arrest and to seize and retain items.
- When lawfully on any premises, exercise the same general powers to seize things as are available to a constable under section 19 of PACE.

- Require the production of electronically stored material in a form that can be taken away.
- Supervise any access to seized material including the photographing of seized material.
- Arrest a detained person for a further offence under section 31 of PACE.
- Transfer persons into custody of investigating officers.
- Question an arrested person under sections 36 & 37 of the Criminal Justice and Public Order Act 1994 about facts, which may be attributable to the person's participation in an offence.
- Move high volumes of material being searched to another location for sifting.

Section 38(8) Police Reform Act 2002 states:

"Where any power exercisable by any person in reliance on his designation under this section is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force."

In all the cases, where it is necessary to use reasonable force, the powers to use force are the same as for a police constable.

Where there is a power of entry, unless it is for the purpose of saving life or limb or preventing serious damage to property, it may only be exercised in the company, and under the supervision of, a constable.

Criminal Justice and Immigration Act 2008

Section 76 sets out what degree of force is reasonable during criminal proceedings where reliance is placed upon self defence or section 3(1) of the Criminal Law Act 1967 which relate to the use of force in the prevention of crime or making an arrest.

It uses elements of case law to illustrate how the defence operates. It does not change the current test that allows the use of reasonable force.

For defending a criminal charge the defence of self defence or under Section 3 CLA 1967 will be available to a person if they honestly believed it was necessary to use force and if the degree of force used was not disproportionate in the circumstances as they viewed them.

The section sets out that a person who uses force is to be judged on the basis of the circumstances as they perceived them, that in the heat of the moment they will not be expected to have judged exactly what action was called for, and that a

degree of latitude may be given to a person who only did what they honestly and instinctively thought was necessary.

A person is entitled to have their actions judged on the basis of their view of the facts as they honestly believed them to be, even if that belief was mistaken.

Note: Section 76 does not apply in civil proceedings where the belief of the person who used force will also have to be reasonably held on objective criteria.



The Police (Conduct) Regulations 2008

Standards of Professional Behaviour

The Police (Conduct) Regulations 2008 do not give any power to use force.

The Schedule of the Regulations sets out the standards of professional behaviour expected of police officers.

Breach of these standards constitutes misconduct, and a breach of which is so serious that dismissal would be justified constitutes gross misconduct.

The standards of professional behaviour for use of force require

that “**Police officers only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances.**”

The 10 standards of professional behaviour are:

- Honesty and Integrity
- Authority, Respect and Courtesy
- Equality and Diversity
- Use of Force
- Orders and Instructions
- Duties and Responsibilities
- Confidentiality
- Fitness for Duty
- Discreditable Conduct
- Challenging and Reporting Improper Conduct.

National and Local Policies and Guidelines

In addition to an understanding of the appropriate legislation officers must also have an understanding of national and local policies, procedures and guidelines which relate to the use of force.

National policy and guidelines have been produced by the Association of Chief Police Officers (ACPO) specifically in relation to use of force.

They include:

- Policy for Searching Mouths by Force
- Guidance on the Use of Handcuffs
- Guidance on the Use of Limb Restraints
- Guidance on the Use of Incapacitant Spray.

National ACPO Code of Practice, Guidance, Practice Advice and Briefing Papers have been produced for specific areas of policing some of which contains reference to use of force issues. They include, for example:

- ACPO Guidance on the Safer Detention and Handling of Persons in Police Custody (2006)
- ACPO Practice Advice on the Policing of Roads (2007)
- ACPO The Management of Police Pursuits Guidance (2009)
- ACPO Guidance on Responding to People with Mental Ill Health or Learning Disabilities (2010).

Local policies, procedures and guidance in relation to the use of force should be readily made available for officers to access.

The Guidance has been included in the appropriate modules of this manual. To access Guidance and Practice Advice go to the following links:



<http://www.acpo.police.uk>



<http://www.npia.police.uk>

Legislation for Northern Ireland

Some legislation has been specifically drafted to mirror that of the UK mainland but specifically addresses policing needs in Northern Ireland.

Whilst the actual content is identical the names of the act or specific section references may differ, for example Section 117 of the Police and Criminal Evidence Act is reflected by:

• Police and Criminal Evidence (Northern Ireland) Order 1989



www.legislation.gov.uk/nisi/1989/1341/contents

Article 88 states: "Where any provision of this Order —

(a) confers a power on a constable; and (b) does not provide that the power may only be exercised with the consent of some person, other than a police officer, the constable may use reasonable force, if necessary, in the exercise of the power."

Further guidance on use of force by Northern Ireland police can be found in the following documents

• **PSNI Policy Directive 07/07 – Public Order and the Use of Force** (Including CS Incapacitant Spray, Batons, Handcuffs and Vehicle Mounted Water Cannon)



www.psni.police.uk/policy_directive_0707.pdf

Section 3(2) in particular sets out the legal basis for the use of force.

• **PSNI Code of Ethics 2008**



www.nipolicingboard.org.uk/final_code_of_ethics-2.pdf

Article 4 relates to the use of force, and sources the UN Basic Principles on the use of Force and Firearms by Law Enforcement Officials and ECHR case law.

THE HUMAN RIGHTS ACT 1998

Principle Rights and Freedoms of the Convention

The principle rights and freedoms of the Convention include:

- Article 2:** the right to life
- Article 3:** prohibition of torture, inhuman and degrading treatment or punishment
- Article 5:** the right to liberty and security of the person
- Article 6:** the right to a fair trial
- Article 7:** no punishment without lawful authority
- Article 8:** the right to respect for private and family life, home and correspondence
- Article 9:** freedom of thought, conscience and religion
- Article 10:** freedom of expression
- Article 11:** freedom of assembly and association
- Article 14:** prohibition on discrimination.

The full text of the Articles can be found in Part 1 of Schedule 1 Human Rights Act 1998.

Their application to policing and other activities by public authorities can be found in case law originating from that Act and the ECHR itself.

It is recognised that the responsibility of the police service (and other

public authorities) is not only to comply with the Articles in respecting the human rights of individuals, but in relation to certain articles, also to take positive action to protect the rights and freedoms they outline.

The conditions for such interference are set out within the wording of each of the Articles.

For example, the rights provided for in Articles 8, 9, 10 and 11 each have qualifications attached to them.

The first part of each Article provides the right while the second specifies legitimate reasons for the qualification of the right.

The approach that should be taken can be summarised in the simple mnemonic PLAN.

Interference with the rights

In general terms, rights can only be interfered with:

- a. where the interfering action is prescribed in accordance with the law, and
- b. the action is 'necessary in a democratic society'
- c. the interference serves a legitimate objective.

In deciding whether the action was 'necessary in a democratic society' it will be necessary to consider whether the action:

- a. fulfilled a pressing social need
- b. pursued a legitimate aim
- c. demonstrated a reasonable relationship of proportionality between the means employed and the aim pursued.

This means that the action was designed to:

- impair as little as possible the right or freedom in question
- meet the objectives of the domestic law in question
- not be arbitrary, unfair or based on irrational considerations, and be balanced against the severity of the effect that the action has on the individual or group. The more severe the effect, the more important the objective must be for the action to be considered legitimate.

BASIC PURPOSES

The Human Rights Act 1998 has two basic purposes:

1. To give effect to the rights and freedoms contained within the European Convention of Human Rights before domestic courts.
2. Courts and tribunals, public authorities and Government Ministers will have to act in a way that is compatible with the law of the Convention. Failure to do so may be unlawful, although not a criminal offence.

Proportionate

Action taken must be proportionate in all the circumstances. An option is unlikely to be regarded as proportionate where a less injurious, but equally effective, alternative exists.

Legality

There must be a legal basis for taking the action. This can derive from either common or statute law.

Accountable

Officers must be able to account for why they chose a particular course of action and, in some cases, what other options may have been available and why these were not chosen. They should record their decision.

Necessary

The action taken must have been necessary to carry out their lawful duty. The ECHR is a living instrument and seeks to take account of changes in society and the prevalent values recognised within it. For example, actions which were considered reasonable 10 years ago may be viewed as unreasonable by the courts today.

Use of Force and Human Rights

The use of force will not always engage articles under the ECHR and generally the less force that is used then the less likely that the articles will be infringed. The rights which are most likely to be directly interfered with, in situations where force is used are:

Article 2: the right to life

Article 3: prohibition of torture, inhuman or degrading treatment

Article 8: the right to respect for private and family life.

The European Court has held that "in keeping with the importance of this provision (the right to life) in a democratic society the court must, in making its assessment, subject deprivation of life to the most careful scrutiny ... taking into

Article 2: The right to life

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- a. in defence of any person from unlawful violence
- b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained
- c. in action lawfully taken for the purpose of quelling a riot or insurrection.

consideration not only the actions of the agents of the State who actually administer the force, but also all the surrounding circumstances including such matters as the planning and control of the actions under examination" (McCann v United Kingdom (1995) 21 EHRR 97).

A breach of Article 2 can arise in cases where death occurs either intentionally or where it could have been reasonably foreseeable as a consequence of the use of force applied.

Where death occurs, the concept of reasonable force within Section 3(1) of the Criminal Law Act 1967, Section 117 of the Police and Criminal Evidence Act 1984 and Common Law is likely to be interpreted according to the stricter test of absolute necessity. This will involve the determination of two questions:

i) whether the use of lethal force was 'strictly proportionate' to the achievement of one of the exceptions set out in Article 2(2); regard being had to the nature of the aim pursued, the dangers to life and limb inherent in the situation and the degree of risk that the force employed might result in the loss of life. This was established in the case of *Stewart v United Kingdom* (1985) 7 EHRR 453

ii) whether the operation under scrutiny was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force.

Article 3: Prohibition of torture, inhuman or degrading treatment or punishment

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

This is an absolute right and therefore, it is not possible to derogate from this.

The activities prohibited by Article 3 were characterised by the European Court in the case of Ireland v UK (1978) 2 EHRR 25 as:

torture - deliberate inhuman treatment causing very serious and cruel suffering

inhuman treatment - treatment that causes intense physical and mental suffering

degrading treatment - treatment that arouses in the victim a feeling of fear, anguish and inferiority capable of humiliating and debasing the victim and possibly breaking his or her physical or moral resistance.

Where extreme and excessive force is applied, or where the application of force is maintained for longer than is necessary to achieve a lawful aim, this may amount to torture, etc.

Article 8: The right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health and morals, or for the protection of the rights and freedoms of others.

Article 8 is a qualified right. Any interference by a public authority must, however, be justified under one of the exceptions in 8(2), in addition to meeting the general requirements of being both in accordance with the law, and necessary in a democratic society.

Article 8 is not just a right to respect for privacy. It has been held to include respect for an individual's physical and moral integrity. For this reason, an assault may amount to a breach of Article 8.

In relation to all the above articles the use of force must be based on an honestly held belief that it is absolutely necessary, that is perceived for good reasons to be valid at the time.

On each occasion that force is used it should be reported how, why and to whom. Guidance on the Use of Force Recording and Reporting is detailed later in this module.

United Nations Code of Conduct for Law Enforcement Officials

The United Nations Code of Conduct for Law Enforcement Officials was adopted by the General Assembly in its resolution 34/169 of the 17th December 1979. The recommendation was that governments should give favourable consideration to its use within the framework of national legislation or practice as a body of observance by law enforcement officials. It does not provide a statutory power to use reasonable force.

The Code contains a total of 8 articles.

Article 3 states that, "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty".

The commentary of the article explains that the use of force should be exceptional; while it implies that law enforcement officials may be authorised to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

Further information on the Code is available at:



<http://www2.ohchr.org/english/law/codeofconduct.htm>



United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

The basic principles were formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials. They should be taken into account and respected by Governments within the framework of their national legislation and practice.

They should also be brought to the attention of law enforcement officials and other persons (judges, prosecutors, lawyers and members of the public).

Further information of the Basic Principles is available at:



<http://www2.ohchr.org/english/law/firearms.htm>

Case Law

In addition to guidance provided by Statute and the ECHR, case law also provides assistance when dealing with the concept of reasonable force.

NOTE: The following case law is not an exhaustive list and the specific findings should not be relied upon as a definitive decision in every case or set of circumstances. The information is useful as a guide to the parameters surrounding the use of force and decisions that have been made in a court of law.

R v Chisham [1963] 47 Cr. App. R. 130

“A person can use force to ward off an anticipated attack, provided it was anticipated as imminent.”

Palmer v R [1971] AC 814

Lord Morris said:

“If there has been an attack so that defence is reasonably necessary. It will be recognised that a person defending himself cannot weigh to a nicety the exact measure of his defensive action. If the jury thought that in a moment of unexpected anguish a person attacked had only done what he honestly and instinctively thought was necessary, that would be most potent evidence that only reasonable, defensive action had been taken.”

R v Williams [1984] Crim LR 163

Lord Lane said:

“The test to be applied for self defence is that a person may use such force as is reasonable in the circumstances as he honestly believed them to be in the defence of himself or another.”

To a degree this concept was replaced by s 76 (4), (5) and (6) of the Criminal Justice and Immigration Act 2008.

R v Hegarty [1986] NI 343 (Genuine belief of imminent danger)

The judge came to the conclusion that **“it was probable that the defendant acted almost instinctively to defend**

his colleagues without having time to assess the situation in the light of police regulations relating to the use of baton guns, and without having time to balance the nature of the injury which might be caused to the deceased against the nature of the injury which might be caused to one or other of the two police officers.”

Beckford v R [1988] AC 130 (Self defence)

Lord Griffiths said:

“A man about to be attacked does not have to wait for his assailant to strike the first blow, or fire the first shot, circumstances may justify a pre-emptive strike.”

Oatridge [1991] 94 Cr. App. R. 367 (Mistaken belief)

“An accused who mistakenly believes she is being attacked, may still be able to rely on the defence of self defence.”

It is worth noting that in a criminal case, a defendant may rely on the defence if they hold an honestly held but mistaken belief that they are about to suffer harm, etc. It matters not that this mistake was unreasonable or not.

By contrast in civil cases such as **Ashley v Chief Constable of Sussex Police [2008] UKHL 25**

When relying on the common law defence of self-defence to defend a claim for damages for assault and battery, in a case where the assailant acted in the mistaken belief that he was in imminent danger of being attacked, the mistaken belief must not only have been honestly held (as required for the purposes of criminal proceedings), but also reasonably held (i.e. reasonable on objective grounds).

Case Law

Blackburn and others v Bowering and others [1994] 1 WLR 1324 (Mistaken belief)

“In deciding whether a defendant exerted reasonable force in defending himself, a court must judge him on the basis of what (reasonably or unreasonably) he believed to be the facts and not on the basis of what the facts actually were.”

The Judicial Studies Board, with the approval of the Lord Chief Justice, has produced a model direction on self defence which is now widely used by judges when summing up to juries.

The direction contains the following guidance:

“Whether the plea is self-defence or defence of another, if the defendant may have been honestly mistaken as to the facts, he must be judged according to his mistaken belief of the facts: that is so whether the mistake was, on an objective view, a reasonable mistake or not.”

R v Scarlett [1994] Crim LR 288

In this case the issue of a mistake as to the amount of force necessary was considered. It was held:

“They ought not to convict him unless they are satisfied that the degree of force used was **plainly more than was called for by the circumstances as he believed them to be and, provided he believed the circumstances called for the degree of force used, he was not to be convicted even if his belief was unreasonable.”**

This therefore adopts a subjective perspective when dealing with reasonable force, and suggests that a defendant may be found not guilty if he uses force that was no more than necessary at the time, even if this was based on a mistaken belief that the force was required in the first instance.

R v Clegg [1995] 1 AC 482

“In most cases of a person acting in self defence, or a police officer arresting an offender, there is a choice as to the degree of force to be used, even if it is a choice which has to be exercised on the spur of the moment, without time for measured reflection.”

The Court of Appeal went on to say that the use of force must not be so grossly disproportionate to the mischief to be averted so as to deprive a person of a defence under section 3(1) of the Criminal Law Act 1967.

Shaw v The Queen [2001] 1 WLR 1519 (Perception of danger)

In **Shaw v The Queen [2001] 1 WLR 1519** the subjective test was interpreted to apply not only to the accused's belief as to the circumstances but also to his belief as to the danger involved in those circumstances, an approach also endorsed in **Harvey [2009] EWCA Crim 469**.

Rashford [2005] EWCA Crim 3377 (Initial aggressor)

The Court of Appeal in **Rashford [2005] EWCA Crim 3377** has re-emphasised that the fact that a person who is the initial aggressor does not automatically mean that he cannot be acting in self-defence.

R v Jones [2007] 1 AC 136 (Term ‘crime’ with section 3(1) Criminal Law Act 1967)

The term ‘crime’ in s 3(1) of the Criminal Law Act 1967 means a crime in domestic law and this does not include a crime such as ‘aggression’, which is recognised only in customary international law.

ACCOUNTABILITY AND JUSTIFICATION

Introduction

Whenever officers are involved in an incident they will write notes as a chronological list of the events which should record in detail any use of force, evidence in relation to any offences and if necessary the reason for any arrest.

Particulars of any force used are usually included in the narrative when describing the subject's behaviour.

It has been known for officers to concentrate wholly on the accountability element at the expense of good evidence of the offence.

Should future action be taken against a Police Service then the notes covering this aspect will be closely scrutinised. They therefore have to be comprehensive.

Conflict Management and Officer Safety models assist with this process and if used in conjunction with additional advice, will help the officer to compile accurate and in-depth notes of an incident.

Many parties raise questions in respect of the law enforcement environment, particularly towards the position and power that a police officer holds.

For these, and many other reasons, it is now more important than ever for officers to provide a detailed account of the circumstances leading up to, during and after any use of force, the subject's actions and the officer's counteractions.

A mere inclusion on a custody record is not sufficient, nor is a basic pocket notebook entry.

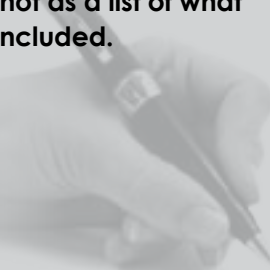
Poor and/or non-explanatory use of force accountability could possibly lead to officers encountering difficulties in civil or criminal proceedings.



Accounting for Actions

The information that follows over the next 5 pages could form part of an account of an incident, however it should not be viewed as an exhaustive list.

It should be viewed as a stimulus to remind officers of relevant issues and not as a list of what should be included.



The key elements are:

- Officers' Arrival
- Approach to the Scene
- Proximity
- Subjects' Actions
- Comparisons (Subject v Officer)
- Officers' Actions
- Transportation and Arrival
- History
- Use of Force
- Injuries
- Supplementary Narrative.

Officers' Arrival

Day, date, time and place

- Provide full details including junctions, postcodes, directions and positioning (north, south, east and west).
- Do not abbreviate as you may not understand this in years to come; we do forget information and venues change over the years.
- Timings within a highly stressful, intensive or prolonged incident can become uncertain. It is an accepted principle within the public order arena that general timing can be provided, i.e. the incident occurred between 9.30 and 10.15pm if these are the genuine last times that can be remembered.

Marked/unmarked unit/vehicle

- What vehicle were you driving or travelling in?
- What was the type of vehicle?
- Was it marked? Include any specific markings that you use, i.e. vehicle identification and registration number?

Uniform/plain clothes

- Full description of the uniform or clothing worn at the time.

- If in plain clothes did you remain identifiable as a police officer during the incident? This can prevent any allegation of not being in 'full uniform', i.e. for the purposes of stop and search, etc.

Identity established

If in plain clothes:

- How did you establish contact?
- How did you identify yourself?
Record the words used.
- Who did you show your warrant card to? Who else was present?

Number of officers

- Accurately and honestly detail who was present, what was their role and any action that you believe that they took.

Reason for initial contact

- Was it as a result of 999 or local call? Provide reference numbers.
Was it on the direction from a member of the public or a self-generated 'direct contact'?

>> CONTINUED
overleaf

Approach to the Scene

What the officers observed

- Rather than saying that you 'noticed' something, it is better to be more positive and say 'I saw ...'
- R v TURNBULL must be covered FULLY: Remember the mnemonic ADVOKATE

Officers' initial verbal/non-verbal communication, direction and commands

- Relevant conversation must be recorded as direct speech; the exact words used.
- Detail the exact information that you can remember. Be truthful and descriptive, remembering the possible use by others of mobile phones, recording and video equipment and CCTV.

Initial description of the scene

- You must set the scene so the reader can form a mental picture of the layout of the area. In order to assist the reader it is advisable to use fixed locations rather than points of the compass to denote direction.
- Access / Egress (way out) – was it clear or obstructed? Did this change during or whilst you were leaving the scene/incident? What was used to cause obstruction or blockage, description of those involved? What was the impact of this obstruction on you?
- Lighting – Explain why this was good or bad. Was it natural (sunlight) or sodium street lighting? Were all lights working? Which were and which were not? Record street lamp numbers for possible subsequent investigations/enquires.
- Mood – In your subjective opinion describe the mood of individuals, crowds and bystanders. Describe these actions; the words used and non-verbal communication. How did the mood impact on your performance and decision-making process?

- Weather – Was it hot, cold, raining, snowing, foggy, other? This could impact on your vision or what a third party could see.
- Restrictions due to clothing and footing that could impact on the choice of tactical option used, or not used.
- Potential weapons – provide a full detailed description of all (potential) weapons at the scene. Wood, bottle, chairs, bricks etc. Provide a visual representation in a sketch plan if appropriate or relevant.
- Availability of back-up - How close was back-up? What was it, who and what did it contain? Estimated time it would take to arrive or was it delayed?

Proximity

To other suspects

- Did the incident 'move about' from venue-to-venue, location-to-location?
- Did the incident take place in the vicinity of known associates?

Weapons (seen or unseen)

- Describe fully what you saw and what you thought you saw, including shape, length, materials and colour.

Hostile crowds/community impact

- Why was the crowd hostile or excitable (alcohol, drugs, weather, etc.)?
- Record the words used to provide a flavour of the atmosphere, record chants, provocation and support, the numbers involved.
- Did the numbers swell during the incident or reduce in size?

>> CONTINUED
overleaf

Subjects' Actions

You should include details of the actions of the persons involved in the incident. You should cover this point fully or state that you do not know or cannot remember this information.

Subjects' responses

- **Verbal** - Record as accurately as possible the actual words used. In order to provide compelling accountability evidence you must be prepared to record and at a later stage articulate swear words. The para-linguistics (tone, volume, pitch and emphasis) of the subject are vital in recreating the events and words spoken.
- **Non-verbal indicators** - Body language indicating basic warning or danger signs such as bladed stance, gritted teeth, narrowed eyes or clenched fist, may be a sign of potential danger.
- **Physical actions** - Pre-incident subject indicators could include closing a reactionary gap, the subject running away or resistance from a subject.
- **Unusual behaviour displayed by subjects** - This would be anything that is out of ordinary that is not recorded anywhere else. Consider Acute Behavioural Disorder (ABD).



**GO TO: MODULE 04:
MEDICAL IMPLICATIONS**

Comparisons (Subject v Officer)

For accountability evidence, the use of single or stand alone comparison factors will rarely produce good evidence. They must be used in conjunction with other factors to provide strong contributing evidence.

Describe the subject fully using the 10-point description scale:

1. **Ethnicity**
2. **Gender**
3. **Age** - your age versus the (apparent) age of the subject

4. Height - use 'between' heights or 'about 1.75 metres or about 5 feet 8 inches, rather than a precise height. It is useful to relate height to a fixed object, e.g. the person was 'shorter than me' or 'taller than the fence'. You can then find the height of the witness or the fence. All measurements in officer witness statements should be in metric units. Height is an exception to this and should be more in the terms of the unit that is most familiar to the author of the statement.

5. Build

6. Hairstyle and colour

7. Complexion

8. Distinguishing features, e.g. tattoos, scars, beard, etc and include if they wore spectacles.

9. Clothing (always work from head to foot)

10. Carrying anything?

If you are not sure of a point of detail then you must include this fact in your statement, e.g. 'I am not sure of the colour of the woman's jumper'. This shows that you have considered the point, even if you are unable to give details of it. You may be able to say whether it was dark or light, even if you cannot state the colour.

Physical ability (perceived or observed)

- What you know or have been told (history/knowledge), or have seen already at the incident.

Physical state

- Your physical state before, during and after the incident.
- Consider the 'effects of stress', the effect adrenalin had on you; exertion and exhaustion. Remember the subject was probably suffering similar physical effects.

Mental state (opinion allowed)

- What you thought about the person (history/knowledge/fact).

**>> CONTINUED
overleaf**

Officers' Actions

Type of control methods including de-escalation techniques used

- Consideration as to which Reasonable Officer Response options may be suitable.
- What tactical options were considered and used?
- Was any equipment deployed (batons, TASER, shields, etc.)?

Duration of resistance

- How did resistance change (reduce or increase) with the application of each tactical option?
- When did resistance cease?

Restraint used (physical/mechanical)

- Describe or explain the technique; remember to include the checking for tightness and double locking. Record the serial numbers of equipment.
- Describe any other tactical option used to control/temporarily restrain the subject, i.e. use of limb restraints, spit hoods, etc.

Transportation and Arrival

Subjects' demeanour and actions

- Did the attitude of the subject become better or worse?
- Did they respond to directions?
- **Consider when:**
 - being placed into the vehicle
 - during the journey
 - upon arrival and exit of transport
 - booking in procedure (including search).

Type of transportation utilised

- Numbers involved.
- Was the transport suitable?
- Was the speed appropriate in returning to a place of safety?
- Was the vehicle marked?
- Did an ambulance attend?

Transported to (location)

- Consider transported to where, why and by whom.

History

Record your previous personal experience or knowledge of:

- similar calls
- the suspect(s)
- the venue.
- This may well be based on dealing with the individual before, attending the premises or dealing with other family members. You may well re-count what action was needed last time the individual was dealt with by the police.
- This information may well have come to you by way of a briefing, local knowledge, research or in casual conversation.

Remember: Accountability evidence does not have to follow the rules of evidence and can be 'hearsay' as it is your opinion that creates or re-creates a picture for those in a position or authority to view or hear it. The Crown Prosecution Service (CPS) will decide which information they will make use of as evidence.

**>> CONTINUED
overleaf**

Use of Force

Component elements of Common Law, s.117 PACE, s.3 CLA and s.38(8) PRA

- Know your definitions.
- Know what is expected of you, i.e. 'reasonable', 'necessary' and 'in the exercise of their power'.

Imminent danger (to self, others and 'honest held belief')

- Know what is meant by 'imminent' and 'honest held belief'.

- **Remember the mnemonic PLAN** in relation to use of force. Concentrate on the letter 'A' as the HRA requires you to account for actions you took and to explain and document the actions you did not take.

- Proportionate
- Lawful
- Accountable
- Necessary.

Injuries

Injuries suffered to yourself or others

Full details supplied by medical experts (fact and opinion).

Medical attention obtained

Consider the use of photographs and statements.

- First aid administered.
- Aftercare.
- Duty of care.

Supplementary Narrative

Incident description

Reference numbers (call log, etc).

Details of witnesses

Information not mentioned anywhere else

This is your opportunity to describe, express opinion on or draw attention to any aspect not covered in the accountability narrative.

Areas such as feelings are an emotive subject and there are various schools of thought on this. If you feel that you wish to state that you 'felt scared' or 'frightened' at or during the incident it is your prerogative to do so.

If you feel that you should mention that you had recently returned to full duties following a period of illness or injury, again this is your decision and your opinion, bearing in mind you may well be asked questions about this (as well as other documented factors) at a later date.

REMEMBER: This is not an exhaustive list.

COMPLETE



Examples of Reporting

Listed below are a number of examples of a MG11 Statement. The purpose of the exercise is to demonstrate where the various impact factors appear within a report.

It seeks to help explain the degree and depth of detail that can be required to produce a satisfactory and accurate account of what happened and in particular why force was used.

These examples should **not** be used as a definitive record; each officer must detail their own account of a set of circumstances.



Officers' Arrival

On Wednesday 20th June 2007 I was on duty in full uniform. I was posted foot patrol on my own on the 'Springfield' housing estate.

Approach to the Scene

The estate has a combination of high and low-rise residential buildings. There are a number of underground car parks below these buildings. There are numerous alleyways and footpaths that lead from the estate to the town centre.

Proximity

This bus stop is situated outside Pittfield House, opposite the Ladbroke's bookmakers, a venue frequented by both him and his family.

Subjects' Actions

He took his left hand out of his pocket and raised his left arm directly in front of him and pointed his left hand index finger towards me. He said, "Go away little girl, we have met before and you know what happened last time!" As he said this his right fist was clenched.

Comparisons

I am a 5'4" tall female of petite build, Mr DAVIES is both taller and heavier than me. He has an athletic build and from my previous confrontation with him I know that he is stronger than me.

Officers' Actions

I am wary of Mr Davies due to my previous dealings with him, the allegations made about him and the injuries he had previously caused me. I made the decision that I did not want to get too close to him and therefore drew my CS incapacitant spray in a low profile carriage position and held it behind my leg.

I transferred my CS incapacitant spray into a high profile stance (continued use of Common Law power of Self Defence) and said to him, "Martin stay where you are". He stepped towards me, shouting, "You stop me!" From a distance of about 2 metres I sprayed him (Common Law power of Self Defence and the power enabled within the warrant).

>> CONTINUED
overleaf

Transport and Arrival

A police van (SX2) arrived driven by PC Sutherland accompanied by PC Walsh. The caged area of the van was fully searched in the presence of Mr DAVIES. Mr DAVIES was then placed in the caged area of the van and transported to Brixley Police Station arriving at (time), where again in the presence of Mr DAVIES the caged area was searched.

History

At approximately 10am I saw a man I know to be Mr Martin DAVIES. I have personally dealt with Mr DAVIES on several previous occasions. During these previous encounters he (Martin DAVIES) has always demonstrated resistive and aggressive behaviour and I know that he has a number of previous convictions that relate to violence.

On the last occasion he was arrested, he punched me in the face breaking my nose and chipping two (2) teeth, and it then took an additional five (5) officers to fully restrain him.

Use of Force

I was aware that there was an arrest warrant in existence for Mr DAVIES. I had also been made aware of the fact that there was an injunction in force. (Common Law power of Self Defence genuine & honest held belief based on knowledge & previous experience I may be attacked by him). I transferred my CS incapacitant spray into a high profile stance (continued use of Common Law power of Self Defence) and said to him, "Martin stay where you are." He stepped towards me, shouting, "You stop me!" From a distance of about 2 metres I sprayed him (Common Law power of Self Defence and the power enabled within the warrant).

Injuries

Whilst Mr DAVIES was in this position in a loud voice I said to him "Take your hands away from your face now, take them away from your face you have been sprayed with CS incapacitant spray, look up, breath normally, the effects are only temporary, you will recover, keep breathing you'll be fine Martin, look up, keep breathing, you will recover Martin". In order to prevent the continued contamination of Mr DAVIES who was coughing and had his eyes closed and, cross contamination to myself, I stood him up by directing him to move from the kneeling position he was in, to step up onto a foot, then the other during which time I held his arm and assisted in this process. I then moved him away from the immediate area.

Supplementary Narrative

Police personal issue radios have limited usage in and around the 'Springfield' housing estate, and I am aware that certain areas on the estate that there is no radio communication possible. I maintained a clear and unobstructed observation of Mr DAVIES (R v Turnbull).

On the last occasion he was arrested, he punched me in the face breaking my nose and chipping two (2) teeth, and it then took an additional five (5) officers to fully restrain him. From the observed behaviour, and my previous knowledge of Mr DAVIES I believed he needed to be approached at this time.

I was informed that all other units were dealing with a major accident on the A41 (CAD 1234/08) and I was told that they would contact the adjoining station for assistance.

Use of force accountability

Although the 'Accounting for Actions' list provides a systematic framework for use of force accountability evidence, it is important to consider that officers must specifically describe, by way of careful and clear articulation, what they and the subject(s) did.

A clear and precise picture must

be painted for the benefit of the magistrates, or judge and jury, in order to secure a conviction.

Although it can be difficult to grasp how the officer felt after the event, this simple emotional vocabulary, positive and negative, may assist in reflecting on the attitudes and feelings experienced.

Emotional Vocabulary: Positive Feelings

Mild

Merry • good • pleased
interested • infatuated
friendly • alert • relaxed
adventurous • OK • safe
attractive • approved • active

Moderate

Glad • cheerful • warm
cared for • intense complacent
radiant confident • attentive
coy appreciated • energetic
perceptive • jolly • happy
delighted • stimulated
affectionate • liked
popular • vibrant • calm
contented • comfortable
daring • capable • protected
interesting • pretty
important • enlivened

Strong

Thrilled • joyful • successful
enthusiastic • excited
idolised • adored • zestful
peaceful • brave • determined
positive • involved • admired
invigorated • understanding
elated • proud • loved
jubilant • alive • free • tranquil
courageous • rapturous
forceful • dedicated • secure
fascinated • worthy
respected

Emotional Vocabulary: Negative Feelings

Mild

Upset • blue • down • sad
low • bashful • concerned
uncomfortable • on edge
unimportant • puzzled • edgy
fidgety • impatient • tired
sorry • hesitant • unconcerned
dislike

Moderate

Fed up • annoyed • downcast
sorrowful • alone • shy
sensitive • scared • uneasy
troubled • baffled • mixed up
perplexed • jittery • tense
keyed-up • letdown • distrustful
weary • worn out • reluctant
competitive • surprised
disinterested • mad • forlorn
dismayed • embarrassed • timid
afraid • frightened • inadequate
unsure • confused • nervous
shaky • frustrated • disappointed
discouraged • listless • regretful
sceptical • envious • startled
indifferent • bitter • loathe

Strong

Infuriated • furious • angry
woeful • gloomy • despondent
hurt • horrified • apprehensive
ineffectual • bewildered
uptight • suspicious • helpless
dismayed • fatigued • lethargic
ashamed • jealous • shocked
ambivalent • resentful • detest
irate • enraged • hostile
hateful • dejected • depressed
humiliated • rejected
terrified • anxious • useless
disorientated • overwhelmed
panicky • out of control
distrusted • desperate • futile
hopeless • exhausted • guilty
astounded • overwhelmed
apathetic • revengeful • hate

Identification

Parallax

The dictionary definition of this concept is "an apparent change in the direction of an object, caused by a change in the observational position that provides a new line of sight". In basic terms, this is linked to trigonometry or the study of angles.

It is used both in the maritime and solar plotting measurement of position, on the sea and in space. From a police personal safety and report writing perspective it seems quite clear that two or more officers attending an incident, whilst stood in different positions, will observe different things. This is also the case for witnesses.

Using the clock system of positioning officers, if an officer is stood at the 12 o'clock position and another officer is stood at the 4 o'clock position in the same room, each will have a different appreciation of the scene.



GO TO: **MODULE 05:**
PERSONAL MANAGEMENT

It is therefore vitally important to understand that statements will vary from officer to officer. This can be extremely helpful to 'expert witnesses' when they are trying to position officers, subjects and witnesses to establish evidence. Clearly, it is impossible to see the same thing from different angles and the report should emphasise this.

Observation identification

Closely linked to the study of parallax, identification evidence was put under the spotlight in 1977, with the case of R v Turnbull [1977] QB 244.

It led to standards being set and prescribed criteria to be met, in establishing the quality of identification evidence, and for warnings to be made to juries

considering such evidence. The quality of identification evidence will be judged on the criteria outlined below. The mnemonic **ADVOKATE** may assist in remembering these points.

- **A**mount of time the subject was under observation
- **D**istance from which the subject was observed
- **V**isibility in the area when observed
- **O**bservation impediment
- **K**nown or seen the subject before, how often?
- **A**ny reason to remember the subject
- **T**ime elapsed between the observed incident and the identification
- **E**rror or material discrepancy in the description given and the actual appearance.

It can be seen that, particularly for 'Distance', if the angle is also considered, then this may place a different perspective upon the evidence.

Egocentrism

This is defined as viewing everything in relation to oneself; self-centred. In the area of observation, interpretation and reporting some persons, officers, subjects and witnesses can only see things from their own standpoint and cannot understand that others might see things differently. Psychologically, this person or group of people may be unable to put themselves in other people's shoes in order to realise how that other person may perceive the situation.

Post traumatic amnesia

This is generally any type of memory loss that results from a traumatic experience, either as a result of physical injury, or a disturbing psychological experience. Clearly, this may result in predictable delays for the officer and subject in memory recall and report writing immediately after a stressful incident.

For policy considerations:



GO TO:
MODULE 13:
EDGED
WEAPONS

REPORTING AND MONITORING

Introduction

It is an indisputable fact in today's society, that law enforcement officers carrying out their duties and the tactics used by them, are under greater scrutiny than ever before.

Due to this scrutiny by a variety of bodies, forces and organisations the Police Service need to be able to robustly account for the actions of their officers and staff.

For this, and many other reasons, it is now more important than ever for officers to provide a detailed account leading up to, during and after their use of force, the subjects' actions and the officers' actions and counteractions.

gathering, provide standardisation of reporting and development of tactics, equipment and knowledge of the Service.

The recording of use of force data is fully supported by the ACPO Conflict Management and Strategic Firearms Portfolio and this is reflected in the 2009 ACPO/NPIA Guidance on Personal Safety and regarded as good practice.

National Use of Force Reporting

Why is use of force reported and monitored nationally?

National use of force reporting and monitoring was initiated to influence local personal safety strategies, training and equipment.

This primary objective remains valid and seeks to remind us that prior to reporting and monitoring, individual forces did not know the frequency with which officers face conflict, or how successful their training and equipment was in reducing the dangers that they were exposed too.

This process also provides Forces with tangible evidence they require to conduct Training Needs Analysis (TNA) that assists in future training and development. It provides information regularly requested via the Freedom of Information Act and regular Home office enquiries. National monitoring is intended to capitalise on that local data

What data is monitored?

- How frequently officers are confronted by violence
- The regularity with which they are required to offer or use force
- The circumstances in which personnel are assaulted
- The nature of injuries sustained by police personnel
- The effectiveness of their training and equipment in ensuring such incidents are successfully resolved.

Use of Force reporting form

A good use of force reporting form should be:

- user-friendly
- easy to follow
- completed in a short timescale
- able to act as an aide memoire to help with completion of statements.

When should the form be completed?

A 'use of force reporting form' must be completed where a member of staff uses a tactical option* to manage conflict. This includes occasions where equipment has been drawn but not otherwise used.

*A form does not need to be completed for the use of tactical communication, escort position and compliant handcuffing.

A record must be made of all incidents where force is used (based on the above definition) otherwise the effectiveness of particular techniques, including the drawing of equipment will not be known.

Failure to do so may give the impression that physical force is used more often than it actually is.

Note: Further local force/agency guidance may be available as to what constitutes 'use of force'. There may also be local variation in the methods used to record this. See section 3.1.1. Recording the Use of Force, ACPO (2009) Guidance on Personal Safety Training.

For ACPO (2009) Guidance on Personal Safety Training, go to:



<http://www.ncalt.com>

What does the officer do with the form when completed?

- Ensure that a supervisor, a personal safety trainer or relevant person checks and signs the completed form.
- The form should then be sent to the appropriate use of force co-ordination department within the organisation.

What happens to the form?

- All the information is entered into a local database.
- Feedback is provided for senior management, force training departments, area commanders and divisional trainers, discipline and complaints, health and welfare departments, personnel departments, Police Federation and press offices.
- Training is reviewed and tailored to meet operational needs.
- ACPO and the NPIA may on occasions request this information and use it in the ongoing review of personal safety training.

Disclosure – Criminal Procedure and Investigations Act 1996

Officers must be aware that completion of a Use of Force Reporting Form is subject to disclosure under the Criminal Procedure and Investigations Act 1996.

Use of Force Reporting Form

EXAMPLE - RIGHT AND OVERLEAF...

Example Use of Force Reporting Form - PAGE 1

The following is an example of a Use of Force monitoring form. Please note there may be local variances as to what is included in the form, the way it is completed and the way in which it is processed.

Revised 01/2000

Use of Force Monitoring

When do I fill in this form ?
When **YOU** have used force.

Please complete this form by entering an **X** in the chosen boxes using blue or black ink.

Rank	Insp.	Sgt	PC	SC	Other	Collar Number	Date
Uniform	☐	☐	☐	☐	☐		
Plain clothes	☐	☐	☐	☐	☐		

Type of Duty (only X one box) Mobile Patrol ☐ Custody ☐ Foot Patrol ☐ Traffic / ARV ☐ Drugs ☐ CID ☐ Football Duty ☐ PSU ☐ Dog Section ☐ Mounted ☐ Off Duty ☐ Other (specify)	Incident Type Public Order ☐ Custody ☐ Crime ☐ Sexual Offence ☐ Domestic ☐ Traffic ☐ Alarm ☐ Suspicious Person ☐ Assault ☐ Other (specify)	Was the incident related to Alcohol ☐ Drugs ☐ Mental Health ☐ Total number of officers at incident scene 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 - 10 ☐ More than 10 ☐
Location of incident Roadway ☐ Dwelling ☐ Car park ☐ Public Park ☐ Garden/Driveway ☐ Public building ☐ Custody Block ☐ Motor Vehicle ☐ Train ☐ Licensed premises ☐ Commercial premises ☐ Other		
Number of subjects / offenders One ☐ Two ☐ Three ☐ Four ☐ Five ☐ More than Five (specify below)	Reason for Use of Force (Cross as many as appropriate) Protect self / other officer ☐ Protect Public ☐ Protect / secure property / evidence ☐ Prevent harm to subject ☐ Effect arrest ☐ Prevent offence ☐ Effect search ☐ Remove Handcuffs ☐ Accidental ☐ Destroy animal ☐ Other (specify)	
Length of time since you last received Officer Safety Training (choose the range that best fits your circumstances) 1 - 3 mths ☐ 3 - 6 mths ☐ 6 - 9 mths ☐ 9 - 12 mths ☐ 12 - 18 mths ☐ Over 18 mths ☐	Method of assault by offender Fist/punch ☐ Kick ☐ Head butt ☐ Struggle / ☐ Resist arrest ☐ Threat of Violence ☐ Other ☐ 	

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overleaf

Example Use of Force Reporting Form - PAGE 2

Which of the following did you use?		Was it effective?		Weapon/s Carried by subject		Location of Weapon/s	
Yes		Yes	No				
☐	Mandibular Angle (ear)	☐	☐	☐	None	☐	In hand ☐
☐	Brachial Plexus (neck)	☐	☐	☐	Firearm	☐	Close by ☐
☐	Sub Clavian (collar bone)	☐	☐	☐	Syringe	☐	Concealed on person
☐	Transport Wrist lock	☐	☐	☐	Bladed Weapon	☐	Above waist ☐
☐	Arm Entanglement	☐	☐	☐	Pointed Weapon	☐	Below waist ☐
☐	Arm bar (escort)	☐	☐	☐	Blunt Weapon	☐	In groin area ☐
☐	Non Compliant Handcuffing	☐	☐	☐	Missile	☐	Other person ☐
☐	Knee Strike	☐	☐	☐	Bottle	☐	Motor vehicle ☐
☐	Bottom Fist	☐	☐	☐	Other (specify)	☐	Other (specify) ☐
☐	Sweeping Leg Kick	☐	☐	☐			
☐	Incapacitant drawn	☐	☐	☐			
☐	Incapacitant used	☐	☐	☐			
☐	Baton drawn	☐	☐	☐			
☐	Baton strike	☐	☐	☐			
☐	Baton restraint	☐	☐	☐			
☐	Police Dog	☐	☐	☐			
☐	Shield Used	☐	☐	☐			
☐	Firearm drawn	☐	☐	☐			
☐	Firearm discharged	☐	☐	☐			
☐	Other (specify below)	☐	☐	☐			
				Your injury - Body Parts		Nature of your injuries	
				None ☐		None ☐	
				Head ☐		Stab Wound ☐	
				Torso ☐		Bruising ☐	
				Limb ☐		Slash / Laceration ☐	
						Broken bone ☐	
						Other ☐	
						Remember to complete Accident & Assault form	
Number of other officers injured							
0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9+ ☐							
Please indicate what Personal Protective/Defensive Equipment you were in possession of at the type of the incident				LPU of Incident			
Incapacitant Spray ☐				8C ☐ SB ☐ XB ☐			
Rigid Handcuffs ☐				8D ☐ SC ☐ XC ☐			
Straight Baton ☐				8E ☐ SD ☐ XD ☐			
Friction lock Baton ☐				8F ☐ SE ☐ XE ☐			
Other Batons & Handcuffs ☐				8G ☐ SF ☐ XF ☐			
Protective Vest - Std. Force Issue ☐				CB ☐ SG ☐ XG ☐			
Protective Vest - (Ballistic/Specialist issue) ☐				CD ☐ SH ☐ XH ☐			
Shield ☐				CE ☐ SI ☐			
Firearm ☐				CF ☐			
Other				CG ☐			
				CH ☐			
Signature of Officer Completing this form _____ Date _____							
Supervisor:		Rank/Grade	Number	Name	Date		
Submit This Form Direct to							
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Scanning by Performance Development Team							



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