





## CHAPTER 5

# Use of force and firearms

### Learning objectives for Chapter 5

After completing this chapter you should be able to:

63

- *Explain the standards set out in the UN Basic Principles on the Use of Force and Firearms*
- *Provide examples to explain proportionality during use of force*
- *Explain the different levels of force that can be used and tactical issues*
- *Describe the procedures to be followed before, during and after the use of firearms*



---

## Chapter 5

### Use of force and firearms

#### Contents

- 5.1. Introduction**
- 5.2. The 'right to life', International Standards, and the *Basic Principles on the Use of Force and Firearms by law enforcement officials***
  - 5.2.1. The use of force**
  - 5.2.2. Accountability for the use of force and firearms
  - 5.2.3. Permissible circumstances for the use of firearms
  - 5.2.4. Procedures for the use of firearms
  - 5.2.5. After the use of firearms
- 5.3. Methods to explain proportionality**
- 5.4. Use of force continuum**
- 5.5. Summary**
- 5.6. Questions for self-evaluation**



---

## 5.1. Introduction

By definition, law enforcement requires that some coercive or forceful capability exists to ensure compliance with the law. Police are authorised to use force in certain circumstances, such as in effecting certain arrests, or in self defence. From a human rights perspective, when police have authority to use force, including firearms, the most important principle is of **proportionality using minimum force**. This means that if no force is needed, for example to arrest a person, an officer should not use any force at all; if any force is used, it should be only so much as is strictly necessary to effect the arrest of that person.

The principles of **legality, necessity and proportionality** are paramount. Police officers should also act in an ethical way, and should be held **accountable** for their actions. The principle of proportionality requires that the method which employs the minimum force to achieve a goal should always be chosen. The intentional use of lethal force may be used only when strictly unavoidable in order to protect life. Excessive force cannot be used to punish or terrorise persons.

From a trainer's perspective, it is vital that any tactical or legal instruction on the use of force, as is normal in police training, include most clearly the human rights standards concerned. When violations of human rights result from the use of excessive force, it is almost always an issue that proper awareness and training might have prevented. Human rights considerations also require putting in place systems of accountability for the use of force, particularly for the use of firearms.

## 5.2. The 'right to life,' International Standards, and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*

In 1990 the United Nations General Assembly adopted and proclaimed (by General Assembly Resolution 45/111) international basic principles on the use of force and firearms by law enforcement officials. These are intended to give detailed guidance to law enforcement trainers and officers - their effect is set out below.

Everyone has the right to life. What does this mean for law enforcement? There has evolved an international prohibition on the State, the protector of life, itself depriving a person of their life arbitrarily (without any cause in law: a lawful justification would be self-defence or defence of others), through the official acts of a state official. Unnecessary and unlawful use of deadly force by a police officer would therefore constitute a violation of the right to life.

From a trainer's perspective it should be noted that international bodies have explained that the right to life can place a more positive obligation on State officials: to train and equip police officers in way that reduces the risk of violations of the right to life by arbitrary use of deadly force. In doing so the State fulfils a part of its duty corresponding to the right to life.

Note also that a commander may need to take 'right to life' considerations of his or her own officers into account in planning operations: such officers require training, equipment and systems that do not unreasonably put their lives at risk during the course of duties. This of course is not simply a human rights issue but comes within a general 'duty of care' that employers owe to employees more broadly.

---



---

In addition to this consideration, and the practical guidelines contained in the *Basic Principles*, the *UN Code of Conduct for Law Enforcement Officials*, Article 3, provides simply as follows:

*"Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. "*

The right to life informs this Article. The official 'Commentary' to Article 3 explains how the 'necessity' element reinforces how law enforcement officials may be authorized to use force, but the use of force by should be exceptional, and no force going beyond what is reasonably necessary may be used. The Commentary also notes that the use of firearms is to be considered an extreme measure and not used unless a suspected offender offers armed resistance or otherwise jeopardizes the lives of police and others, where less extreme measures are not sufficient to apprehend the suspect.

### 5.2.1. The use of force

On the use of force, the following principles serve as guidelines for police officers:

- Everyone has the right to life, security of the person, and freedom from torture and other cruel, inhuman or degrading treatment or punishment.
- Non-violent means are to be attempted first.
- Force is to be used only when strictly necessary.
- Force is to be used only for lawful law enforcement purposes.
- No exceptions or excuses shall be allowed for unlawful use of force.
- Use of force is to be always proportional to lawful objectives.
- Restraint is to be exercised in the use of force.
- Damage and injury are to be minimised.
- A range of means for differentiated use of force is to be made available.
- All officers are to be trained in the use of various means for differentiated use of force.
- All officers are to be trained in the use of non-violent means.

### 5.2.2. Accountability for the use of force and firearms

Use of force and firearms are very serious infringements on people's basic human rights. Police officers should always be accountable for their actions. On the issue of accountability, the following principles serve as guidelines:

- All incidents of the use of force or firearms shall be followed by reporting and review by senior officials.
  - Superior officials shall be held responsible for the actions of police under their command if the superior official knew or should have known of abuses but failed to take concrete action.
  - Officials who refuse unlawful superior orders shall be given immunity.
-

- 
- Officials who commit abuses of these rules shall not be excused on the grounds that they were following superior orders.

### 5.2.3. Permissible circumstances for the use of firearms

The circumstances under which firearms may be used may differ from country to country. The following circumstances can be identified where the use of firearms is permissible:

- Firearms are to be used only in extreme circumstances.
- Firearms are to be used only in self-defence or defence of others against imminent threat of death or serious injury.
- To prevent a particularly serious crime that involves a grave threat to life.

OR

- To arrest or to prevent the escape of a person posing such a threat and who is resisting efforts to stop the threat.

AND

- In every case, only when less extreme measures are insufficient.
- Intentional lethal use of force and firearms shall be permitted only when strictly unavoidable in order to protect human life.

### 5.2.4. Procedures for the use of firearms

- The officer is to identify himself or herself as a police officer.

AND

- The officer is to give a clear warning.

AND

- The officer is to allow adequate time for the warning to be obeyed.

BUT

- This shall not be required if the delay would result in death or serious injury to the officer or others, or if it is clearly pointless or inappropriate in the circumstances to do so.

### 5.2.5. After the use of firearms

- Medical aid is to be rendered to all injured persons.
- The relatives or friends of those affected are to be notified.
- Investigations are to be allowed for where requested or required.
- A full and detailed report of the incident is to be provided.





### 5.3. Methods to explain proportionality

To know which method uses the minimum force, the potential force of each method should first be identified. Measuring the method on a points scale can do this.

The potential levels of 'physical force methods' can be measured, for instance, on a points scale of 1-10. A relative point is allocated to methods which have fewer disadvantages for the community, for example 1, and a high point is allocated to methods which contain potentially serious consequences for the suspect, the community and the police officer.

This example will also explain the principle of proportionality and show the different levels of force that can be used during the arrest of a suspect. To give practical effect to the human rights considerations underlying use of force issues, these are the kind of issues that need to be emphasised alongside tactical and skills training on the use of force.

### POTENTIAL FORCE LEVELS DURING ARREST

#### I. Police officer's presence: Identification of authority

The first step is when a police officer identifies himself or herself as a police officer (visually and verbally) - being in uniform and telling the suspect that he/she is a police officer.

#### II. Verbal directions

Giving verbal directions and commands of arrest to the suspect. For instance, when a police officer tells the suspect that he/she is under arrest, or when the officer verbally instructs or commands the person to do something. (Example: When a suspect tries to flee and the police officer shouts at him or her to stop.)

#### III. Empty hand control

- Soft empty hand control

These are techniques which a police officer can use that have the minimal chance of injury. (Example: When a police officer touches the person on the shoulder and instructs him to come along, or takes hold of an arm, moving the suspect.)

- Hard empty hand control

These are techniques which a police officer can use that have a probability of injury. (Example: If there is a certain amount of resistance, to use techniques to force the suspect to submit, like pressure points on the body, 'come along' techniques, 'take down' techniques and 'joint manipulation' techniques, such as bending arms and fingers.)

#### IV. Motor dysfunction techniques

These are techniques which police can use, if there is more resistance, that are sure to cause some degree of injury. (Example: Lateral vascular neck restraints - if police officers have been trained in using these techniques - or foot/leg/arm strikes as dynamic application of pressure to nerve motor areas to cause temporary dysfunction of the limb and simultaneous mental stunning; other strikes resulting in temporary loss of mobility or mechanical control (Karate, Aikido, etc.)

#### V. Chemical agents

Chemical agents such as CO/OC gas (tear gas) or pepper gas should be used only if they have been approved by police headquarters and strictly in accordance with safety

---

procedures by trained police officers, and in line with legal directives controlling these agents. (Example: Tear gas should not be used in confined or closed areas.)

#### VI. Batons and impact weapons

These impact weapons should be used only as departmentally approved and by trained police officers, and as part of a graded resort to force that is consistent with the threat level.

#### VII. Use of firearms

Firearms should be used only as the last resort. Firearms may be used only when necessary for a police officer to protect himself/herself and innocent bystanders, and while effecting an arrest. Normally, firearms should be used only in self-defence or in defence of others against imminent threat of death or serious injury. At first, a warning shot or non-fatal body shot should be attempted. Remember the purpose of arrest is to get the suspect to appear in court.

A **valuable hint** in relation to the above scheme is that the number of points for a method also suggests the amount of caution to exercise in relation to it. In other words, the higher the point the method has which the police officer wants to apply, the more cautious he or she has to be in applying it.

The principle of 'proportional use of force' should always be taken into account. Aside from the victim of the use of force, the reason for this is that, in addition to consequences such as **post-traumatic stress disorder** on the police officer because he or she has killed someone, **criminal or disciplinary charges, or large civil claims** may also be laid against the police. It can also, to a large extent, strain community relations.

#### **The "P.L.A.N" concept**

*Human rights underlie these principles in all use of policing and other powers that by their nature involve force or impact on the rights of individuals:*

**Proportionality** – a balance between the legitimate objective, and the degree of force used to achieve that objective.

**Legality** – all law enforcement actions should have their foundation in lawful powers. Upholding the law can only be done within the law.

**Accountability** – there must be review systems and reporting procedures in place for accounting for the use of forceful or intrusive measures such as firearms.

**Necessity** – strong measures should only be used where their use is necessary for the objective to be obtained: when other measures are inadequate







### 5.4. Use of force continuum

As noted above, when applying force, police officers should always take proportionality into consideration. The more the resistance, the more force one can reasonably use. This can be referred to as **escalation of force**. On the other hand, if the person submits, the police officers should stop using force or use less force. This is referred to as **de-escalation of force**.

The force used by the police officers should be in response to the behaviour of the suspect in each situation.



To enable police officers to use proportional force and to de-escalate in situations that are under control, they need to receive proper training and equipment. Police officers should constantly practise the different techniques, for example, soft and hard empty hand techniques.

### 5.5. Summary

When police have to use force and firearms, the principles of **legality, necessity and proportionality** are paramount. The right to life is the applicable international rights standard. Trainers have a responsibility to ensure that police officers understand why minimal use of force is a legal and human rights requirement (with possible consequences for exceeding reasonable limits). They also need to explain to officers how the excessive use of force, especially if widespread, systematic and not accounted for, leads to a serious breakdown in relations with the community. This makes police work a great deal harder to do.

Police officers need to feel confident in using degrees of force, depending on the level of threat. For this, they will require training in techniques to put minimal harm principles into effect. Time and money spent for training on such techniques is never wasted.

---

## 5.6. Questions for self-evaluation

- *Provide examples to explain proportionality during use of force.*
- *What is meant by the use of minimum force?*
- *Describe the different levels of force that can be used during arrest, starting with minimum force and ending with maximum force.*
- *Can you confidently apply the P.L.A.N principles to hypothetical factual scenarios?*
- *Describe the procedures to be followed before, during and after the use of firearms.*
- *What is meant by escalation and de-escalation of force?*

