

APPLICATION OF THE MODEL OF USE OF FORCE IN THE PROCESS OF DETAINING PERSONS

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Abstract: Performance of police work includes everyday contact with citizens. The majority of those contacts are peaceful, but, unfortunately there are contacts that are not peaceful and result into dissatisfaction which later is manifested in verbal, physical or armed resistance by the citizens. The fact that the police is involved in everyday contact with the citizens should reduce the possibility of inadequate behavior of the police officers, which is important for effective performance of their professional duties, in compliance with the laws. This means that the process of detaining persons should be performed in a serious manner with the application of all security measures which are in accordance with the given situation. In practice, the police mainly detain persons in cases when they collaborate, give passive or active resistance or when they perform armed or non-armed attack. In order for the police to reasonably assess the situation and react in the process of detaining persons the model of use of force is used. The theory of the application of this model is based on the principle of "control" and it offers directions for adequate and proportionate response of the police in the use of force.

KEYWORDS: POLICE OFFICERS, POLICE POWER, DETAINING, MODEL OF USE OF FORCE, TACTICAL PROCEDURES.

1. Introduction

The quality of the everyday life nowadays is result of the culture and society in which we live. To maintain these social structures, the presence of people who would be responsible for maintaining the peace and protecting our interests is necessary. Because of this, the role of the police in the everyday life is very important. The police officers are the ones who are in constant contact with the citizens and answer their urgent questions. In this regard, the main condition is to provide conditions for maintaining and improving this complex process which is very important for both of the parties.

In order to justify the trust of the citizens, the police must show high level of professionalism and integrity by keeping to the rules of law and regulations that will be applied in an appropriate, decent and unbiased manner in which the public and the interest of the citizens will be protected (Klahm & Tillyer, 2010). If the fact that the police is involved in everyday contact and different meetings with the citizens, it is expected that the possibility of inadequate behavior of the police officers will be reduced, which of course, is an important theory for effective and legal performance of the professional duties. This is especially important because the police are frequently in touch with citizens who express certain dissatisfaction that can be manifested in verbal, physical or armed resistance. For this category of citizens, the police, with good reason, can use force in order to assure that the law is obeyed. However, the level to which that force is allowed must be strictly limited, in other words, it shall not be higher than the force used by the citizens. In essence, every time when there are real conditions for that, the police should always minimize the use of force and to practice obtaining mutual accordance.

Taking into consideration the above mentioned, and contrary to the popular belief, it is important to understand that the use of force by the police is a rare case (only in approximately 0,07%), compared to the total number of contacts between the police and citizens (Paoline & Terrill, 2011). Even though only small proportion of the police work includes use of force, every situation which includes use of force, also includes the possibility of injuries as unexpected it can be. Considering the danger of excessive use of force, the police officers are obligated to provide conditions for reasonable use of force, regardless of the circumstances under which the certain operation is performed (maintenance of public order and peace, deprivation of liberty, detention of a person, police operations, ambush, etc.).

2. Description of the model of use of force

In order to withstand the temptation of abusing their authorities, the police officers must show high level of integrity during their duty by taking into consideration the directions and the code of

professional behavior. In regard to fulfilling and applying the standards, the police officers have the right to use their right of discretion in executing the law, and to use as much as force as reasonable, adequate and necessary, in performing their duties (Ivanovski & Nedev, 2013). To interpret and understand reasonably the process in which police officers use force, here follows a description of the model of use of force (Figure 1).

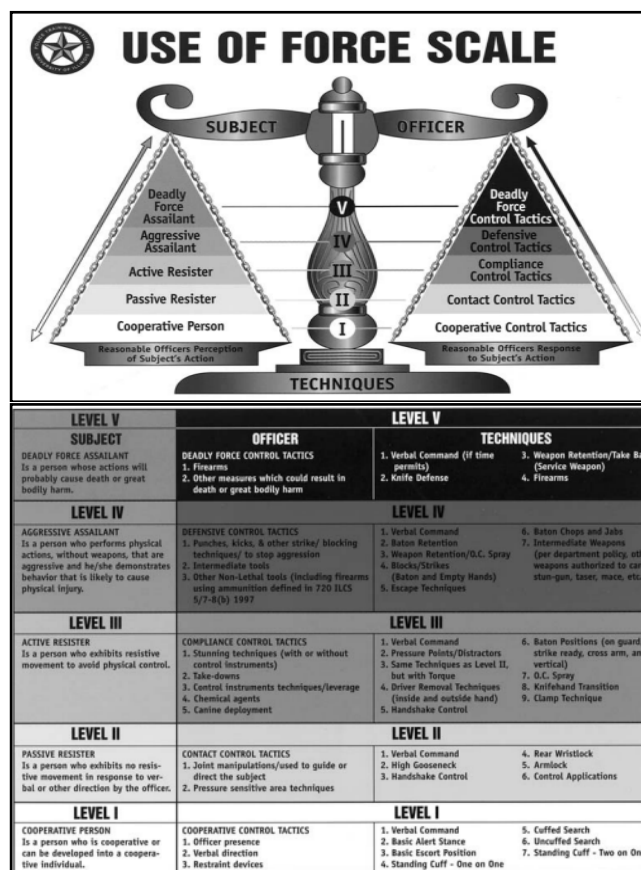


Figure 1. Use of Force Model (Source: Police Training Institute)

This model derives from the program of the University of Illinois Police Training Institute from 1999, and it directs the police officers how to evaluate the risk and to use reasonable force (Fischer, Halibozek & Green, 2008). In this regard, the Police Training Institute has developed a conceptual tool for making decisions known as the Use of Force Framework. This framework is based on the balance between the damage risk level or the resistance with which police officers face, and the use of force means which have been available and adequate in the time when the

force has been used. Theoretical application of the model is based on the principle of "control" – according to which the police officer must use force that would be proportional with the perceptive treat with which they face to an extent to which that force could be controlled and maintained.

It is important to understand that the model cannot predict all possible situations that may arise, but it helps to decide about the adequate use of force in any situation. The situational frameworks of the model provide to easily define the manner in which the police officer observes the situation, including all subjective and objective factors (all circumstances) that are present during the event. It is also well known that when the police officer makes an assessment, not always all phases of risk assessment are available, and because of that, a constant evaluation of the process is necessary, from the initial moment until the final phase. It should be mentioned that this process takes time within a second, or event parts of a second, and the police officer is always included in a continuous state of evaluation, planning and reacting. The evaluation process conducted by the police officers includes three processes that are mutually related (Butler, 2009):

- The situation itself,
- The perceived or already known behavior of the subject,
- The perception of the police officer and his tactical examination.

To integrate these processes in one, minimum six different factors of influence should be taken into consideration:

1. Environmental factors (weather conditions such as: wind, rain, daily light or darkness, physical location, for example open, closed, rural or urban areas, etc);

2. Number of police officers vis-à-vis number of persons (attackers);

3. Personal traits of the attacker (physical constitution, knowledge of skills, emotional condition, drugs or alcohol consumption, etc);

4. Previous knowledge (history) and behavior of the person;

5. Recognizing potential physical signs of attacking (aggressive communication, emotional emptiness, refusing to obey legal demands, personal space invasion, fingers and hands twisting, tension or tightening of facial muscles, pupil dilation, etc);

6. The ability of a police officer to manage time and space (risk assessment, liberation or "tactical reposition").

If the police officers succeeds to integrate all these factors and circumstances, he will be able to react and use force reasonably (adequate force level that would be reasonable in that situation), and to explain others in which way the situation has been perceived, assessed and how he/she has reacted. In order to understand better the essence of risk assessment by the police officer, the model includes guidance for making decisions and explaining activities related to the use of force. Furthermore, this model is presented through pyramidal relation between the difficulty of the situation on one hand, and the extent of force that is used in order to efficiently, quickly and professionally solve the problem, starting from the lowest to the highest level of use of force on the other hand (Wolf, et. al, 2009). In the pyramidal presentation of the model there are five options (possibilities) for reacting to a force which is result from five different categories of behavior (Figure 1).

The first or the lowest level of hierarchy belongs to a person who collaborates and obeys police orders and does not show any resistance. Control tactics of collaboration such as physical presence of the police officer and giving clear and understandable verbal directions are being applied on this level. The level of used force is "zero".

The second level belongs to a person who shows passive resistance and manifests resistance as a reaction of verbal or other command of the police officer. Control tactics such as physical manipulation of the wrist or pressure techniques upon sensitive body parts in order to direct the person are being applied on this level.

The third level belongs to a person who shows active resistance and manifests visible resistance in order to avoid physical contact. This level of resistance is more serious, and the police officer must

act in accordance to the force being used by the person and to apply control tactic of subduing (techniques for stunning, surmounting, support with control instruments, chemical agents and etc.).

The fourth level belongs to a person who is aggressive and manifests physical activity (manifests behavior) that would probably cause bodily harm to a police officer. The control tactic of defense that is applied on this level includes usage of techniques (physical force, baton, pepper spray) that would stop the assault and prevent temporarily the aggression.

The highest level of hierarchy belongs to a person (attacker) with a deadly force who engages in activities that would most probably cause death or serious bodily harm. The control tactic of deadly force (firearm) is being applied on this level, but only if it is absolutely necessary, while it is legitimately to use other control methods and techniques that would remove the existing danger.

Considering the circumstances under which the different levels of force are being applied, it could be established that every police officer is expected to use the level of force that is reasonable and adequate for the given situation. Increase of the stage or level of resistance of the person creates conditions for the police officer to increase the level, or change the nature of the force that is being used, in order to ensure that it would be possible to control the risk. Even though there is not a way to specify the exact method or type of reasonable use of force in a given situation, the police officers are expected to apply the guidelines of the model, in order to make professional, unbiased and reasonable decision.

3. Use of force in the process of detaining persons

During the performance of their professional duties, the police officers can often find themselves in a situation in which they would have to detain a person. Detention is a legal procedure that should be carried out in accordance with the rules of the profession. The process of detaining a person can be carried out in two ways: with an arrest warrant issued by a legal authority and without a warrant, but based on legal authorizations (Law on Police, 2006). When an arrest warrant is issued, the police can detain a person in the capacity of accused, witness and to remove their freedom of liberty. And if the situation is urgent and require so, the police can detain a person without an arrest warrant in order to establish their identity and engagement in an illegal activity or offence.

Regardless of the manner in which the process of detention is carried out, it is necessary that the person is brought in front of an organizational unit of the Ministry of Internal Affairs, or in front of some other body. To conduct this process, the police should detain a person voluntarily and avoiding the use of force every time when there are conditions for that. But taking into consideration the circumstances under which the detention is carried out, very frequently, the person that should be detained shows dissatisfaction manifested in verbal, physical or armed resistance. In such cases, the police officers have a legal duty to conduct the detention by using force or using reasonable force to prevail over the resistance of the person.

The legal duty of using force to a reasonable extent implies that the police must be prepared to use force with which they will establish control over the person, without causing further physical or corporal complications. Will the police succeed in their intentions, mostly depends on their ability to use force that would be equal or greater than the force used by the person. When the quantity (extent) of the force being used is established, it is not possible to know (estimate) in advance the quantity of the force that should be used, because there are many critical variables (factors) that influence the decision (Амановић, 2003). Among the most important factors that influence the quantity of the force that should be used during the process of detaining a person are the following: behavior and resistance of the person (passive resistance, active resistance, non-armed attack, armed attack); physical and mental conditions of the person; gender and age; place and location of the event; the skills of the police officer (ability to handle the coercive

measures); number of police officers involved in the process; professional experience; materials and equipment.

Taking into consideration the fact that the process of detaining a person depends on many objective and subjective factors, the police officers can use force only to an extent that would be absolutely necessary to achieve the legitimate and legal goal.

4. Management tactics in the process of detaining persons

In order to efficiently conduct the process of detaining persons, which is a special professional duty, it is necessary to provide all required conditions for safe and uninterrupted execution of the process. This can be achieved with the help of well-elaborated and planned tactic that would provide efficient execution of the process of detaining persons, and that process would cover all projected norms and legal restrictions (Стојановски, 1995). In conditions when the police officers apply certain tactics during the process of detaining persons, they should be prepared to choose the tactic that would provide the most rational and optimal solution of the problem. This implies finding a way to conduct the legal procedure without improvisations, including adequate and tactical performance which starts from the moment when the order is issued or from the moment when the danger is detected (criminal offence, violation) and lasts until the person is brought under control (detained). In order to avoid any omissions in the process of detaining persons, all tactical activities (verbal communication, defense mechanisms and skills) applied by the police officers, must be proportional, adequate, human and in compliance with the law.

Every case which requires detaining a person is different from the previous cases in regard to the reasons (legal base) and category (behavior) of the person being detained. However, the tactic and the manner in which the process of detaining persons is carried out, generally includes the following procedures: informing the person about the reason of detention; if possible, the identity of the person is established; the identification document is held by the police; external examination of the person is performed; the person is informed about the reasons of detention, unless in cases when the police estimates that the person will show resistance (it refers to persons for which arrest warrants are issued, because their affinities are known); the person is asked to join the patrol and they are warned not to show resistance; if there is suspicion that the person has any weapon or tool that could cause body injuries or there is suspicion that the person will hide, destroy or throw the weapon/tool that should be taken by the police and used as an evidence in the criminal or legal procedure, the person is searched without an order and presence of two witnesses; the person is handcuffed if he/she shows resistance during the process of detention, the person tries to escape or attacks the police officers or if there is suspicion that he/she will do that (Јазовић, et. al, 1988).

Taking into consideration the most important safety and tactical precautions that are applied in the process of detention, an attempt is made to elaborate in more details and more specifically the most frequent situations in which the police officers can find themselves during the performance of this legal authorization. Generally, there are five different types of situations, in which, the police officers properly and professionally apply the basic tactical procedures and techniques (Јакимов, 2011):

- Detaining a person who collaborates;
- Detaining a person who shows passive resistance;
- Detaining a person who shows active resistance ;
- Detaining a person who launches unarmed attack, and
- Detaining a person who launches armed attack.

The theoretical concept of the model of use of force is used in order to explain more efficiently the above mentioned situations, mostly the part referring to proper tactical and safety assessment of the situation and the application of certain control tactics.

Detaining a person who collaborates refers to situations in which the person acts in accordance with the orders of the police officers, without showing physical resistance. The procedure that is carried out in this type of detention is, in many aspects, different

from the one used in other types of detention, because, there is no use of physical force, only verbal communication (conversation, warning, convincing, ordering, explaining, etc.) and simple body language. In order to establish proper sequence of events in the performance of the process, the basic tactical procedure of detaining a person who collaborates includes the following activities: approaching the person and establishing verbal communication; establishing the identity of the person and explaining the reasons of the detention; establishing physical contact with the person that leads to his/her detention; transporting the person.

In cases when the official procedure of detaining a person on a voluntary basis is interrupted, there is a situation of detaining a person who shows passive resistance which is a reaction from the verbal or other order issued by the police officer. In reality, there is passive resistance when the person ignores the command or legal order of the police officer by lying down, kneeling or taking certain subject etc. Detaining a person who shows passive resistance is a specific activity, and the tactical approach and selection of control techniques that are applied must correspond with the resistance manifested by the person. This is important, because the situation can escalate and put the police officer or the person in unfavorable position (risk of injuries, exceeded use of force etc.). The tactical approach which is applied in this type of detention is more specific compared to the previous type of detention, because, despite of the verbal commands (warnings), use of force is also applied (certain techniques and pressure upon sensitive parts of the body).

Detaining a person who shows active resistance is more serious activity, because, resistance is being manifested in order to avoid physical contact (the person avoids physical contact, fights with the police officers, pushes him/her, protects him/herself with different objects etc). In situations when the person shows active resistance, he/she directly prevents the police officer of conducting the detention, and in this type of situations it is important to act in accordance with the force (resistance) manifested by the person. At the beginning of this process, and in attempt to stop the resistance of the person, it is necessary that the police officer uses force, and then, depending on the situation itself, physical force is being used (different combinations of hitting) or even a baton if the resistance level is higher. To bring the person under control, he/she is subjugated (in most of the cases the person is forced to lie down) and the procedure of handcuffing and searching the person in carried on.

In cases when a person who launches unarmed attack is being detained, it is necessary that the police officer prevents physical attack in which different body parts are engaged (punches and leg strikes, attempted strangling, pulling clothes or hair, pushing the hands of the police officer away, etc). The person who engages in this type of activity manifests destructive behavior and attempts to hurt the police officer or to stop the police officer of conducting his duty. In order to successfully detain the person, the police officer must use predicted and well-premeditated defense tactic to stop the aggression temporarily. The tactical approach that is applied in this type of detention is very similar (includes similar means of coercion) with the previous type, but with higher intensity.

Detaining a person who launches armed attack is very complex and dangerous activity because different sharp and dull objects or even firearms are being used. The person who launches armed attack also uses the highest level of deadly force which could easily cause heavy bodily injuries or even death of the police officer. In order to detain the person, the police officer must react very quickly and more severely compared to the previous cases, since this is a real life threat. It is generally known that these types of situations are among the most complex, which implies to high level of psycho-physical preparations and reasonable behavior and assessment in which the police officers must engage themselves in order to achieve their intentions (proportional and symmetrical response to the attack). In order to avoid the worst possible scenario, the tactical procedure which is applied must include conditions of damage reduction and injuries prevention of the use of force being applied. This means that, firstly, less dangerous means

of coercion shall be applied (physical force, baton), and if necessary, firearms, as a final tool of coercion shall be used.

5. Conclusion

The basic role and function of the police is to provide conditions for adequate application of the legal principles, also known as authorizations of the police. In this context, detaining a person, which is one of the many authorizations of the police, shall be carried out in accordance with all legal, ethical, human and professional (safety) standards. Regarding the application of these standards, it is very important that the police show knowledge and abilities for good assessment and analysis of every situation, regardless of reasons of the detention. Within the framework of the paper, by elaborating the most frequently applied techniques in the process of detaining a person, an attempt was made, to show the tactical and safety procedures that should serve as guidelines of the police officers, from the initial moment of the detention process until its final phase. In order to further elaborate this specific process, mostly the part referring to proper evaluation of the situation and the selection of the most suitable tactical procedure (proportional response of the police when force is being used), the theoretical concept of the model of use force is used.

From the above mentioned we can conclude that the interest of every police organization is to have well-prepared and skilled police officers, who, undoubtedly know how to react in any given situation, without neglecting the legal, ethical and human standards of behavior. Proper application of the legal authorizations is a prerequisite for earning the trust of the citizens and reducing the tensions and stress, which inevitably appear during the performance of the legal duties.

6. References

1. Амановић, Ђ. (2003). *Теоријски основ употребе силе и ватреног оружја*. Безбедност бр. 3, Београд, pp. 1-17.
2. Butler, C. *The Use of Force Model and its Application to Operational Law Enforcement - Where have we been and where are we going?* <http://www.cacole.ca/resource%20library/conferences/2009%20Conference/Chris%20Butler.pdf>
3. Fischer, R. J., Halibozek, E., Green, G. (2008). *Introduction to Security*, New York.
4. Ivanovski, J., Nedev, A. (2013). *Usage of Coercion Means for Protection of the Personal Safety of Police Officers*. International Scientific Conference, The Balkans between Past and Future: Security, conflict resolution and Euro-atlantic Integration, Vol. 1, pp. 279-290.
5. Јакимов, Ј. (2011). *Специјално физичко образование*, Факултет за безбедност, Скопје.
6. Klahm, C. F., Tillyer, R. (2010). *Understanding Police Use of Force: A Review of the Evidence*. Southwest Journal of Criminal Justice, Vol. 7(2), pp. 214-239.
7. Лазовић, М., Стојановић, В., Црнковић, М. (1998). *Војно-полицијска тактика*, Полицијска академија, Београд.
8. Paoline, E. A., Terrill, W. (2011). *Listen to me! Police officers' views of appropriate use of force*. Journal of Crime and Justice, Vol. 34, No. 3, pp. 178-189.
9. Стојановски, Т. (1995). *Полицијска тактика*. Центар за образование на кадри за безбедност, Скопје.
10. Wolf, R. Mesloh, C. M., Henych, L., Thompson, F. (2009). *Police use of force and the cumulative force factor*. Policing: An International Journal of Police Strategies & Management Vol. 32, No. 4, pp. 739-757.
11. *Law on Police*. "Government Gazette of the Republic of Macedonia", No. 114/2006.
12. *Rules of the Manner of Performing Police Work*. "Government Gazette of the Republic of Macedonia", No. 149/2007.