

Module 11: NATIONAL USE OF FORCE

- Law Enforcement Agencies are legally permitted to use force in public interest to deter and prevent crime for protection of people, property and defending themselves. However, they are accountable for the quantum of force to be used for situation management. To ensure consistency in “application of reasonable force as necessary” and assist in training the police forces, ‘National Use of Force Model’ was conceived.
- The Chapter will be covered in two parts as under :
 - Part - I Laws on use of Force
 - Part -II Guiding Principles & Tactical Considerations for Use of Force

Part-I Laws on Use of Force

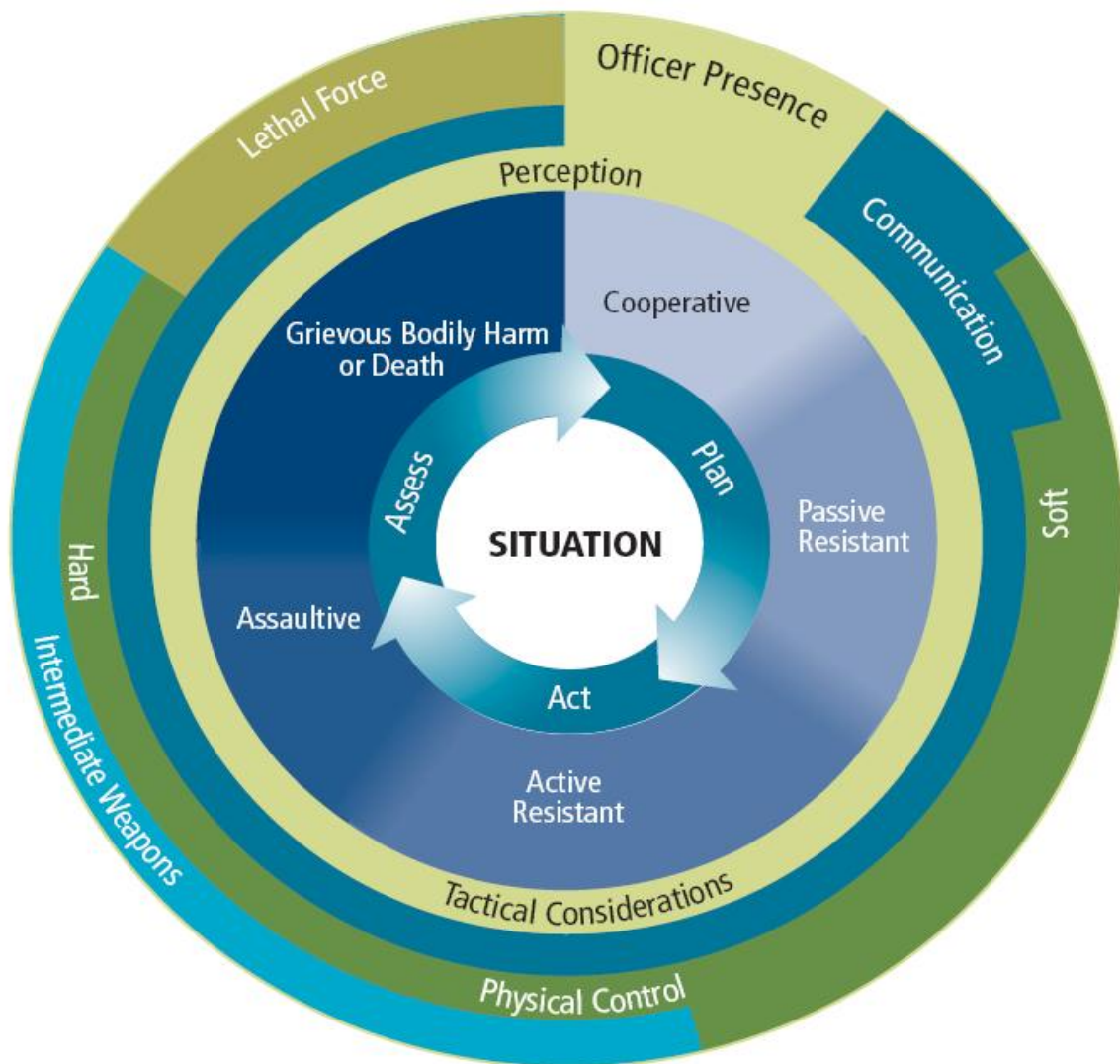
- **Use of Minimum Force.** The guiding principle for use of force is “Minimum Force “as reasonable in the circumstances”. The quantum of force used must follow the principle of accountability – **“every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess”**
- **Section 30 : Preventing Breach of Peace** Every one who witnesses a breach of the peace is justified in interfering to prevent the continuance or renewal thereof and may detain any person who commits or is about to join in or to renew the breach of the peace, for the purpose of giving him into the custody of a peace officer, if he uses no more force than is reasonably necessary to prevent the continuance or renewal of the breach of the peace or than is reasonably proportioned to the danger to be apprehended from the continuance or renewal of the breach of the peace.
- **Section 31: Obeying Order of Peace Officer**
 - Every peace officer who witnesses a breach of the peace and everyone who lawfully assists the peace officer is justified in arresting any person whom he finds committing the breach of the peace or who, on reasonable grounds, he believes is about to join in or renew the breach of the peace.
 - Everyone is justified in obeying an order of a peace officer to use force to suppress a riot if :
 - ✓ he acts in good faith; and
 - ✓ the order is not manifestly unlawful
 - Everyone who, in good faith and on reasonable grounds, believes that serious mischief will result from a riot before it is possible to secure the attendance of a peace officer is justified in using as much force as he believes in good faith and on reasonable grounds,
 - ✓ is necessary to suppress the riot; and
 - ✓ is not excessive, having regard to the danger to be apprehended from the continuance of the riot

- **Section 27. Use Of Force To Prevent Commission Of Offence** Everyone is justified in using as much force as is reasonably necessary , to prevent the commission of an offence and
 - for which, if it were committed, the person who committed it might be arrested without warrant,
 - that would be likely to cause immediate and serious injury to the person or property of anyone; or
 - to prevent anything being done, that, on reasonable grounds, he believes would, if it were done, be an offence mentioned in Paragraph (a) above.
- **Sec 31 Apprehension Of Serious Mischief** Every one who, in good faith and on reasonable grounds, believes that serious mischief will result from a riot before it is possible to secure the attendance of a peace officer is justified in using as much force as he believes in good faith and on reasonable grounds,
 - is necessary to suppress the riot; and
 - is not excessive, having regard to the danger to be apprehended from the continuance of the riot.

Part –II Guiding Principles & Tactical Considerations for Use of Force

- **Guiding Principles for Use of Force** There are six guiding principles recommended in the National Use of Force Model. As a security guard one may be required to use these principles for application of force during his duty. Therefore, all security guards must be familiar with these principles:
 - The primary duty of a law enforcing officer is to protect life.
 - The primary duty of any use of force is to ensure public safety
 - Law enforcing officer's safety is also essential for public safety.
 - National use of force does not replace or augment the law.
 - The national use of force model was constructed in consideration of federal law and current case law.
 - The model is not intended to dictate policy to any agency
- **The situation wheel** The assessment process of the situation where force may be required to be used is a continuous and dynamic process of evaluation that has three essential stages:
 - Assess the situation
 - Plan for action
 - Act
- **National Use of Force Model** The complete graphical representation of Nation Use of Force Model is given below. It discusses situational factors, subject's behavior factors and escalatory guidelines for use of force by the law enforcement officers based on these considerations.

NATIONAL USE OF FORCE MODEL



- **Subject Behaviors** Central to the Assess-Plan-Act process is the observed behavior of the subject. There are five different categories of subject behavior in a circle adjacent to the *SITUATION*. Where a subject falls within these categories is dependent upon the officer's perception. The following describes each of the categories of subject behavior.
 - **Co-operative** The subject responds appropriately to the officer's presence, direction and control.

- **Passive Resistant** The subject refuses, with little or no physical action, to cooperate with the officer's lawful direction. This can take the form of verbal refusal and/or physical inactivity either consciously or unconsciously contrived.

- **Active Resistant** The subject uses non-assaultive physical action to resist, or while resisting an officer's lawful direction or attempts to control the subject. Examples would include such actions as pulling away or holding onto fixed objects in an attempt to prevent or escape an officer's control. Other examples include walking directly at an officer or away from an officer counter to the officer's lawful direction. Attempting to escape custody by fleeing would be an example of active resistant behavior. **Assaultive** The subject attempts to apply, or applies physical force to any person; attempts or threats by act or gesture to apply force to another person or causes the officer to believe upon reasonable grounds that the subject has the present ability to effect an assault upon the officer or someone under the officer's lawful care. Examples include punching and kicking but may also include aggressive or threatening body language or verbal cues that signal the intent to assault.
 - **Death or Grievous Bodily Harm** The subject exhibits actions that the officer reasonably believes are intended to, or likely to, cause grievous bodily harm or death to the officer or any other person. Examples include assaults with weapons such as cutting, stabbing or slashing instruments, attacks with firearms, attacks with personal weapons such as hands and feet if the officer reasonably perceives such attack will cause grievous harm or death.
- **Use of force Options:** After the initial assessment of situation and target behavior, one must consider various escalatory options for application of force. These are :
 - **Officer's presence.** The mere presence of a police officer in uniform or in a marked police unit is often enough to stop a crime in progress or prevent most situations from escalating. Without saying a word, the mere presence of a police officer can deter crime by the simple use of body language and gestures. At this level gestures should be non-threatening and professional. This "zero" level of force is always the best way to resolve any situation if possible.
 - **Communications** Used in combination with a visible presence, the use of the voice can usually achieve the desired results. Whether you instruct a person to, "Stop.", "Don't Move.", "Be quiet.", "Listen to me.", "Let me see your ID.", or, "You're under arrest."-- voice commands in conjunction with your mere presence will almost always resolve the situation. The content of the message is as important as officer's demeanor. It's always best to start out calm but firm and non-threatening. Officer's choice of words and intensity can be increased as necessary, or used in short commands in more serious situations. The right combination of words in combination with officer presence can de-escalate a tense situation and prevent the need for a physical altercation. Training and experience improves the ability of a police officer to communicate effectively with everyone he/she comes in contact with.
 - **Physical control**
 - **Soft and Hard Options** Certain situations will arise where words alone will not reduce the aggression. This is the time police officers will need to get involved physically. This is a level of control employed by police officers

minus the aid of equipment or weapons. There are two subcategories called, “soft empty hand techniques” and “hard empty hand techniques.” Soft Empty Hand Techniques: At this level minimal force would involve the use of bare hands to guide, hold, and restrain -- applying pressure points, and take down techniques that have a minimal chance of injury. Hard Empty Hand Techniques: At this level the use of force includes kicks, punches or other striking techniques such as the brachial stun or other strikes to key motor points that have a moderate chance of injury.

- **Intermediate Weapons** e.g. Pepper Spray, Baton, Taser. When the suspect is violent or threatening, more extreme, but non-deadly measures must be used to bring the suspect under control, or affect an arrest. Before moving to this level of force, it is assumed that less physical measures have been tried and deemed inappropriate. Pepper spray results in considerable tearing of the eyes, as well as temporary paralysis of the larynx, which causes subjects to lose their breath. Contact with the face causes a strong burning sensation. Pepper spray, once thought an effective street tool for police officers has lost popularity over the years because of its ineffectiveness, especially on intoxicated persons. The typical baton is a round stick of various lengths, and is made of hardwood, aluminum or plastic composite materials. A blow with a baton can immobilize a combative person, allowing officers to affect an arrest. Of all the options available at this level the Taser is considered to be the most effective. The Taser discharges a high voltage spark (50,000 volts) at very low amperage. The Taser fires two small darts, connected to wires, which drops a suspect at non-contact distance. These devices are easily carried. They are lightweight and affordable. Extensive training is not required, and they may be more effective on persons under the influence of PCP and other drugs who do not respond to chemical irritants. They can be especially useful for controlling non-criminal violent behavior, such as persons who are mentally impaired, or under the influence of mind-altering substances.
- **Lethal Force**
 - ✓ **Less Lethal.** This is a newer, acceptable and effective level of force that numerous police agencies have added to their use of force continuum policy and procedure. Less-lethal weapons were developed to provide law enforcement, military and corrections personnel with an alternative to lethal force. They were designed to temporarily incapacitate, confuse, delay, or restrain an adversary in a variety of situations. They have been used in riots, prison disturbances, and hostage rescues. Less-lethal weapons are valuable when: Lethal force is not appropriate. Lethal force is justified and available for backup but lesser force may subdue the aggressor. Lethal force is justified but its use could cause collateral effects, such as injury to bystanders or life-threatening damage to property and environment.
 - ✓ **Deadly Force.** If a peace officer has probable cause to believe that a suspect poses a significant threat of death or serious bodily injury to the officer or others then the use of deadly force is justified. By the very nature of the profession, peace officers may at times be

confronted with a potentially lethal threat. In most of these instances, peace officers will have no other option but to discharge their firearm in order to protect their life or, the life of others.

- **Other factors that merit consideration before going in for use of force in managing crowds:**
 - ✓ **Environment Factors.** Before application of force, one must consider weather conditions like snow, rain or hot afternoon and the location of the demonstration whether indoor or in the open , protestor on vehicles or on roof tops
 - ✓ **Size/Strength of Crowd** (size of protesting crowd) One must consider the number of protesters likely to be encountered so that one can anticipate the number of law enforcement personnel required to control the protestors, should they go violent
 - ✓ **What all type of weapons are carried by crowd / protesters**
 - ✓ **Prior History of Protesters Whether Aggressive / Peaceful Protests.** One must know and check from past records, what type is general behavior of the protesters like - violent and aggressive behavior and tendency to rioting and destroying property etc. This will help Law Enforcement officers in assessing the situation after knowing the past history of such protests and their subsequent management.
- **Time and distance involved in case additional force is required**
- **Tactical Considerations for Application of Force**
 - Level of training of Law Enforcement Force
 - Strength of security personnel available for dealing with the protesters
 - Policy of the industry and the management
 - Uniform and the equipment available to the guards
 - After disengaging from the situation and subsequent consequences.
 - Availability of police
- **Positional asphyxia**, also known as **postural asphyxia**, is a form of asphyxia which occurs when someone's position of body prevents them from breathing adequately. A small but significant number of people die suddenly and without apparent reason during restraint by police, prison (corrections) officers and health care staff. Positional asphyxia may be a factor in some of these deaths.
 - ✓ Positional asphyxia is a potential danger of some physical restraint techniques,
 - ✓ People may die from positional asphyxia by simply getting themselves into a breathing-restricted position they cannot get out of, either through carelessness or as a consequence of another accident.
- **Excited delirium** is a condition that manifests as a combination of delirium, psychomotor agitation, anxiety, hallucinations, speech disturbances, disorientation, violent and bizarre behavior, insensitivity to pain, elevated body temperature, and superhuman strength. Excited delirium is

sometimes called **excited delirium syndrome** if it results in sudden death (usually via cardiac or respiratory arrest), an outcome that is sometimes associated with the use of physical control measures, including police restraint and tasers. Excited delirium arises most commonly in male subjects with a history of serious mental illness and/or acute or chronic drug abuse, particularly stimulant drugs such as cocaine. Alcohol withdrawal or head trauma may also contribute to the condition. The diagnosis of excited delirium has been controversial especially when a subject dies during imposition of restraints by law enforcement agencies. These circumstances have led some civil liberties groups to question the cause of death diagnosis, claiming that excited delirium has been used to "excuse and exonerate" law enforcement authorities following the death of detained subjects, a possible "conspiracy or cover-up for brutality" when restraining agitated individuals. Also contributing to the controversy is the role of taser use in excited delirium deaths. The American College of Emergency Physicians has officially recognized excited delirium as a unique syndrome and "rejects the theory" that excited delirium is an "invented syndrome" used to excuse or cover-up the use of excessive force by law enforcement.

- **Summary** Before going for use of force in any situation, the entire sequence should be considered dynamic and constantly changing till the time situation comes under control. Hence only that much force should be used to control the situation as much is essential to stop the violators of law protesters and regain the control to the normal. One must deescalate the situation as the resistance decreases and things are coming to normal and threat to property and employees working is over.