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The Science of Training
with David Blake

How UOF evaluation is changing (and how to improve UOF decision making)

The erosion of the Graham standard is occurring on many different levels and in many different ways — not all of them in the courtroom

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History has provided several examples of the ebb and flow of law enforcement/community interactions and expectations. While change is often labeled as a positive thing, we in law enforcement have experienced the unintended long-term consequences of change made for seemingly positive reasons. We have never seen a pattern of events similar to those occurring now. Events which threaten the bright line analysis of a use of force which the *Graham v. Connor* standard has provided.

The erosion of the *Graham* standard is occurring on many different levels and in many different ways — not all of them in the courtroom. While *Graham* remains the law of the land on use of force, holes are being poked in the final frame analysis it provides. Those holes have allowed pre-event decision making to “leak” in to the final frame analysis and could make a difference in your next use of force review – whether in the courts or internally within your agency.

The conversation here is not intended to discuss the right or wrong of current trends, but rather to increase awareness and ensure officers are equipped to make the best decisions possible in rapidly evolving, tense, and uncertain environments. To ensure you are aware of what’s happening, let’s look at three recent examples from different sources. Each should at least cause a raised eyebrow.

Wheels of Change are Turning

The first comes to us from the Arlington Police Department in Texas. In August 2015, an officer shot and killed an unarmed male. The felonious suspect rushed the officer prior to being shot. The officer was fired four days after the event for poor decision making in confronting the suspect alone. This is not a standalone incident, as others have been fired for what might be considered poor tactical decision making prior to the actual use of force.

The second example involves a 2014 9th Circuit Court ruling, *Hayes v. San Diego*. The case involved deputies who entered a residence to confront a potentially mentally unstable subject. During that encounter, the subject moved toward deputies with a large knife overhead and was subsequently shot and killed. The court ruled that the shooting was not objectively reasonable based on several pre-event decisions (actions/inactions) made by the deputies prior to engaging the subject. Ultimately, this decision adds to the “totality of circumstances” review in that courts in the 9th circuit will also review officer’s actions or inactions (decision making) prior to the use of force in determining whether the force was justified.

Finally, the Police Executive Research Forum recently released their *Re-engineering Training on Police Use of Force* report. The report presents many interesting observations by police executives across the nation. Specific to the current narrative, the report provides a great deal of discussion on pre-event decision making and an apparent misunderstanding of the Tueller drill. The report introduces a European decision-making model as a method to assist officers in making better decisions. Many recommendations fall under the umbrella of slowing down, keeping distance, assessing a situation, de-escalation, and making appropriate decisions.

Like it or not, the wheels of change are in motion and no one can predict what new developments may be coming. Law enforcement is evolving towards a more in-depth review of the decision-making leading up to the use of force event. We need to understand it, accept it, and adapt through better training specific to making those pre-event decisions. As decision making is solely under the control of the human brain, it makes sense to start there.

Science Lesson: Decision Making Under Stress

We can reasonably expect that rapidly evolving, tense, and uncertain events are going to cause a great deal of stress. As a matter of fact, those words

(rapidly evolving, tense, and uncertain) correlate well with the scientific definitions of stress. Generally, it is our perception of a threat, our ability to overcome the threat, and our perception of the importance of overcoming the threat that all combine to determine the level of stress. In turn, stress dictates physiological arousal levels — better known as our “fight or flight” response.

The fight-or-flight response occurs at the subconscious level and begins the release of “stimulant” hormones within our body (cortisol, adrenaline, etc.). The hormones increase performance along an ever increasing curve to a point of optimal performance (inverted U). However, stress levels in life or death situations may cause a “full push” of stimulating hormones, providing great strength and speed but decreasing performance in areas such as fine motor skills, attention, and decision making. It is the stress response’s effect upon decision making that we should be most concerned with.

According to a depth of scientific evidence, decision-making is degraded during acute stress. In a situation where time compression and the perceived threat of injury or death are involved, the fight-or-flight response may push an officer into a state of hypervigilance. It is within the hypervigilant state that humans rely more on the survival brain — or limbic system (reactive) — and less on the frontal lobes or thinking brain (analytical). The perception of a life-threatening experience can be problematic when accurate assessments and sound decision making are expected.

3 Recommendations for Better Decisions

Hypervigilance and its effects on decision making is the biological foundation for these evidence based recommendations. Olympic athletes and Navy SEALs have utilized some of these concepts within their training and performance regimes in order to increase performance - especially cognitive performance.

1. Slow down and keep/increase distance: Stress is caused by time compression and increased threat perception. Distance and cover/concealment allow for increased reaction time/safety. Allowing yourself time in a decreased threat atmosphere will ensure prolonged time to assess the situation and make better decisions.

2. Set goals: Creating a plan of action before you engage (and having a backup plan) will allow your brain to “spool up” and prepare. Being caught by surprise can increase the perception of time compression and threat while increasing the chance of hypervigilance. Hypervigilant states make analytical decision making difficult if not impossible.

3. Do your combat breathing: Taking in a deep breath, holding it for a few seconds, and allowing it to slowly escape will increase oxygen intake and reduce the stress response. A great tool for re-engaging good decision making.

While we should do everything we can to make the best decisions possible, it may be difficult if one does not understand the most important tool we deploy — our brain. While powerful, the brain has limitations (some more than others) in its cognitive abilities under stress. Respecting those limitations by slowing down, observing/assessing situations, tactical retreat, calling in additional resources, and simply not over penetrating a situation (becoming completely reactive) will all increase an officer’s cognitive performance. Physical skills become worthless without the cognitive abilities necessary to control them! Be safe. Be vigilant.

About the author

David Blake retired from a northern California police department after 15 years of federal and local police. He is a Force Science Certified Analyst with instructor certifications in DT, Firearms, Force Options Simulator and Reality Based Training. His career included duties within SWAT, Force Options Unit, Field Training, Gangs and Narcotics. He currently teaches Human Factors and Force Encounters Analysis for the California Training Institute. David is an adjunct professor, police academy instructor and owner of the Blake Consulting and Training Group. Blake holds a BS in Criminal Justice Management and a M.Sc. in Psychology.

Contact David Blake

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