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Use of Force: A Split-Second Decision

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Use of Force: A Split-Second Decision

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Honors Research Project

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The University of Akron Williams Honors College

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Use of Force: A Split-Second Decision

I. Introduction:

In recent years, law enforcement agencies have struggled with maintaining a positive public image because of incidents challenging the appropriate amount of force applied by law enforcement officers. Ferguson, Baltimore, Chicago, and Cleveland, have been in the media's limelight because of this controversial debate. A greater effort has been made by the public and the media rather than government officials to bring attention to those law enforcement officers who have drawn their weapons to use deadly or excessive force against a suspect. The result of this publicized opposition from various media outlets has led to many protests which include unruly rioting in the streets or more mild protests such as the well-known "I Can't Breathe" campaign. Questions of corruption, racism, and insufficient training have been raised repetitively by protesters and media today just as in decades past and will be continued to be asked in the future. Ultimately, the use of police force must equally balance the safety of the police officer and the basic human rights of the public, and departments need the formal documentation of policies and procedures to ensure the implementation of reasonable force and the reduction of excessive force in cases.

In Ohio for instance, deaths such as Tamir Rice and John Crawford III have sparked controversy within the state and have led to motions for policing change in Ohio. Tamir Rice, just twelve years old when he was shot and killed, enflamed Ohioans and Americans. Shortly after Tamir Rice's death, Executive Order 2014-06K was signed in Columbus by Governor Kasich. This executive order created a taskforce which was charged with reforming law enforcement and repairing relations between the police and specifically, the minority community (Kasich, 2014). Some focal points which were included in the executive order were the goals of

investigating patterns of excessive force, means of holding the police accountable in the criminal justice system, and recommending best practices on the “interaction with people in communities of color” (Ohio Task Force on Community- Police Relations, 2015).

As the result of a proposition by this taskforce, Kasich signed another Executive Order 2015-04K, which founded the Ohio Collaborative Community-Police Advisory Board (OCCPAB). This advisory board was assigned, with assistance from the Office of Criminal Justice Services, to establish a model use of force policy and necessary criteria to be distributed to all state and local law enforcement agencies within Ohio. All law enforcement agencies were then tasked to create a policy which met the necessary Ohio Collaborative Law Enforcement Agency Certification (OCLEAC) Standards Compliance Checklist. The criteria outlined in Executive Order 2015-04K included the creation of 1) minimum standards for proper use of force and recruiting, screening, and hiring guidelines of potential law enforcement officer candidates; and 2) recommendations of department policies and best practice models (Ohio Task Force on Community- Police Relations, 2015).

As decided by the Advisory Board, the standards necessary to include in use of force policies were as followed: standards for the use of force, the use of deadly force, reporting use of force, and for training (Ohio Collaborative Community-Police Advisory Board, 2017). The deadline for the revisions of the policies required by the Advisory Board was set for March 31, 2017 (Kasich, 2015). This present study was established to determine how many departments within Summit County, Ohio adhered to the standards set by the Ohio Collaborative Community-Police Advisory Board by implementing new use of force policies, signifying the effectiveness of Executive Order 2015-04K. Also discussed in this paper is the future research needed resulting from this study.

II. Examining the Use of Force

Previously on a national level, a Bureau of Justice Statistics study found that in 2008, of the 40 million people who had an encounter with law enforcement, 776,000 of them were either threatened with the use of force for resisting or experienced the use of force from the police. This came to only 1.9% of the people in contact with law enforcement experienced the use of force. The study also found that the majority of the population who had force used or threatened against them by the police thought it was excessive (Eith & Durose, 2011). There were approximately 304,093,966 people in the United States at the time of this study (World Bank Group, 2016). This means the total percentage of people in the United States in 2008 who experienced the application or threat of force by the police was roughly 0.255%. Considering this study's results, police work has less physical altercations than what may be perceived by the public. However, there are some shifts during a career that contain the most action an officer may ever experience, ones where the use of force is needed.

An event as traumatic as a shooting has many psychological effects on all individuals involved. For example, in the case of Tamir Rice, a call was made to dispatch that there was a black male who was armed with a gun and was suspiciously pacing outside of a recreation center. When the Cleveland officers, Garmback and Loehmann arrived on the scene, they stated there was a black male, possibly twenty who was armed with a gun (McGinty, 2015). However, Tamir Rice was only twelve at the time of his death, and was armed with only an airsoft pistol.

"I had very little time as I exited the vehicle. We are trained to get out of the cruiser because "the cruiser is a coffin." I observed the suspect pulling the gun out of his waistband with his elbow coming up. Officer Garmback and I were still yelling "show me your hands." With his hands pulling the gun out and his elbow coming up, I knew it was

a gun and it was coming out. I saw the weapon in his hands coming out of his waistband and the threat to my partner and myself was real and active.”- Officer Timothy Loehmann (McGinty, 2015)

When a police officer is confronted with a serious threat, his or her sympathetic nervous system responds often with either fight or flight impulses. Malcolm Gladwell, has researched how psychology affects a person during great stress. During an intense situation, such as the Rice shooting, a person may experience “extreme visual clarity, tunnel vision, diminished sound, and the sense that time is slowing down” (Gladwell, p. 224). In Officer Loehmann’s case, he described himself as focusing only on Rice’s hands as they were the greatest threat at that moment.

When reviewing a use of force case, it is necessary to consider the Objective Test standards as set precedent by *Graham v. Connor*, 490 U.S. 386 (1989). The U.S. Supreme Court wrote, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain and rapidly evolving...Force must be reasonable under the circumstances known to the officer at the time the force was used”. This decision reflected on Tamir Rice’s case because in the moment, from Officer Loehmann’s perspective, both officers and the public were at risk of death or serious physical harm. Officer Loehmann saw Rice with a weapon and based on the totality of facts and circumstances known to himself in that moment, he neutralized the threat at hand (McGinty, 2015). The law requires that an officer be judged according to whether he or she acted reasonably with only those circumstances and the facts he knew at the time of action (*Graham v. Connor*, 1989).

It is crucial that officers can read the public's body language and interpret situations as they happen. No matter where a person was born or where they were raised, most persons tend to express seven universal emotions in the same manner. These emotions include happiness, anger, fear, sadness, surprise, contempt, and disgust. Whether the expresser is from a tribe in Africa or the United States, most people typically use the same muscles in their faces for those seven emotions (Poole, 2016). When working as a police officer, being able to read faces in a short moment is very important to the job. Therefore, some police agencies have incorporated a training program by Dr. Paul Ekman into their required trainings or have software utilizing the Facial Action Coding System for security screening (Poole, 2016). The FACS reads facial expressions, creates a code for the sample and then uses this code to recognize emotions; determining an expression's intensity, duration, and symmetry of movements. While some people may be able to mask their emotions, it is common for even the best rehearsed routine to falter with micro-expressions. These split-second expressions are reflexes which are usually difficult to control or monitor, which can be used to a police officer's advantage, allowing them to predict a suspect's true intentions (Poole, 2016).

A possible explanation which Gladwell provides for police shootings is a failure to read body language. In high tense situations, "arousal leaves us mind blind" (Gladwell, p. 229). Therefore, our basic instincts of being able to read universal emotions is greatly diminished just as our vision and hearing can be during stress. Gladwell compares the acting under extreme stress to temporary autism, lessening one's ability to read a situation. The excessive use of force may also be a negative consequence of stress because of the need to make a split-second decision; "the second critical cause of mind-blindness: there is no time" (Gladwell, p. 230).

III. Standardizing the Use of Force in Ohio

As outlined by Executive Order 2015-04K, Ohio police agencies have until March 31, 2017 to establish a policy which complies with the Advisory Board's standards for certification. With pressure from the community, state, and media for law enforcement to operate on the straight-and-narrow, it is reasonable to believe that most, if not all departments in this study, will meet the set standards. In this paper, I argue that most the police departments in Summit County will establish new standards requested by the March 2017 deadline. Additionally, I argue it is more probable for larger departments to implement these standards quicker than smaller departments, because of resource availability and an increased number of officers to assist with the revision of policies. If not all departments were to comply before the March 2017 date, it is very plausible that most departments will make this a priority and will have the final certification status by 2018.

Conducting a content analysis on an original database of use of force policies in Summit County, Ohio, I compared the standards stated within policy documents to determine whether such policies comply with the Advisory Board standards. The standards and required elements set by the Ohio Collaborative Community-Police Advisory Board are as follows:

1. Policy statement for the use of force
2. Policy statement for the use of deadly force
3. Policy standard for reporting use of force
4. Policy standards for training

After reading and analyzing the policies, highlights were placed into the following policy analysis tables, to compare the required standards within the thirteen departments.

The policies obtained for this analysis included the police departments of the cities in Summit County, the Summit County Sheriff’s Office, and the sample policy recommended by the Ohio Collaborative Community-Police Advisory Board. The study did not include policies from departments in Summit County townships, villages, universities, or the private sector. The cities of Green and Twinsburg also did not have policies, as they are serviced by the Sheriff’s Office, whose policy is also included. The sample size presented thirteen policies from the following departments, with the revision dates of the policies obtained provided in Figure 1, below.

Figure 1. Law Enforcement Agencies Selected from Summit County

Policies Obtained in Study	
Department	Revision Date of Policy Obtained
OCCPAB	January 2017
Akron	September 2015
Barberton	January 2017
Cuyahoga Falls	February 2017
Fairlawn	December 2015
Hudson	Not dated
Macedonia	Not dated
Munroe Falls	March 2017
New Franklin	March 2006
Norton	February 2017
Stow	September 2016
Summit County Sheriff’s Office	November 2016
Tallmadge	August 2006



*Policies used in study are highlighted

The aforementioned policies were collected by contacting sources within each department either by emails, phone calls, or contact request forms. I requested for the formal use of force policies the department used. Each policy was then received as a PDF or Word Document from my sources within each department. This excluded the New Franklin policy which was collected in person, in print. The OCCPAB policy was collected through contacting

the Ohio Police Academy Training Commission. Once the policies were obtained, they were compared to the sample OCCPAB policy and the standards set because of Executive Order 2015-04K.

The success of this analysis was reliant on the policies provided by my sources. Since not all use of force policies include the same procedures, they may contain different elements than other department policies. This created a limitation of the analysis and some inconsistencies with the results and prediction of certification by the Advisory Board. Because the acquisition of policies was prior to the March 31, 2017 deadline as set by the advisory board, not all policies which were in process of being updated were obtained. In addition, the information sought for the analysis may not be all-inclusive in the documents received from the email or telecommunication correspondence to the departments in the sample. At least one department had policies with overlapping procedures which were not addressed in the received documents. For example, less-lethal use of force policies contained different procedures and topics than to deadly use of force policies and annual training requirements may not be included within these policies obtained. Of the policies sampled, only four policies had a revision year either before 2015, two of which were dated back to 2006. In addition, two policies did not have a revision date included within the document or mentioned in the email correspond.

V. Data Collected from Summit County Sample

Summit County Use of Force Policy Analysis (Table 1)				
	Ohio Collaborative Community-Relations Advisory Board	Akron	Barberton	Cuyahoga Falls
Date of Policy Obtained:	Jan-17	Sep-15	Jan-17	Feb-17
Department Use of Force Policy Title:	"Response to Resistance Sample Policy"	"Resisting Arrest / Use of Force Procedure"	"Use of Force Policy Manual"	"Use of Force Policy Manual"
Policy Statement for the Use of Force:	Employees may only use that amount of force which is reasonably necessary to affect a lawful objectives including: affecting a lawful arrest or overcoming resistance to a lawful arrest, preventing the escape of an offender, or protecting or defending others or themselves from physical harm.	An officer may use objectively reasonable force to: 1. Protect himself or herself from the threat of physical harm. 2. Protect any person(s) in danger of physical harm. 3. To effect an arrest or detention against a subject who resists: a. Resistive subjects can be threatening or non-threatening. b. The amount of force that is reasonable will depend upon the subject's actions, and the level of threat he/she presents to the officer or others.	Officers shall use only that amount of force that objectively reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.	Officers shall use only that amount of force that objectively reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.
Policy Statement for the Use of Deadly Force:	The preservation of human life is of the highest value in the State of Ohio. Therefore, employees must have an objectively reasonable belief deadly force is necessary to protect life before the use of deadly force. Deadly force may be used only under the following circumstance: 1. To defend themselves from serious physical injury or death; or 2. To defend another person from serious physical injury or death; or 3. In accordance with U.S. and Ohio Supreme Court decisions, specifically, Tennessee v. Garner and Graham v. Connor.	A. Use of Deadly Force to Defend - An officer may use force, up to and including deadly force, to: 1. Protect himself or herself from the threat of serious physical harm or death. 2. Protect any person(s) in danger of serious physical harm or death. B. Use of Deadly Force against a fleeing felon An officer may use force, up to and including deadly force, to apprehend or to prevent the escape of a violent fleeing felon when: 1. The fleeing felon has threatened the officer with a weapon, or 2. The officer has probable cause to believe the felon has committed a crime involving the infliction or threatened infliction of serious physical harm, and 3. The use of deadly force is necessary to prevent the felon's escape, and 4. Where feasible, the officer gives a verbal warning of the imminent use of deadly force.	Use of deadly force is justified in the following circumstances: 1. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury. 2. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.	Use of deadly force is justified in the following circumstances: 1. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury. 2. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.
Policy Standard for Reporting Use of Force:	Any use of force by a member of this department shall be documented promptly, completely and accurately in the department's "Response to Resistance" report. The officer should articulate the factors perceived and why they believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes.	Notify supervisor and complete Use of Force/Resisting Arrest Report and incident report	Notify supervisor (Shift sergeant will review all cases) and complete necessary documentation including reasons the officers perceived the use of force was necessary.	Notify supervisor (Shift sergeant will review all cases) and complete necessary documentation including reasons the officers perceived the use of force was necessary.
Policy Standard for Supervisor Responsibilities:	Whenever an officer is involved in a use of force requiring the generation of the response to resistance form, a Supervisor is responsible for filling out and compiling the items specified on the Supervisor's Checklist on the response to resistance form.	Supervisor shall determine if response to the scene is necessary, fill out the investigative packet, and start investigative actions, notify the shift commander of the use of force incident prior to the end of shift, and then forward it to the Patrol Operations Office within 30 days of the incident.	1. Obtain the basic facts from the involved officers. 2. Ensure that any injured parties are examined and treated. 3. When possible, separately obtain a recorded interview with the subject upon whom force was applied. 4. Ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. 5. Identify any witnesses not already included in related reports. 6. Review and approve all related reports. 7. Determine if there is any indication that the subject may pursue civil litigation... initiate an administrative investigation if further investigation may be appropriate.	1. Obtain the basic facts from the involved officers. 2. Ensure that any injured parties are examined and treated. 3. When possible, separately obtain a recorded interview with the subject upon whom force was applied. 4. Ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. 5. Identify any witnesses not already included in related reports. 6. Review and approve all related reports. 7. Determine if there is any indication that the subject may pursue civil litigation... initiate an administrative investigation if further investigation may be appropriate.
Policy Standards for Training:	Officer's receive copy of policy and are tested annually. Officers will receive annual scenario / judgement training with CEW and firearms.	Training requirements are not addressed within policy obtained	Officers will receive periodic training on this policy and demonstrate their knowledge and understanding, at least annually, including use of deadly force, use of force and use of deadly force reporting, and use of force and use of deadly force reviews / investigations.	Officers will receive periodic training on this policy and demonstrate their knowledge and understanding, at least annually, including use of deadly force, use of force and use of deadly force reporting, and use of force and use of deadly force reviews / investigations.
OCCPAB Phase of Certification as of March 31, 2017 Report:	Not Applicable (Sample Policy)	Final	Final	Final

Summit County Use of Force Policy Analysis (Table 2)			
	Fairlawn	Hudson	Macedonia
Date of Policy Obtained:	Mar-17	Not dated	Not dated
Department Use of Force Policy Title:	"Policy / Procedure #6.2 Use of Less-Lethal Force (Ohio Collaborative)" and "Policy / Procedure #6.4 Use of Deadly Force"	"Use of Deadly Force and Other Responses to Resistance"	"Aggression Response Policy (Use of Force)"
Policy Statement for the Use of Force:	<p>1. Force will not be used to gain control of an individual(s) who is passively resisting</p> <p>2. Only the amount of force reasonably necessary to effect the lawful arrest, prevent the escape, recapture the offender if he/she escapes, and to protect the officer and others from bodily harm will be used.</p> <p>3. Officers may draw, display, point or threaten to use an intermediate weapon if they fear for their safety, the safety of others or to gain compliance from a resistant, combative or violent individual.</p>	<p>1. Where deadly force is not authorized, officers may use only that level of force that is objectively reasonable to bring an incident under control, which is a direct response to the resistance the officer faces.</p> <p>2. Officers are authorized to use department approved, less lethal force techniques and issued equipment when one or more of the following apply:</p> <p>a. To protect the officer or others from physical harm.</p> <p>b. To restrain, subdue or otherwise bring to complaint resolution, a passively or aggressively resistant individual.</p> <p>c. To bring an unlawful situation safely and effectively under control.</p>	<p>Officers may only use the force which is reasonably necessary to effect lawful objectives, such as: effecting a lawful arrest, overcoming resistance to a lawful arrest, preventing the escape of an offender, or protecting or defending themselves, others, or property from physical harm.</p>
Policy Statement for the Use of Deadly Force:	<p>Fairlawn police officers are authorized to use deadly force to protect themselves or others from an actual or clearly apparent threat of death or serious bodily injury and only when there is no other reasonable alternative. Excessive force is strictly prohibited.</p>	<p>Law enforcement officers are authorized to use deadly force when one or both of the following apply:</p> <p>1. To protect the officer or others from what is reasonably believed to be a threat of death or serious bodily harm (Graham v. Connor).</p> <p>2. To prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others (Tennessee v. Garner). Where practicable prior to discharge of the firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.</p>	<p>The preservation of human life is of the highest value. Therefore, members must have an objectively reasonable belief that deadly force is necessary to protect life before the use of deadly force. Deadly force may be used under the following circumstances:</p> <p>1. To defend yourself from serious physical harm or death.</p> <p>2. To defend another human being from serious physical harm or death.</p> <p>3. In accordance with U.S. and Ohio Supreme Court decisions, specifically, Tennessee v. Garner and Graham v. Connor (fleeing violent felon).</p>
Policy Standard for Reporting Use of Force:	<p>1. The officer will promptly notify and request that the Officer-In Charge (OIC), respond to incidents involving the use of less-lethal force. This also includes, off-duty incidents involving the use of less-lethal force.</p> <p>2. A Use of Force Packet, will be completed prior to reporting off-duty.</p>	<p>No standard for reporting use of force addressed within policy.</p>	<p>Any use of force beyond the application of handcuffs to an arrestee that may be required to make the arrest (physical force, use of CS/OC, Tasers, and/or similar means) will be documented on a Level of Resistance Form attached to an Incident Report.</p> <p>All officers involved with an arrest as listed above shall complete a Level of Resistance Form regardless of whether they physically took part in the arrest, by the end of their shift.</p>
Policy Standard for Supervisor Responsibilities:	<p>1. The OIC will be notified and respond to the scene whenever less-lethal force is used.</p> <p>2. The OIC, who responds to the scene, will complete a thorough investigation and document the use of force. The officer(s) involved in the use of force incident, will be required to complete a Use of Force Packet. This packet will contain, but is not limited to, the following documents: Use Of Force Report, Incident Report, Confidential Report, Evidence Report (if applicable), Photographs (if applicable)</p> <p>3. The OIC shall notify the Lieutenant in charge of Field Services and forward all reports (with recommendations) through the chain of command to the Chief of Police.</p>	<p>No standard for supervisor responsibilities addressed within policy</p>	<p>No standard for supervisor responsibilities addressed within policy</p>
Policy Standards for Training:	<p>Every officer shall be trained and tested at least once a year in the proper use of deadly force, appropriate methods of effecting arrests, apprehending fleeing subjects, and as to their full understanding of this policy statement.</p>	<p>All sworn officers will read, sign, and test over this policy at every annual range qualification, and as otherwise determined by the Chief of Police. Officers will receive training designed to simulate actual shooting situations.</p>	<p>Each officer is required to complete the department mandated use of force training annually and are also required to read and sign the use of force policy semi-annually. Officers must complete an annual written competency test based on the policy and training. Officers must receive a passing score of 70% or higher.</p>
OCCPAB Phase of Certification as of March 31, 2017 Report:	Provisional	Final	Not Certified

Summit County Use of Force Policy Analysis (Table 3)			
	Munroe Falls	New Franklin	Norton
Date of Policy Obtained:	Mar-17	Mar-06	Feb-17
Department Use of Force Policy Title:	"National Consensus Policy on Use of Force"	"General Order 98-20: Use of Force Policy"	"Use of Force Policy Manual"
Policy Statement for the Use of Force:	When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved, less-lethal force techniques and issued equipment 1. to protect the officer or others from immediate physical harm, 2. to restrain or subdue an individual who is actively resisting or evading arrest, or 3. to bring an unlawful situation safely and effectively under control.	Non-lethal Weapons- Force may be only used to overcome resistance, to control persons who are about to betaken into or who are in legal custody, to prevent escape, and to protect life or serious injury. The type and degree of force may only be that of which is reasonable and necessary, based on the circumstances and no more.	Officers shall use only that amount of force that objectively reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.
Policy Statement for the Use of Deadly Force:	An officer is authorized to use deadly force when it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified when one or both of the following apply: 1. to protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily injury 2. to prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended Where feasible, the officer shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force.	The Authorization to Use Deadly Force 1. An officer may use deadly force to protect himself or others from what he reasonably believes to be an immediate threat of death or (near death) critical bodily harm. 2. An officer may use deadly force to affect the capture or prevent the escape of a suspect, when the officer has probable cause to believe the suspect poses a significant threat of death or serious injury to the officer or others. 3. Officers may not use deadly force simply as means of apprehending a fleeing felon (Tennessee v. Garner, 471 U.S. 1, 1985) 4. No distinction shall be made relative to the age of the intended target of deadly force. Self-defense and imminent threat shall be the only policy guideline for employing deadly force.	Use of deadly force is justified in the following circumstances: 1. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury. 2. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.
Policy Standard for Reporting Use of Force:	"All uses of force shall be documented and investigated pursuant to this agency's policies."	Notify shift commander as soon as possible. All officers involved will submit a Use of Force Report through the chain of command any time force is used to control, arrest, or prevent the escape of any suspect, or if a firearm is deliberately or unintentionally discharged.	Notify supervisor (Shift sergeant will review all cases) and complete necessary documentation including reasons the officers perceived the use of force was necessary.
Policy Standard for Supervisor Responsibilities:	"All uses of force shall be documented and investigated pursuant to this agency's policies."	Any time an officer or a person is seriously hurt or killed as a result of police action, a criminal investigation (by the Detective Bureau) and an administrative investigation will occur.	1. Obtain the basic facts from the involved officers. 2. Ensure that any injured parties are examined and treated. 3. When possible, separately obtain a recorded interview with the subject upon whom force was applied. 4. Ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. 5. Identify any witnesses not already included in related reports. 6. Review and approve all related reports. 7. Determine if there is any indication that the subject may pursue civil litigation... initiate an administrative investigation if further investigation may be appropriate.
Policy Standards for Training:	All officers shall receive training, at least annually, on the agency's policy and related legal updates, the importance of de-escalation, simulation of actual shooting situation and conditions, and enhance officer's judgment and discretion between less-lethal and deadly force.	Training requirements are not addressed within policy obtained	Officers will receive periodic training on this policy and demonstrate their knowledge and understanding, at least annually, including use of deadly force, use of force and use of deadly force reporting, and use of force and use of deadly force reviews / investigations.
OCCPAB Phase of Certification as of March 31, 2017 Report:	In Progress	Final	Provisional

Summit County Use of Force Policy Analysis (Table 4)			
	Sheriff's Office	Stow	Tallmadge
Date of Policy Obtained:	Nov-16	Sep-16	Aug-06
Department Use of Force Policy Title:	"Policy and Procedure: Use of Force (5:1.0)"	"Policy and Procedure: Use of Force (Ch. 21)"	"Response-To-Resistance Policy"
Policy Statement for the Use of Force:	Deputies, regardless of where assigned, may only use force in the performance of their duties that is reasonably necessary to affect lawful objectives including: 1. Affecting a lawful arrest; 2. Overcoming resistance to lawful authority or control; 3. Maintaining the security of the Court House, Jail, or other government facilities to which they are assigned; 4. Or to protect themselves or others from harm.	1. Officers may only use the force that is objectively reasonable to affect lawful objectives including: affecting a lawful arrest, overcoming resistance to a lawful arrest, preventing the escape of an offender, or protecting or defending themselves or others from physical harm. 2. An officer will choose the level of response which is objectively reasonable to effectively gain control of a situation while protecting the lives of the officer(s) and others. 3. The objectively reasonableness use of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident.	1. An officer may employ less-lethal response when: a. Deadly response is not justified; b. When the use of less-lethal response will best de-escalate an incident and bring it under control. 2. Officers are authorized to use Department-approved less-lethal response techniques and issued equipment: a. To protect themselves or another from physical harm; b. To restrain or subdue a resistant individual, or; c. To bring a situation safely and effectively under control.
Policy Statement for the Use of Deadly Force:	Deadly force may be used: 1. To defend oneself from serious physical injury or death; or 2. To defend another person from serious physical injury or death; or 3. In the apprehension of a fleeing felon, when, the deputy has probable cause to believe: a. A felony has been committed, and b. The person to be arrested has committed it, and c. The deputy has probable cause to believe that the person to be arrested has committed a crime involving the infliction or threatened infliction of serious physical harm, and d. The force is necessary to prevent the escape of the suspect, and e. The deputy has identified himself as a deputy, and given notice of his intention to arrest (time and circumstances permitting), and f. If feasible, a warning to stop has been given, or g. The deputy believes that the delay of the arrest of the subject(s) represents an immediate threat of serious physical injury or death to the deputy or to a third party. 4. When a deputy is confronted with an armed suspect in close proximity whose words and/or actions indicate an intent to attack.	Officers acting within the scope of their employment shall be justified in the use of lethal force under the following circumstances: 1. To defend themselves or another from what is reasonably believed to be a significant threat of serious physical harm or death. 2. To prevent the escape of a fleeing felon whom the officer has probable cause to believe will pose a significant threat to human life should escape occur.	A Tallmadge Police Officer may use deadly response when the officer reasonably believes that, in light of the facts and circumstances confronting him/her, the officer's actions are: 1. In defense of human life, including the officer's own life... OR 2. In defense of any person in immediate danger of serious physical injury... OR 3. In the apprehension of a fleeing felon when the following conditions all apply: a. The officer has probable cause to believe that a felony has been committed by the person to be arrested... AND b. The officer has identified him/herself as a police officer and given notice of his/her intention to shoot, circumstances permitting... AND c. The officer reasonably believes that the suspect's freedom represents a significant threat to human life should escape occur... AND d. All other reasonable means of apprehension are impractical.
Policy Standard for Reporting Use of Force:	Notify immediate supervisor, complete Incident report, use of force report, confidential report of investigation if requested before the end of the deputy's shift.	A supervisor or OIC will be notified and a Levels of Resistance Report will be completed prior to the end of the officer's shift.	Notify the shift supervisor or OIC and file Response-to-Resistance Report form.
Policy Standard for Supervisor Responsibilities:	A. When practical, a supervisor shall respond to the scene of any use of force incident. B. If a subject incurs any injury the supervisor shall obtain the following information: 1. Attending medical personnel's name. 2. A copy of a refusal form, if the subject(s) refuses treatment. 3. With consent, a copy Of the treatment forms if the subject(s) is treated. 4. Photographs, of any visible or claimed injury to a subject(s), as soon as practical after the injury is sustained.	In cases in which the use of force results in death or serious physical injury: In cases in which the use of force results in death or serious physical injury: the first Supervisor on scene must: a. Check the welfare of the involved officer(s) placing him or her in an area of controlled isolation but allowing the officer to be able to assist in the preliminary investigation. b. Assign an officer to stay with the involved officer(s). c. Notify the Chief of Police and Division Commanders. d. Notify the Summit County Prosecutor's Office. e. If death has resulted, notify the Summit County Medical Examiner's Office.	Whenever an officer is involved in a response to resistance requiring the generation of the Response-to-Resistance Report Form, the Shift Supervisor or Officer-in-Charge is responsible for filling out and compiling the items specified on the Supervisor's Resisting Arrest Package Checklist Form.
Policy Standards for Training:	All sworn personnel shall receive copy of Use of Force Policy and will attend annual training on use of force and use of deadly force. Personnel must complete written test on policy with a passing score.	All sworn and on-sworn officers shall review the policy and sign. Annual training will be given to demonstrate proficiency in the use of all approved lethal and less lethal weapons to receive recertification.	The Response-to-Resistance policy will be reviewed annually at an in-service training session.
OCCPAB Phase of Certification as of March 31, 2017 Report:	Final	Final	Provisional

VI. Analyzing Department Use of Force Policies

Reviewing the selected Summit County policies in my sample with the standards expected from the OCCPAB, all but one of the policies met the standards required by the state. After the release of the OCCPAB Law Enforcement Certification Public Report, I reviewed all Summit County law enforcement agencies with any certification level, as shown below in Figure 2; and those agencies which are not currently being certified, shown in Figure 3. Certification statuses are ranked from greatest to worst complicity with the standards: final, provisional, in progress, and not certified.

Figure 2. (Ohio Collaborative Community-Police Advisory Board, 2017, p. 173)

Agency	Agency Size	In Process	Provisional	Final
Akron Police Department	569			✓
Barberton Police Department	51			✓
Bath Township Police Department	22			✓
Boston Heights Police Department	15			✓
Copley Township Police Department	30		✓	
Cuyahoga Falls Police Department	93			✓
Fairlawn Police Department	29		✓	
Hudson Police Department	29			✓
Munroe Falls Police Department	24	✓		
New Franklin Police Department	21			✓
Northfield Village Police Department	21	✓		
Norton Police Department	25		✓	
Sagamore Hills Police Department	17			✓
Springfield Township Police Department	41	✓		
Stow Police Department	57			✓
Summa Health System Protective Service/Police	57			✓
Summit County Sheriff's Office	461			✓
Summit Metro Parks Rangers	34	✓		
Tallmadge Police Department	40		✓	
Twinsburg Police Department	34			✓
University of Akron Police Department	38			✓

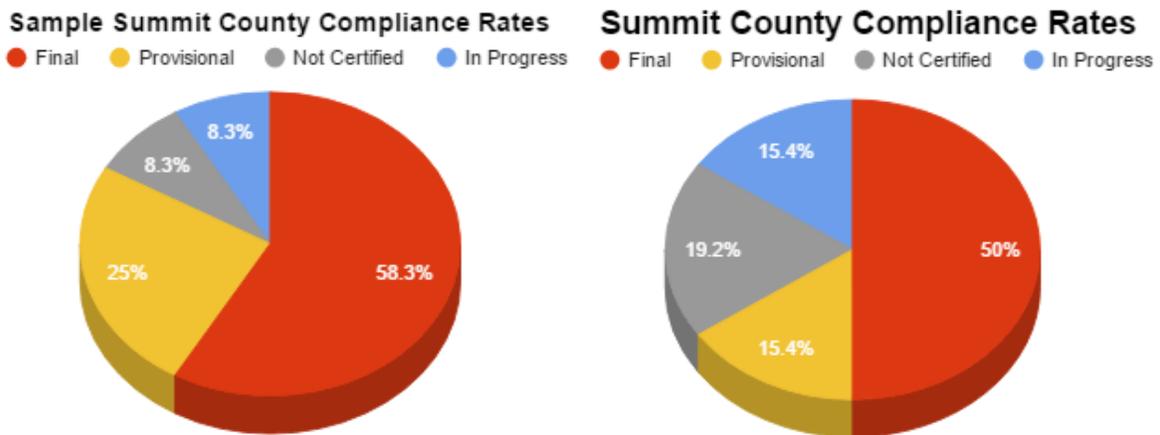
Figure 3. (Ohio Collaborative Community-Police Advisory Board, 2017, p. 206)

Agencies Not Certified

Agency Name	Number of Officers
Summit County	
Macedonia Police Department	23
Peninsula Police Department	22
Reminderville Police Department	13
Richfield Police Department	23
Silver Lake Police Department	11

Using these two tables from the Law Enforcement Certification 2017 Public Report, a chart was compiled to show the percentages representing the amount of agencies in each stage of the certification process. Shown below, Figure 4 represents data from the departments selected for the content analysis on the left, and data from all of Summit County's departments on the right. Half of all Summit County law enforcement agencies reached the final certification status. Unfortunately, out of the twenty-six departments, five have not requested for certification approval by the Advisory Board by the March deadline, almost one fifth of the entire Summit County. These departments include Macedonia, Peninsula, Reminderville, Richfield, and Silver Lake. A comparison between the original sample of policies and the entire county sample show an underrepresentation of the amount of departments which are not certified and only at the in progress status.

Figure 4. (Ohio Collaborative Community-Police Advisory Board, 2017)



One reason that may account the possibility of department size affecting the certification process, averages of department sizes have been taken when sorted by certification status. The averages for each status is shown below in the table in Figure 5.

Figure 5. (Ohio Collaborative Community-Police Advisory Board, 2017)

Average Department Size per Certification Status	
Final	112.6
Provisional	31
In Progress	30
Not Certified	18.4

As seen above, there is a trend with a final certification status having the highest average department size and those not certified have the lowest average department size.

Aside from the requirements set by the Ohio Collaborative Community-Police Advisory Board, some department policies had elements differing from others, which enriched the policy and allowed them to pass the minimum standards. For instance, Tallmadge Police Department’s Response-to-Resistance policy, was very thorough for its age. Although most policies were revised within the last year, this policy seemed to be very in-depth for a revision year of 2006.

Included in this policy was an explicit scenario-based action / response continuum for suggested levels of force, from verbal commands to deadly force. As stated in the policy, the following excerpt, Figure 6, was not intended to limit the possibilities of responses or be a definite course of action by an officer. This is simply an appropriate scale of reasonable use of force by the police in specific circumstances. Although this scale may seem definite, circumstances in service calls are not routine and cannot depend on definite tiers of action and appropriate response. Many of the other policies in the study contained force continuums, because it is easy to copy and paste a predetermined scale based on ideal scenarios.

Figure 6. (Tallmadge Police Department, 2006)

	Tallmadge Police Department GENERAL ORDER	No. 1	Date of Issue 8/17/2006	Effective Date 8/17/2006
	Subject RESPONSE-TO-RESISTANCE POLICY	Amends G.O. 1 dated 4/12/2005		Review Date 2/17/2007
Reference: General Order 19 - Weaponry & Protective Equipment	Rescinds October 1998 revision & Old G.O. 1.3 dated 1/18/01			Page 8 of 22

1. If a subject offers verbal or physical danger cues, does not respond to an officer's commands, and/or walks away, the officer may:
 - a. Issue verbal or physical commands;
 - b. Call for assistance from other officers;
 - c. Use an escort position;
 - d. Use balance displacement techniques;
 - e. Use Def-Tec O.C. Spray;
 - f. Use X-26 Advanced TASER, or;
 - g. Use Nova Spirit Stun Gun.
2. If a subject refuses to move, uses the weight of his/her body to defeat the control of an officer, or if the subject is pulling away from an officer, the officer may:
 - a. Use any of the techniques listed in #1 above;
 - b. Use joint manipulations or pressure points, or;
 - c. Use hand strikes to motor points, muscle masses, or use take down maneuvers.
3. If a subject is pushing an officer or wrestling with him/her, the officer may:
 - a. Use any of the techniques listed in #1 and #2 above;
 - b. Use ASP Baton restraints, or;
 - c. Use striking, punching, or kicking if perceived as necessary.
4. If a subject is striking, kicking, or biting an officer, the officer may:
 - a. Use any of the techniques listed in #1 through #3 above, or;
 - b. Use ASP Baton strikes to the arms, legs, or torso.
5. If a subject's actions present a risk of serious physical harm to him/herself or another, or presents a life-threatening weaponless assault against an officer or another, the officer may:
 - a. Use any of the techniques listed in #1 through #4 above;
 - b. Use less-lethal "bean bag" or rubber munitions *if practical, or*;
 - c. Use deadly force response options.
6. If a subject is involved in attempting to disarm the officer, or is using a weapon against an officer, the officer may:
 - a. Use any of the techniques listed in #1 through #5 above, or;
 - b. Use deadly force response options.

Three policies in the study, Barberton, Cuyahoga Falls, and Norton, all had identical policies except for the references to the department name and identity within the document.

These departments all complied with the Ohio Collaborative Community-Police Advisory Board

standards. However, Barberton and Cuyahoga Falls had the Final certification status, whereas Norton had the Provisional status. This showed that aspects other than just policy content factored into the credential status. It was possible this was due to time of request or submission of the policy to the Advisory Board. These three policies had two sections which stood out, irrelevant to standards set by the Advisory Board. The first being a clarification of a commonly debated scenario. The Barberton, Cuyahoga Falls, and Norton Police Department policies stated: "Imminent does not mean immediate or instantaneous" An officer may be in imminent danger even if the suspect doesn't have a weapon. This is because the suspect could cause serious physical harm without a weapon or may have access to a weapon. For an example, a 130-pound female officer's life could have been in imminent danger if the suspect was a volatile 300-pound male. No weapon may be needed other than the suspect's hands to seriously harm such an officer. This clarification in the policies was a great elaboration on how there are several factors which may affect the appropriate amount of legal force that could be used in a case by case basis, and use of force incidents are not usually black and white.

The second section which drew my attention was the Duty to Intercede clause shown in Figure 7.

Figure 7. Barberton Police Department, Cuyahoga Falls Police Department, & Norton Police Department, 2017

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

This clause regards other officers of the department accountable for the involved officer's actions if they are present during the use of force incident. This adds another perspective to the objective reasonableness test, as there is another witness to the incident. However, the two

officers’ perspectives are not identical which creates a gray area for the objective reasonableness test.

In law enforcement, there often exists a subculture which greatly differs than those of other occupations. Because officers need to trust their lives to their partners and other officers, there is a unified mentality that has been called the “Thin Blue Line”. This subculture in the past has revolved around a code of silence, which meant all officers trusted and supported each other no matter what the facts of the case were. Including the duty to intercede clause into a department’s use of force policy challenges those past expectations of blind support and corruption. Although including this clause in a policy does not guarantee implementation, it shows the public that standards for police work could be held accountable by the people.

In addition to the policies obtained, I received the 2017 Continuing Professional Training requirements in an email screenshot from the Executive Director of the Ohio Peace Officer Training Commission (OPOTC). For this year, 2017, a minimum of 20 hours of in-service training are required by OPOTC. The table below shares the training topic requirements and training hours necessary for each sworn officer (Davis, 2016). Related to the necessary standards of training set by Executive Order 2015-04K, trainings of use of force department policies, fell under the practical application of force requirement. The table below, indicated there were only four mandatory training hours for the year 2017 regarding use of force.

Figure 8. (Davis, 2016)

OPOTC 2017 Continuing Professional Training	
Required Topic	Hours Needed
Trauma Informed Policing	6 Hours
Practical Application of Force	4 Hours

Blue Courage or Procedural Justice & Police Legitimacy	4 Hours
Legal Update	2 Hours
General Law Enforcement (Up to department's discretion)	4 Hours
Total Training for 2017	20 Hours

Because the collection of policies was completed before the OCCPAB deadline of March 31, 2017, there are vulnerabilities in the data between the new policies and the older policies that were yet to be updated. According to the Advisory Board, an updated report with a compiled list of agencies which comply with the standards and those which have not complied, will be released each year around March. (Ohio Task Force on Community- Police Relations, 2015). This holds Ohio police departments accountable by the public and gives support and power to the Ohio Collaborative Community-Police Advisory Board in their mission to redefine the relations between the community and law enforcement.

VII. Conclusion

In summary, the perception of the appropriate use of force continues to be a challenge for both law enforcement professionals and the public. A proper balance of rights and safety is continually tested, as precedents are set every day. As observed through policies and cases, an incident may only last a few seconds, but the time spent preparing and reviewing policies because of one incident takes a great amount of time and effort. The Office of Community Oriented Policing Services along with the IACP realized this years ago at their jointly supported symposium. Their key development is pictured below in the Figure 9 below, the policy revision process.

Figure 9. (International Association of Chiefs of Police, 2012)

Pre-Incident	At Point of Incident	Post-Incident
<ul style="list-style-type: none"> ◆ Review of policy effectiveness ◆ Leadership role ◆ Review of training effectiveness ◆ Community education ◆ Citizen input ◆ Utilization of accountability software ◆ Research ◆ Existing standards/case law 	<ul style="list-style-type: none"> ◆ Internal Affairs investigation ◆ Press management ◆ Criminal investigation ◆ Community outreach ◆ Agency transparency 	<ul style="list-style-type: none"> ◆ Accountability ◆ Dissemination of information ◆ Adjustments/improvements ◆ Policy upgrades ◆ Training upgrades ◆ Public forums/meetings to address incident

In creating and implementing a use of force policy, it is important to ensure departments are not simply copying and pasting the necessary standards on paper. Future research is needed to determine why some departments have yet to establish these standards or whether these departments are only complying to the Advisory Board’s standards on paper, but choosing not to implement the policies and procedures in the field. With goals of standardizing Ohio use of force policies, questions may arise on whether there will consequences if departments do not establish certified policies. Most the select policies which were analyzed mentioned investigative measures and follow up by supervisors, but only a few discussed the department’s efforts to analyze their own policies and continually reform them annually, which were Barberton, Cuyahoga Falls, and Norton. From the regulation by the Advisory Board annually, use of force by Ohio police departments will continue to reform to match precedent and experience.

Although a tremendous effort has been spent in Ohio to create this collaborative, there are no doubts policies will forever change to cover new precedents set by the new use of force cases that occur throughout the country. As addressed in the National Consensus Report on the Use of Force which Munroe Falls uses, “no sample policy can meet all the needs of any given law enforcement agency” (International Association of Chiefs of Police, 2017). It is

unimaginable to think of every possible scenario an officer will ever encounter. Which questions why the minimum training hours set by the Ohio Peace Officer Training Commission for use of force is only at four hours. It is not uncommon for departments to surpass annual OPOTC training requirements, since in 2017, only twenty hours of continued professional training is required (Davis, 2016). This number is determined on the state budget for the year, which means that the state government will pay for twenty required hours of annual training for every Ohio officer. If a department does not have funding for additional training, then it is possible those officers will only receive the bare minimum of training annually, which could lead to excessive use of force.

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