

Setting the Record Straight on **FORCE CONTINUUMS**

By Dave Grossi

Use-of-Force Continuum. Control Continuum. Level-of-Force Model. Subject Resistance Matrix. They go by different names, but basically all mean the same thing. They are names for the gradations of force police officers are trained to use when meeting resistance. But is there a movement within police agencies to remove force continuums from their use-of-force policies? It appears so.

It seems I've been asked that question more than a few times over the last several months. A check with a few other use-of-force trainers revealed that they've been asked the same question. And while fielding questions from officers and agencies regarding use-of-force is a big part of our jobs as trainers and consultants, it was a little disconcerting to have that question asked of me while on the witness stand testifying in a use-of-force matter recently.

During direct examination I was outlining the concept of progression of force and identifying the specifics within each major force field, the gradations of presence from a single officer up through an entire tactical team; and dialogue from search talk up through loud forceful commands, all the way up through deadly force and firearms. The direct testimony went very smoothly. During cross-examination, I was asked, "Aren't use-of-force continuum's obsolete in most modern agencies?" I'm not quite sure where this attorney was getting his information, but it's a pretty good bet he had never heard of a force or control continuum before this case.

If there is any doubt about the value of a use-of-force (or control) continuum, it is that in front of a jury, a judge, or a civilian review board, pictures really are worth a thousand words. A properly constructed control continuum provides a clear method for educating civilians in understanding that your force decision was the most reasonable one, based on the threat you were facing; the ability to diagram the standard progression of force from presence, dialogue, empty-hand control, chemical, electronic or impact weapons, up through deadly

force, including why skipping steps based on special circumstances are sometimes necessary.

In addition to educating civilians in police use-of-force matters, one of the other benefits of a force continuum is that it provides a framework for officers when they have to justify and articulate their force applications. It gives them the ability to point out where the procedure or technique they used sits on the matrix, relative to others, in the level of intensity. It also allows the officer to describe his relative strengths versus the suspect's, providing some structure to his force decision.

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From what I've been able to glean from interviews with force trainers, it appears that more than a few departments are trying to maintain the concept of progres-

sion of force, including the wording and the language of the specific gradations of force, but opting to throw out the actual "action/reaction" diagram, and substituting the words "reasonable force" coupled with a range of options, including the option of retreating in the face of a deadly threat.

Instead of defining what force is appropriate for their officers to use when dealing with resistive subjects, some agencies are now tasking their officers with selecting their force option from the broad, yet nonspecific category of intermediate weapons before escalating up to deadly force. However, the problem is if their choice doesn't meet with the outside (read civilian) world's view of reasonableness, they're in essence hung out to dry. Simply put, without some type of schematic, diagram or matrix outlining the action/reaction concept and identifying the manner or method of threat facing the officer, this type of open-ended policy might allow for a very subjective interpretation of reasonableness when reviewed by individuals who don't have the training, experience or knowledge to comprehend the realities of the street. This can be further complicated when this broad subjective interpretation of reasonableness doesn't allow for reasonable officer perception, or what the subject's active level of resistance was, or what prior knowledge the officer had of this subject, or how much resistive tension the officer felt, or what the officer/subject factors were, or how hyped-up the subject was. By eliminating the standardized, easily read and understood checklist, or action/reaction matrix that describes exactly what the aggressive subject was doing, coupled with the reasonable officer responses to balance the equation, an officer's use-of-force might now be deemed inappropriate or unreasonable without any objective criteria.

Most recognized professionals in the police training or liability field accept a force (or control) continuum in some form, and virtually every attorney I've worked for in a use-of-force case has told me that the portion of my testimony where I outlined the control continuum's

reasonable progression of force was the most persuasive part of the evidence (as seen from the jury's perspective) that they used to determine the reasonableness of the officer's conduct.

Officers need to know through training, what they can and can't use from their tactical tool boxes in any force confrontation. If they're taught about resistive tension and thousand-yard stares they need to be able to articulate and describe that. If they're taught that active resistance requires decentralization techniques, they need to be able to point to it on the continuum. They not only need to be confident in their skills and abilities; they need to be able to justify the intensity of their actions on a specific use-of-force matrix. They also need to know when they can escalate up a prescribed and specific control continuum from strong verbal commands straight to OC without having to first attempt empty-hand control techniques or leverage techniques with their baton when the officer/subject factors dictate higher levels of force. Furthermore, they need to be able to look at that progression of force diagram in their policy manuals so they can refresh themselves with it from time to time. Their

attorney needs to be able to introduce that force matrix as evidence in their defense. Lastly, those officers need to know that their agency will back them up when they use those techniques appropriately.

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Whatever name you attach to your concept of progression or escalation of force, it is an invaluable tool. While words such as presence, dialogue, physical control and intermediate weapons are fine, they can never replace an action/reaction matrix that you can diagram to a judge or jury to help them understand why you acted, and that it was proper, justified, appropriate and reasonable in light of the resistance or force you were facing.

Whatever subject control technique you're taught in training, you need to be able to turn to in your policy manual. Likewise, if you're taught that there is a

logical, prescribed escalation and de-escalation of force, you should be able to point to that progression in your policy manual and describe why and how it was proper. Lastly, if you're an instructor, and your agency is one those few agencies that have decided to streamline their use-of-force policy, and in doing so have opted to remove the force matrix from their policy manual, you may need to figure out just how you're going to teach (or testify about) the progression of force without a visual use-of-force matrix. As one who spends a lot of time as an expert witness, I am of the opinion that it can't be done properly without an understandable schematic. ☆

About the Author

Dave Grossi is a retired police lieutenant from upstate New York, now residing in Florida. A Police Marksman Association National Advisory Board member for over 20 years, Dave is one of only a handful of judicially recognized police procedures experts with instructor credentials in virtually every force discipline.

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