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UNARMED SKILLS

The aim of this module therefore is to:

- correctly apply unarmed techniques
- understand basic physiological principles
- appreciate physical application from a 360-degree perspective
- ♦ link to other modules within this manual.

Introduction

Unarmed skills, together with communication, are the important basics of officer personal safety, which additionally support the use of issued or improvised equipment.

This module contains elements of control, restraint, immobilisation, defence and offence, with which to direct subjects. It is limited to applications which are generally simple to learn and apply, and which are unlikely to deteriorate substantially under conditions of stress. Some skills are applicable to specific areas, while others are designed to be used tactically when spontaneity is desirable.



NOTE:

If a subject experiences pain, and there is no reward, and the officer does not tell the subject what they want, then the subject may suffer a rush of adrenaline, and initiate higher levels of resistance, together with a higher potential for injury to themselves, the officers, or any third party present.

Methods of Control

There are many methods by which a subject may be controlled with reasonable, necessary, proportionate and justifiable force, while taking into account the type and level of injury that may be likely to occur to both subject and officer.

Pain Compliance

This is probably the oldest known subject control principle in the history of criminal justice. This is because virtually any technique application could be turned into a pain compliance technique. Operationally, this works on the principle of the 'pain/reward' concept. The officer uses a combination of verbal commands (see Communications Module) and pain to discourage the subject from further resistance. Once the pain exceeds the subject's pain threshold, which may be artificially raised by the presence of drink, drugs, mental illness, or the subject's determination, then the subject may stop resisting. If the subject stops resisting, then the officer rewards the subject by relaxing the pressure and relieving the pain. Although the brain may be stimulated by the application of a pain compliance technique, it is equally important to tell the subject what is required by 'loud, repetitive, verbal commands'.

Whenever subjects are experiencing high levels of pain, auditory exclusion or lack of hearing ability may be apparent (see Personal Management Module). Therefore, officers need to tell subjects what they want, repeatedly, so that the subject knows how to physically comply with the officers, requests.

Balance displacement

This concept is obviously important when taking a subject to the ground in order to control them and to limit their resistance. When a subject's pelvis (centre of gravity) is out of line with their feet, then they become unstable and off balance, to be dealt with far more easily.

If a balance displacement technique is used rapidly, yet controlled, it is feasible that the subject may be psychologically shocked because of the speed and dynamics of the technique, thereby giving an advantage to the officer.

Distraction techniques

Essentially, the use of a distraction technique is to weaken a subject's resistance by changing their thought process. In essence, a distraction technique may give an officer a window of opportunity in which to apply some kind of control upon a subject. This means that such a technique may last under normal conditions for a short space of time, or if delivered with more power or deeper penetration, for several minutes, when it might disable a subject's limb or ultimately stun them.

Motor dysfunction

This term is specifically used to define a control technique that over-stimulates motor nerve points throughout the human body (see Medical Implications Module), that may result in a temporary muscle impairment. In effect such a technique may physically shut down a limb so that it is incapable of being used.

Additionally, in medical terms, striking muscle mass as opposed to striking bony areas is less likely to result in subject and officer injury, generally restricting such injuries to bruising.

In contrast to pain compliance, a motor dysfunction is a neural-muscular response, and is **not dependent** upon the subject's tolerance to pain.

Linked to the application of a motor dysfunction or stun is the concept of 'time on target'. This, in effect, means that when applying a striking technique to a motor point, if the officer hits and momentarily sticks the strike onto the target, then this is likely to stimulate underlying nerve tissue much more effectively. Officers, therefore, should always use a dead impact strike when striking.

Stunning techniques

Intentional stunning for the purpose of subject control is relatively new. This principle is based upon stimulation or overwhelming sensory input that is sudden, intense and unexpected. The average stun may last from three to seven seconds or longer, allowing the officer to use follow-up control. The difference in time when applying a stunning technique may depend upon whether the subject is under the influence of drink or drugs. In some cases, when an initial stun is unsuccessful, officers may consider using multiple stuns in order to create an overloading effect upon the subject.

Pressure point and nerve motor point penetration

Officers need to be aware that when applying pressure to a pressure point, or perhaps when striking a nerve motor point, it is not purely the force of the application, but also the area over which it is applied, that causes penetration to a greater or lesser degree and ultimate success of the technique.

Penetration Pressure = Force P = F Area A

This is clearly important to consider from many aspects, not the least medically. For example, if a subject is struck on the side of the leg with a knee strike, as opposed to being struck on the side of the leg with the tip of a baton, then the surface area of the baton (being smaller than the knee) is likely to have greater penetrative qualities dependent upon the force used.

Variables such as impact factors (see Conflict Management Model Module) and the type of body weapon or item of issued or improvised equipment that is used against a specific body target make it difficult to determine how an individual might react to such applications (see Personal Management Module).

Stance and movement

The attitude of a subject may be influenced by the way an officer stands and the non-verbal use of their body movement. There are certain natural stances that can be adopted by officers that, while appearing not in the least threatening to the subject, are in fact designed to enable the officer to instantly quell an attack made upon them.

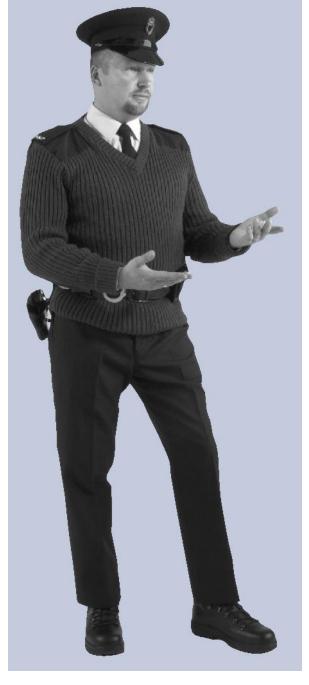
Proper stance

As the name implies, this stance should be adopted by officers whenever possible. It reflects an officer who is on balance and whose hands are in a suitable position for controlling a subject.

In this stance the body may turn slightly away from the subject (blading), or face square onto the subject, dependent upon the threat. The elbows are tucked into the side of the body to enhance retention of equipment (see Personal Management Module) and to prevent the officer 'offering' their hands to be cut by the presence of an edged weapon (see Edged Weapon Module). The hands should be above the waist, and subject to personal preference, an officer may adopt either of the following examples or any derivatives thereof.



- Weak leg forward
- Strong leg to the rear
- Feet approximately shoulder width apart
- Bodily weight evenly distributed
- Knees slightly flexed
- Body either bladed or facing the subject
- Hands above the waist in nonthreatening manner
- Elbows close to the body.



Ready stance

This stance is considered to be higher profile than the proper stance in readiness for attacks upon the officer. This is simply a 'fighting stance', which allows for widening of the stance.

Even though this stance is in readiness for any defensive or offensive action by the officer, it should not compromise the safety of the officer.

The illustrations below offer the officer's hands either facing towards the subject or palms up in a disguised preference.



NOTE:

Be aware that any stance clinically taught in a training environment may very likely fail in an operational situation, when an officer is under conditions of stress, or when walking. Therefore, the officer must be able to operate without dependency upon a certain stance or position, such as the hips squaring naturally to meet a potential threat.

- Weak leg forward
- Strong leg to the rear
- Feet adopt a slightly wider stance than proper stance
- Body weight evenly distributed
- Knees slightly flexed
- Body either bladed or facing the threat
- Hands above the waist in a non-



Forward movement

COMPETENCES

- ♦ In stance (proper or ready)
- ♦ Weak leg steps forwards
- ♦ Strong leg glides to follow
- Maintain stance, balance and hand positions.

Where possible, all movement should adopt a 'step and glide' approach, to enable the officer to maintain a balanced position at all times. Whatever the direction, the leading leg (weak or strong) will step forward, and the remaining leg will glide trailing to the leading leg's original position.

Lateral movement

COMPETENCES

- ♦ In stance (proper or ready)
- ♦ Weak or strong leg steps laterally
- ♦ Strong or weak leg glides to follow
- Maintain stance, balance and hand positions.

Rearwards movement

Moving backwards as an evasion principle may be flawed because of the environment that the officer is operating in, and the presence of furniture which inhibits the officer's disengagement, when time, speed and distance are essential (see Personal Management and Edged Weapon Modules).

COMPETENCES

- ♦ In stance (proper or ready)
- ♦ Strong leg steps rearwards
- ♦ Weak leg glides to follow
- Maintain stance, balance and hand positions.

Pivoting

This skill may be simply achieved by pivoting on either the ball of the weak or strong foot, or both feet.

Weak foot pivot

COMPETENCES

- ♦ In stance (proper or ready)
- ♦ Pivot on weak foot
- Bodily pressure is supported on weak foot
- Strong foot swings around
- ♦ Retain stance or evade situation.

Strong foot pivot

COMPETENCES

- In stance (proper or ready)
- Pivot on strong foot
- Bodily pressure is supported on weak foot
- ♦ Weak foot swings around
- ♦ Retain stance or evade situation.

Strong and weak foot pivot

COMPETENCES

- ♦ In stance (proper or ready)
- Simultaneously pivot on the balls of both weak and strong feet
- ♦ Retain stance or evade situation.

Dynamic movement

This movement pattern, based upon plyometrics or the study of power in sport, is described as a fast and aggressive way of evading danger, or closing a subject down in order to operate in close quarter contact.

Forward movement

COMPETENCES

- In stance (proper or ready)
- Drive strong heel into ground
- Stride out with weak foot
- Sprint towards subject
- Maintain hand positions.

Lateral movement

COMPETENCES

- In stance (proper or ready)
- Drive strong or weak heel into ground
- Stride out with weak or strong foot
- Sprint away from subject
- Maintain hand positions.

Rearward movement

COMPETENCES

- In stance (proper or ready)
- Drive strong or weak ball of foot into ground
- Pivot on balls of feet
- Turn and sprint away from subject.

Startle response movement

(see Personal Management Module)

Hand, arm, leg, foot and body configurations

The officer must be able to demonstrate various body weapon configurations that may be used against identified body targets, with reasonable, necessary, proportionate and justifiable force. The officer should also be aware of the potential for injury both to the subject and to themselves (see Medical Implications Module).

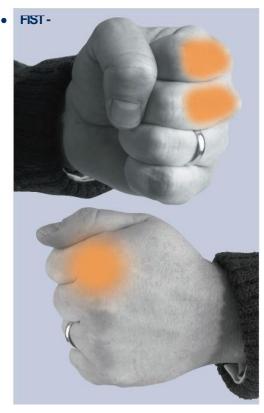
COMPETENCES

THUMB TIP -









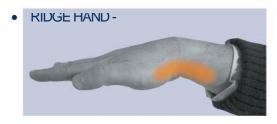






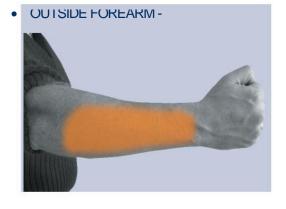


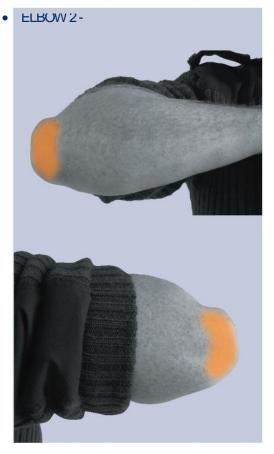


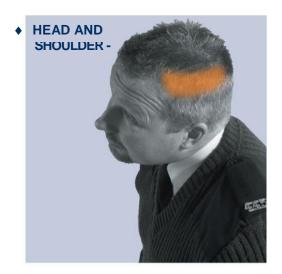


















◆ FOOT (TOE, INSTEP, OUTSTEP, HEEL, SOLE) -

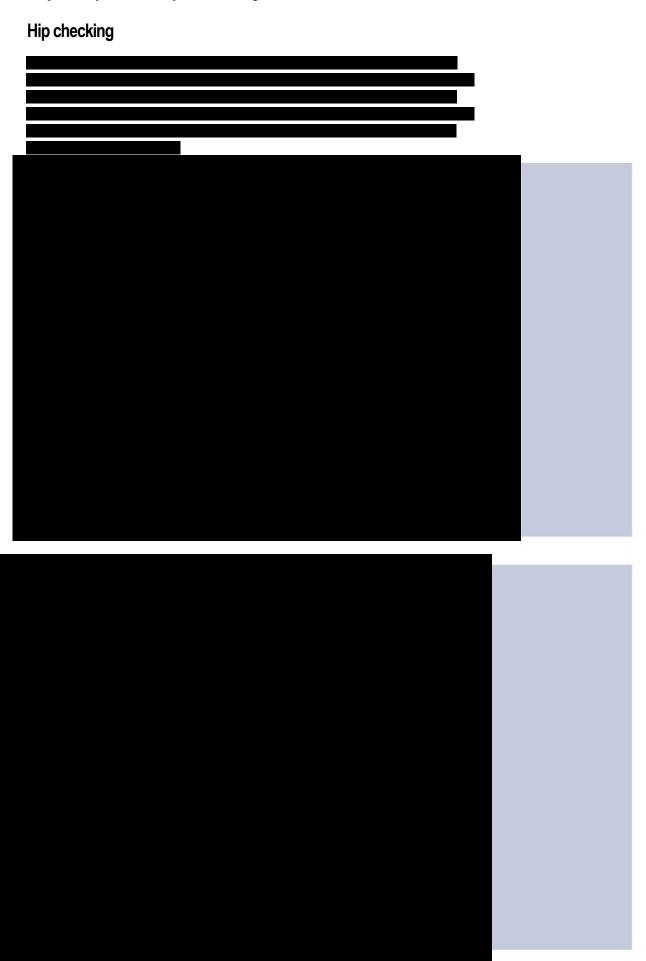






Subject movement

Subjects may be moved by the following methods.

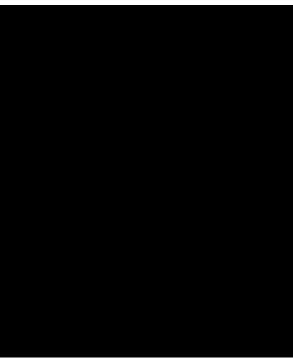




Hip check from front

COMPETENCES

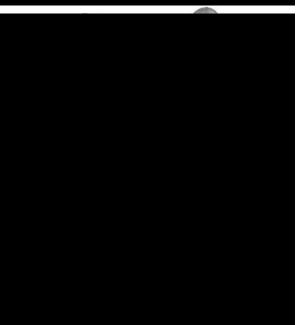
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Hip check from side

COMPETENCES

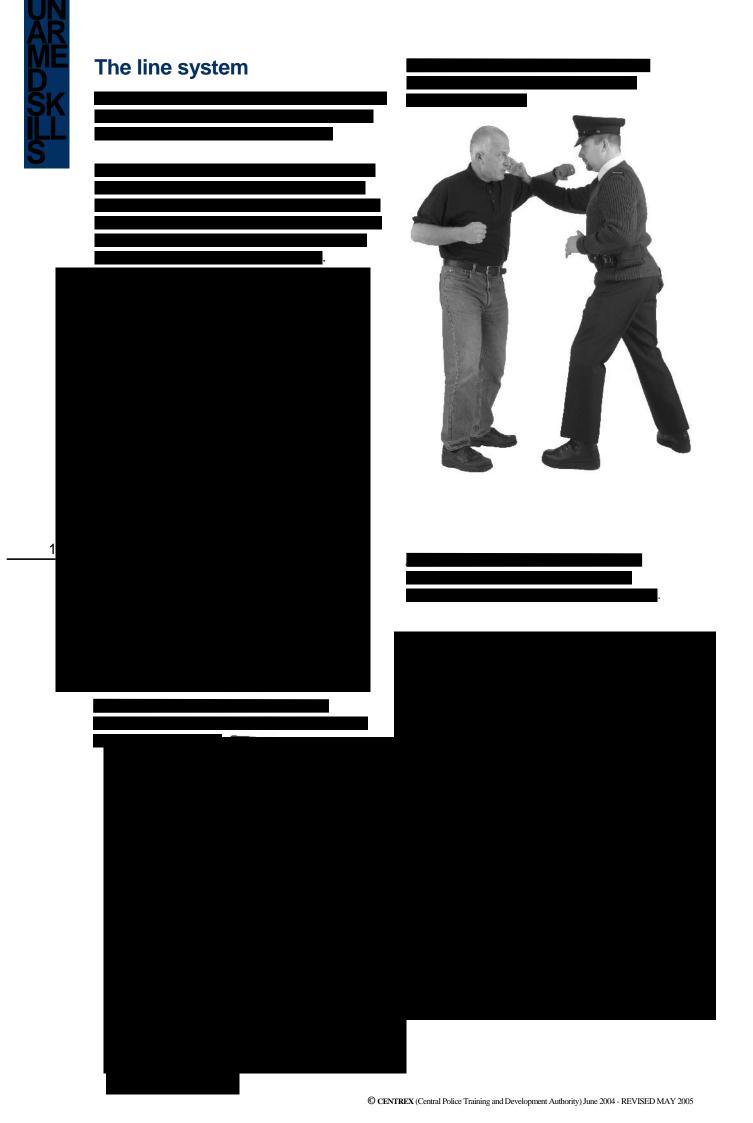
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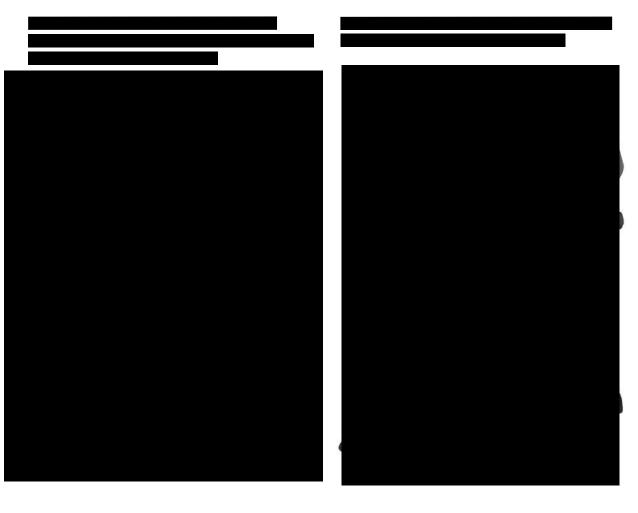


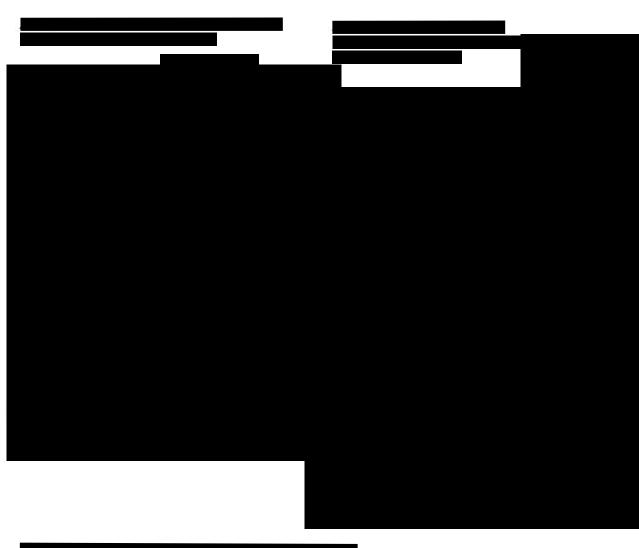
Hip check from rear

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Side-Handled and Edged Weapon Modules)







Evasion, parry and strike	COMPETENCES • • • • • • • • • • • • • • • • • • •
COMPETENCES •	•
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•	WARNING.
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• Push away	



Use of pressure points

The use of pressure point control primarily to overcome low level resistance can be extremely useful. However, with some ingenuity pressure point control can also be used against high level resistance and may be used when the subject is very close to the officer. Pressure point control should always be followed by some form of follow-up control, or disengagement by the officer.

Pressure point application

Distinct from nerve points, pressure points located around the human body are used to control subjects. Although the following examples are demonstrated predominantly from the 4 or 8 o'clock position, officers may apply them from any position, given the circumstances. These locations require a specific method of application described below.

Light touch pressure

This is primarily used to create pain compliance. It is accomplished by touching the pressure point, and gradually increasing the pressure, with the digital tip of the fingers, until the officer's verbal orders are obeyed. It is critical that the officer releases the pressure as soon as the subject complies. If the officer does not release the pressure, then the subject may experience an adrenal rush, resulting in increased resistance, or may become unconscious.

When applying pressure to a pressure point, particularly the head area, the following steps should be adopted.

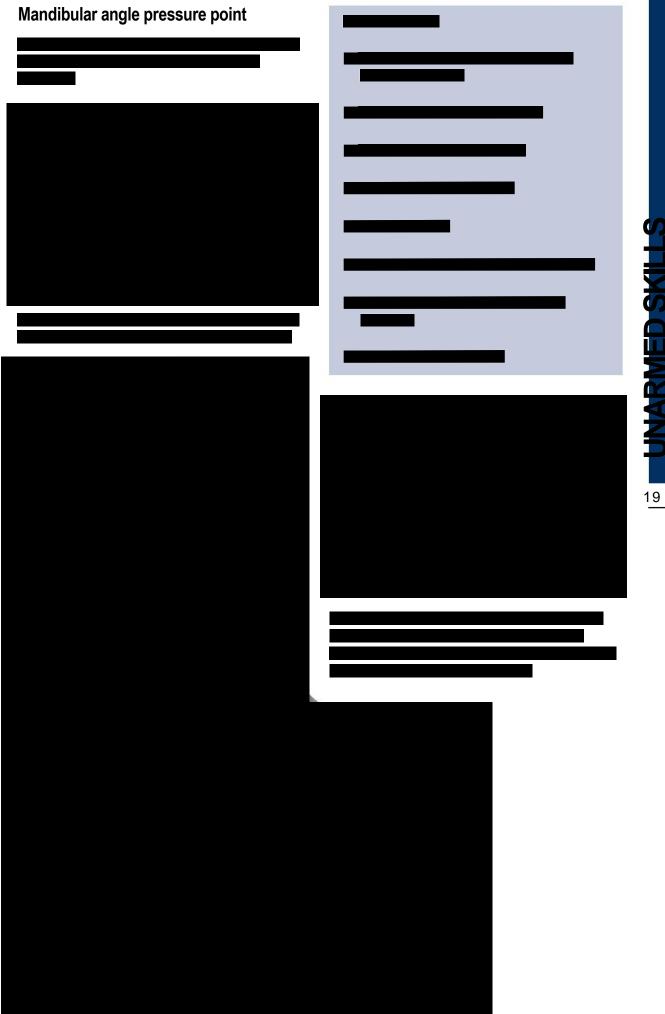
Telling the subject to place their hands behind their back, for example, may entirely negate the need for pressure point control in the first place.

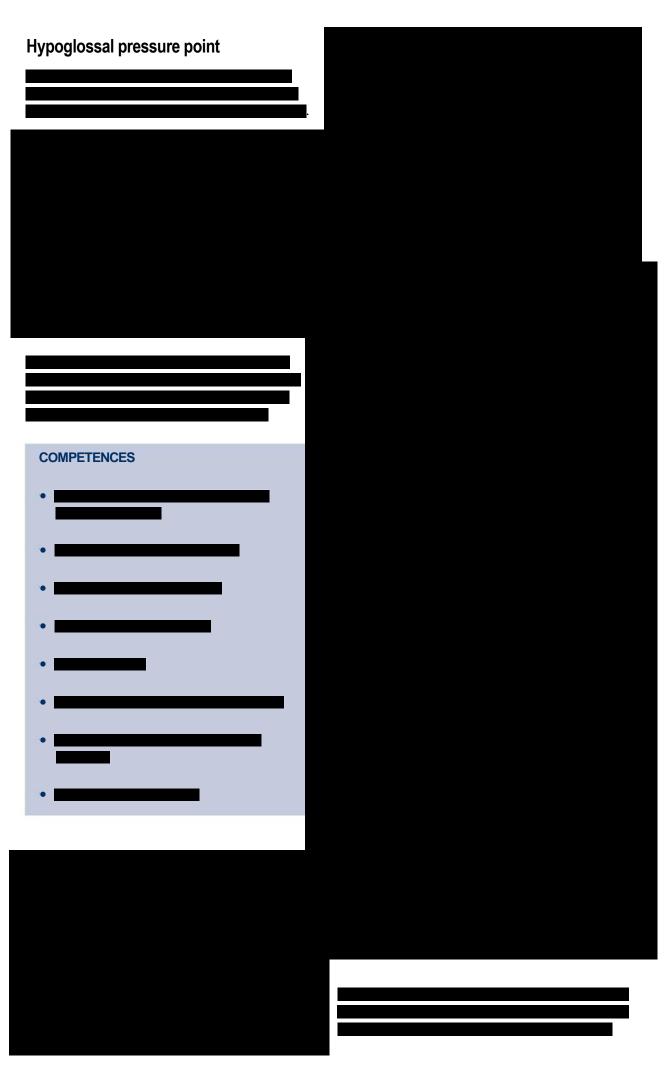
Technically, in order for any pressure point to work, pressure should be applied against a fixed object, in this case the head, which therefore must be stabilised to prevent it from moving. Varying examples of this are given in the following photographs. Pressure should be applied via a thumb tip, not the tread of the thumb (by laying the thumb tread against the outside of the first finger, so that when the hand is balled up into a fist, a small portion of the thumb will be visible over the top of the finger) or, for officers with long fingernails, by using a knuckle.

By applying pressure and using loud, verbal commands, the subject may comply, whereupon pressure should be released, and follow-up control used.

Substantial touch pressure

If light touch pressure is ineffectual, then the officer may use substantial pressure in order to overcome higher resistance. This method is achieved by locating the pressure point, and quickly applying pressure in a stabbing action. This may result in a mental stun, as opposed to pain compliance.





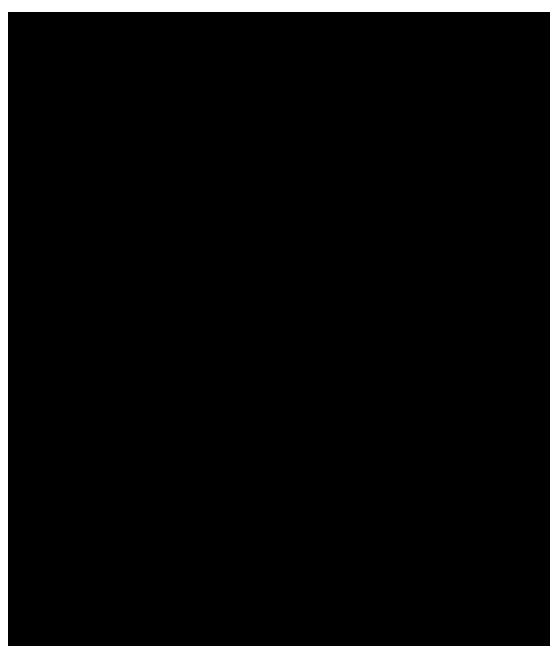
Brachial plexus origin

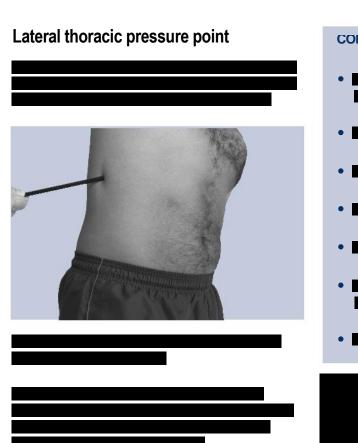


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Subclavian pressure point











Restraints and immobilisation

Front transport wristlock

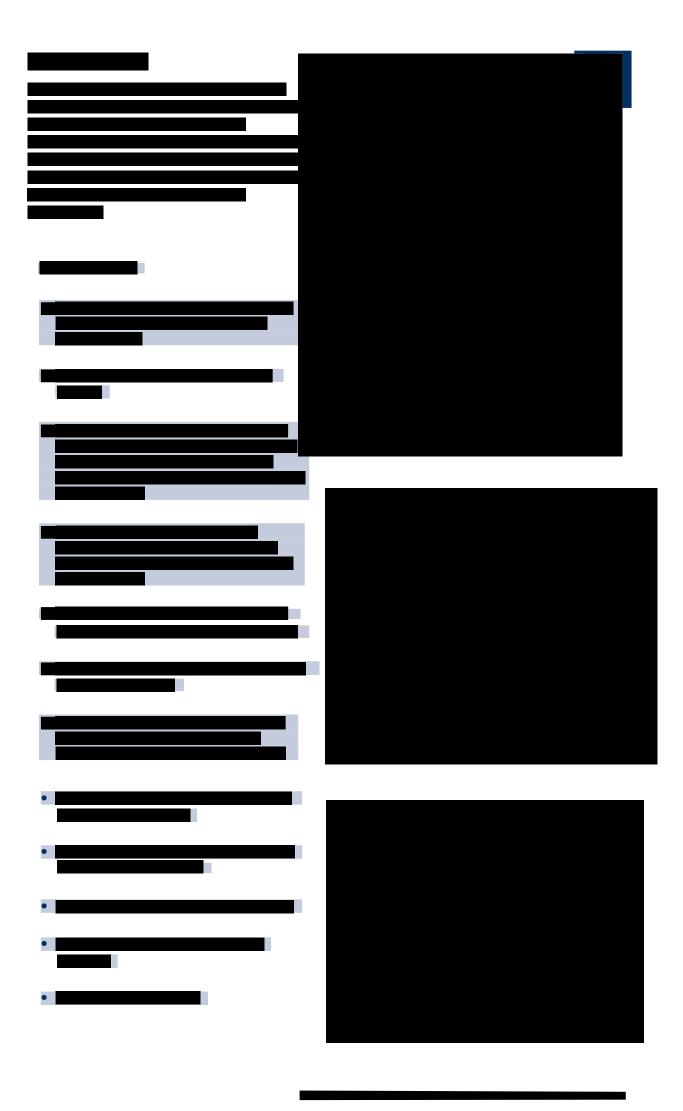
COMPETENCES

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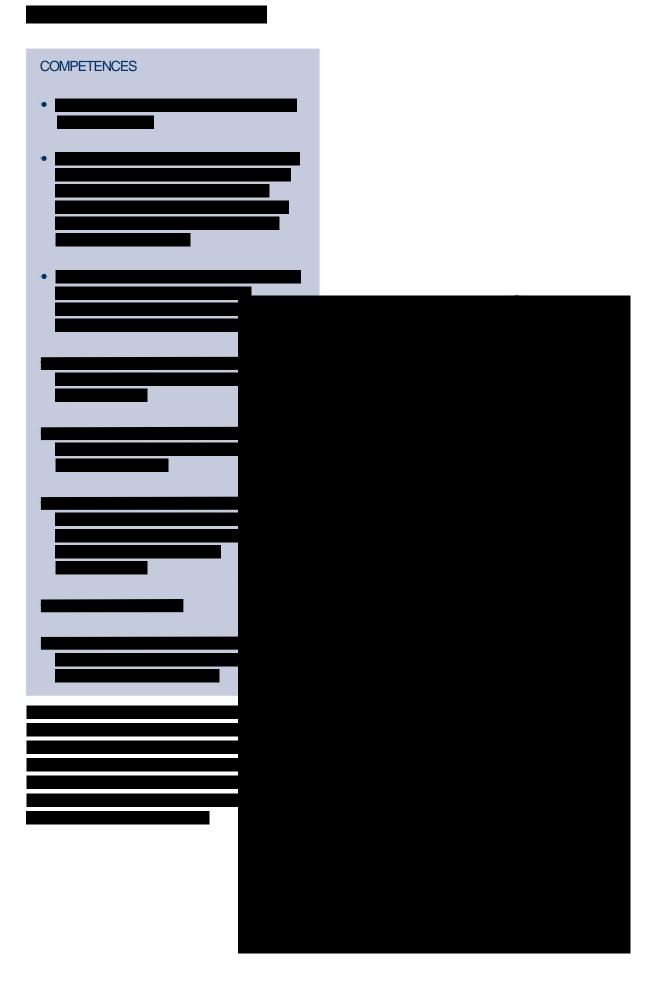
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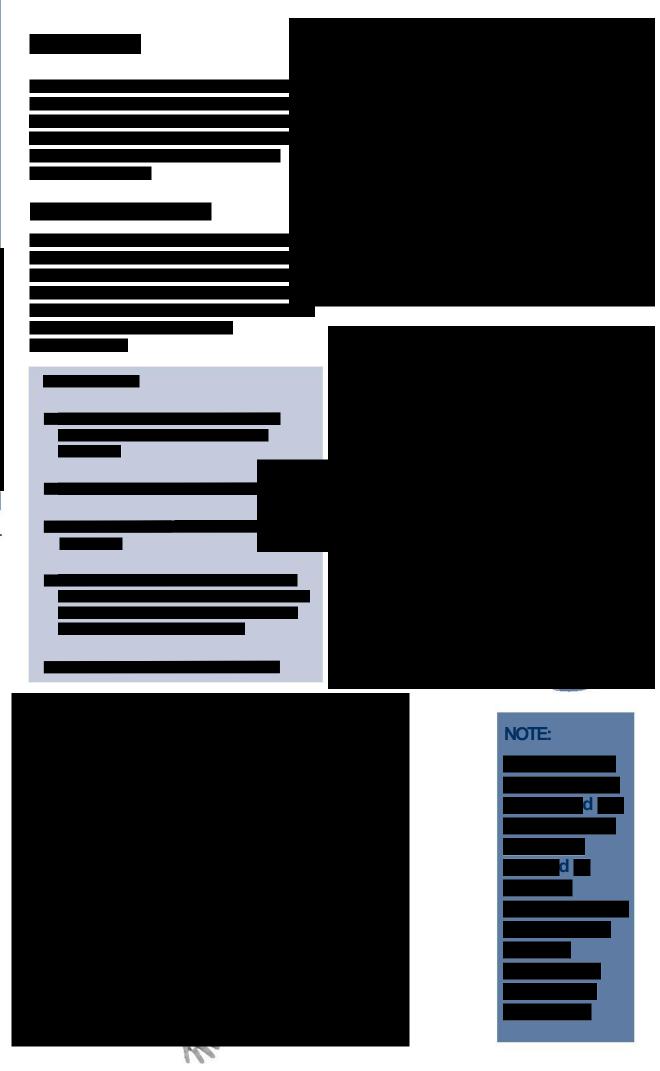
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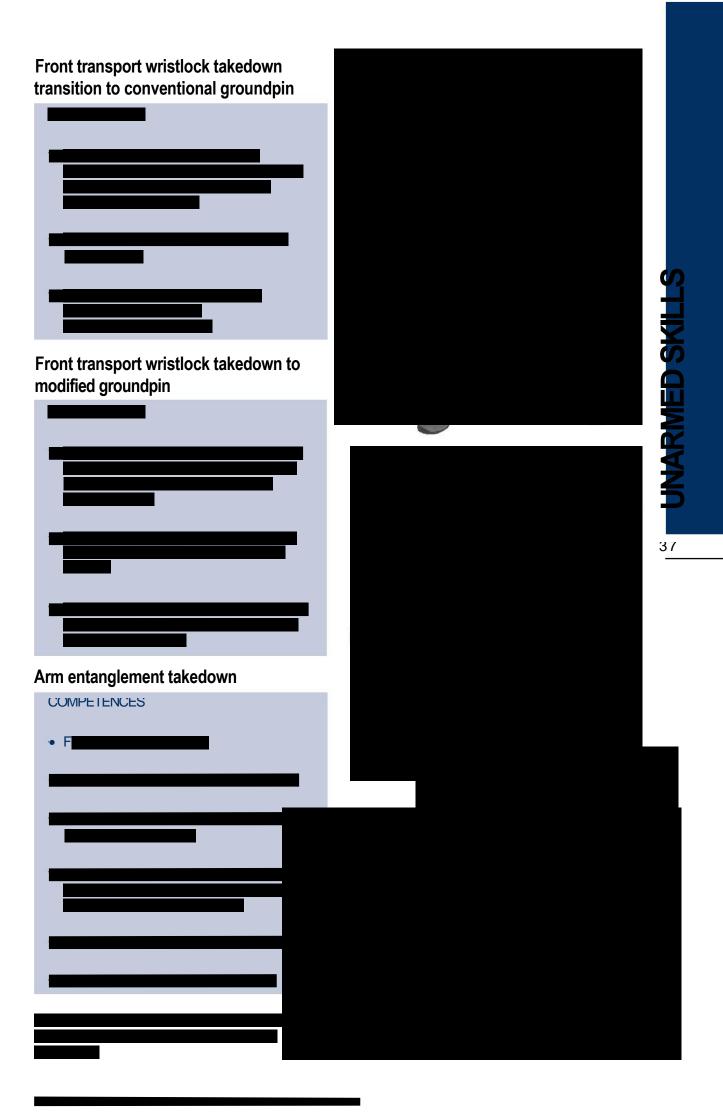








Straight armbar takedown transition to conventional groundpin	
COMPETENCES	
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Straight armbar takedown transition to modified groundpin	
COMPETENCES	
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Front transport wristlock takedown	
COMPETENCES	
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Arm entanglement takedown to conventional ground pin	
COMPETENCES	
Arm entanglement takedown to modified groundpin	
COMPETENCES	
Front thumblock takedown	
COMPETENCES	

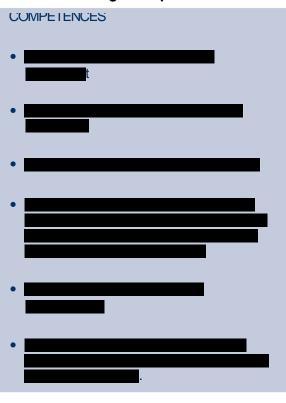
Front thumblock takedown to conventional groundpin

Front thumblock takedown to modified groundpin



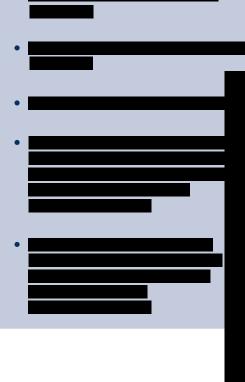
Rear double arm restraint takedown

Rear double arm takedown to conventional groundpin

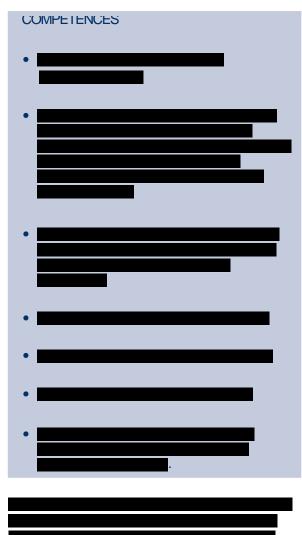


Rear double arm takedown to modified groundpin

COMPETENCES



Rear takedown

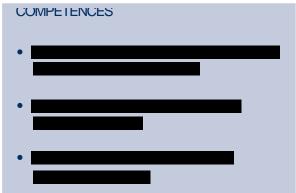


Turning the subject over from supin to prone position	
COMPETENCES	
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• Ince in the prone position, apply follow	

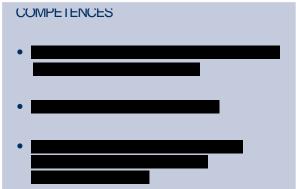


Front/inside takedown

Front/Inside takedown to conventional groundpin position



Front/inside takedown to modified groundpin position



Use of nerve points

Nerve point application around the human body is used on the large muscle mass of the shoulders, arms and legs. These nerve points range in diameter between three to five inches and are primarily used as alternatives to striking bony areas of the body, such as knees and elbows, that potentially may have greater medical implications (see Medical Implications Module). Operationally, nerve point application should always be followed by some form of follow-up control, or disengagement by the officer.

Nerve point application

Although the following examples are demonstrated predominantly from the 12, 4, 6, or 8 o'clock position, officers may apply them from any conceivable position, given the circumstances, as long as they are reasonable, necessary, proportionate to the perceived threat and justified. Certain strikes may be applied from set positions where the officer is able to purposely position themselves; however, in spontaneous circumstances the officer may have to deal with whatever is available. **Technically, all applications work on the concept of body weapon to body target.**

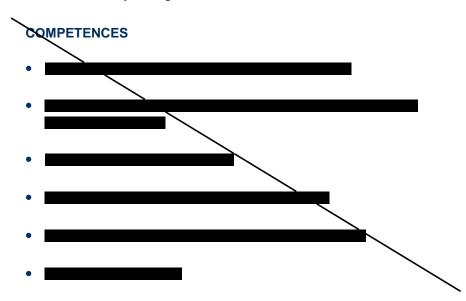
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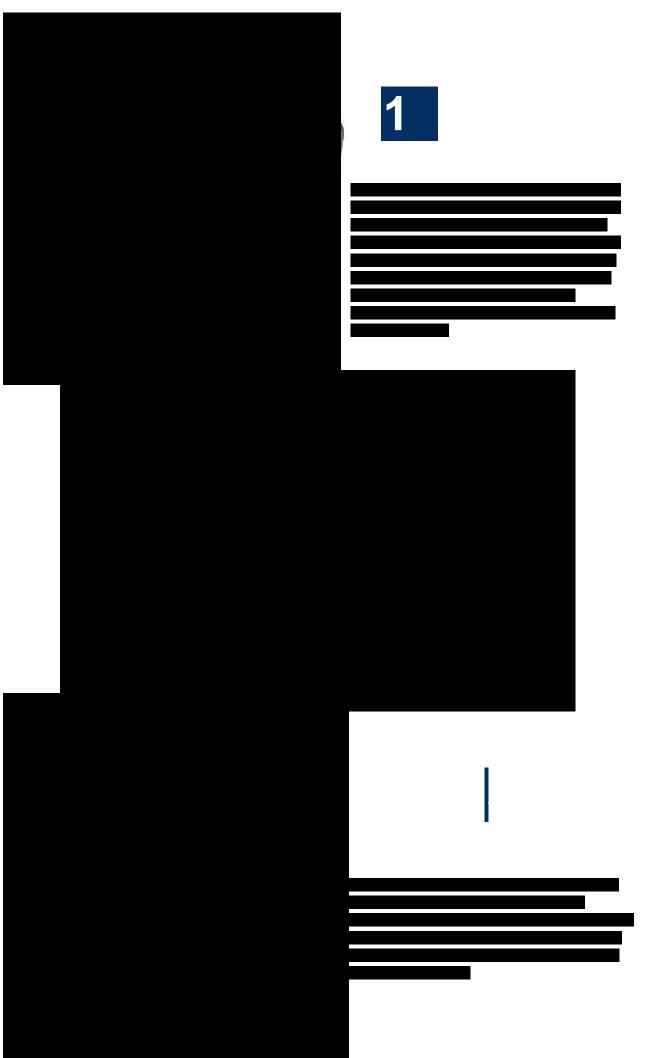
Suprascapular nerve point

This nerve point is located where the subject's neck meets their shoulder.



The angle of the strike should be directed towards the ground. Predominantly, this may be delivered with a hammer fist or knife hand strike, or indeed any configuration suitable to the officer.





Brachial plexus tie in nerve point

This nerve point is located where the subject's chest, bicep and shoulder meet. The strike should generally be applied repeatedly in order to stimulat the nerve point, which lies deep beneath.



Infra clavicular nerve point

This nerve point is located below the collarbone between the sternum and shoulder joint.

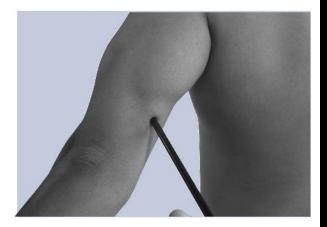


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Bicep nerve point used with

Ulnar nerve point

This nerve point is located on the inside of the elbow, approximately two inches from the joint at the bicep.



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Radial nerve point

This nerve point is located approximately two inches from the elbow joint on top of the forearm,

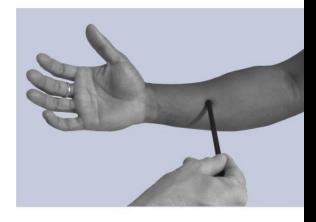


COMPETENCES

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Median nerve point

This nerve point is located on the inside of the forearm, at the base of the wrist, just above the heel of the hand,



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Common peroneal/lateral femoral nerve point

The common peroneal nerve point is located just above the back of the knee, and access to this is normally achieved from a 4 or 8 o'clock position.



Stimulation of this point is normally achieved with either a knee strike or sweeping kick. The lateral femoral nerve point is located above the common peroneal nerve point on the side of the leg.



Access to this point is gained in a similar manner. Officers should also be aware that both nerve points may be located from a variety of positions and with a variety of body weapons and issued equipment.

The knee strike

This strike is normally associated with strikes to the common peroneal, lateral femoral, sciatic nerve points and anterior femoral nerve points. It may be used to distract subjects while restraints are applied, and for releasing them from grappling situations, and objects. The strike itself may be applied from 360 degrees.

With the dominant leg loaded to the rear (see proper/ready stance), drive the knee forwards, with the toe pointing downwards. Drive into the target and utilise the time on target principle.







Sciatic nerve point

This nerve point is located at the rear of the thigh and runs vertically down the limb.



Access to it is gained in a similar manner as for he common peroneal, lateral and anterior emoral nerve points.

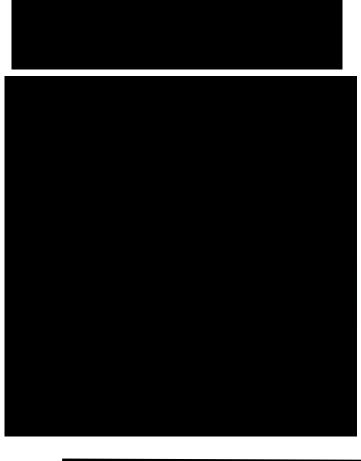
Anterior femoral nerve point

This nerve point is located approximately halfway between the groin and the knee on the inside of the thigh.

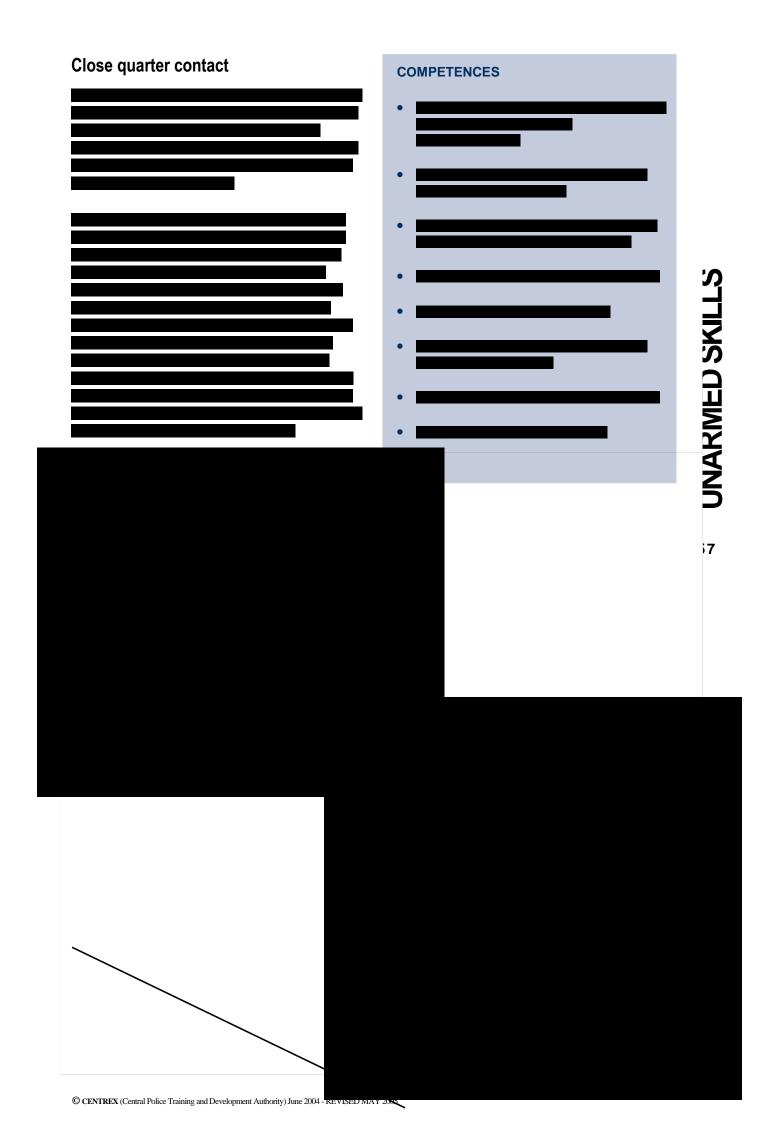


COMPETENCES

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Sweeping kick	
Four to six foot range	
COMPETENCES	
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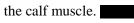


Anterior femoral nerve point



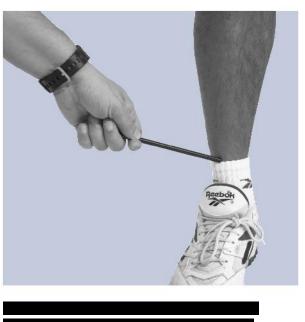
Tibial nerve point

This nerve point is located at the bottom of the sciatic nerve. It starts just above the back of the knee and runs down the back of the leg through

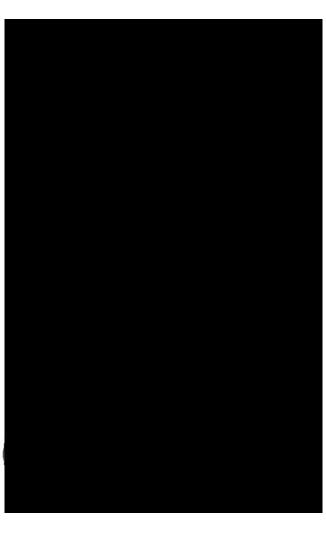


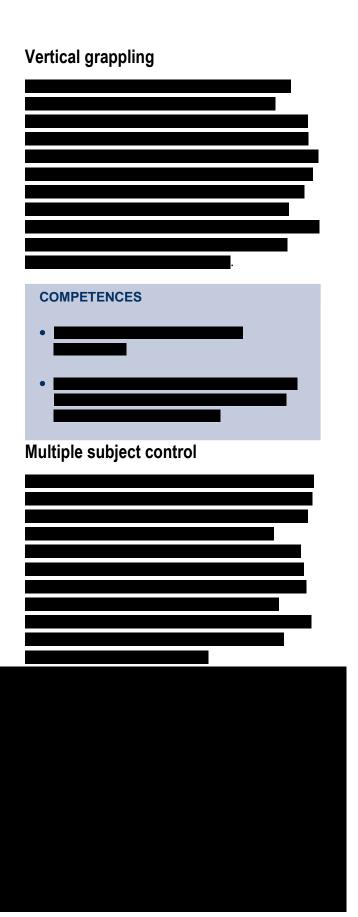


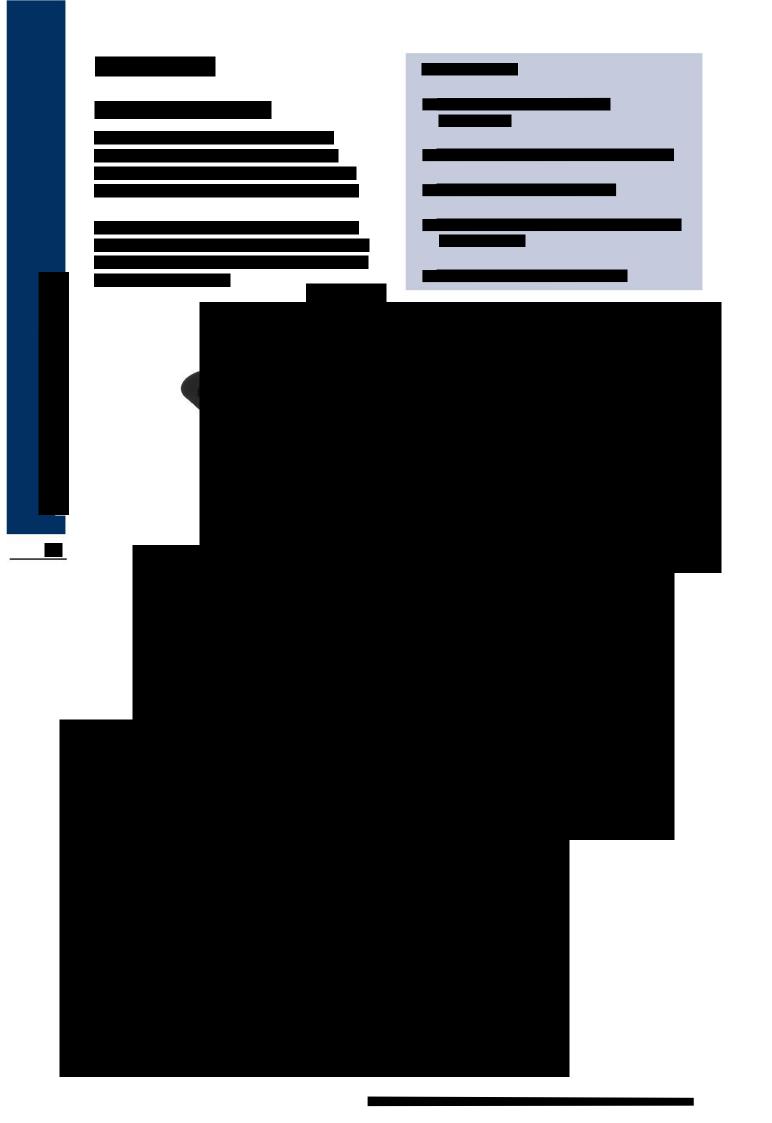
Deep peroneal nerve point

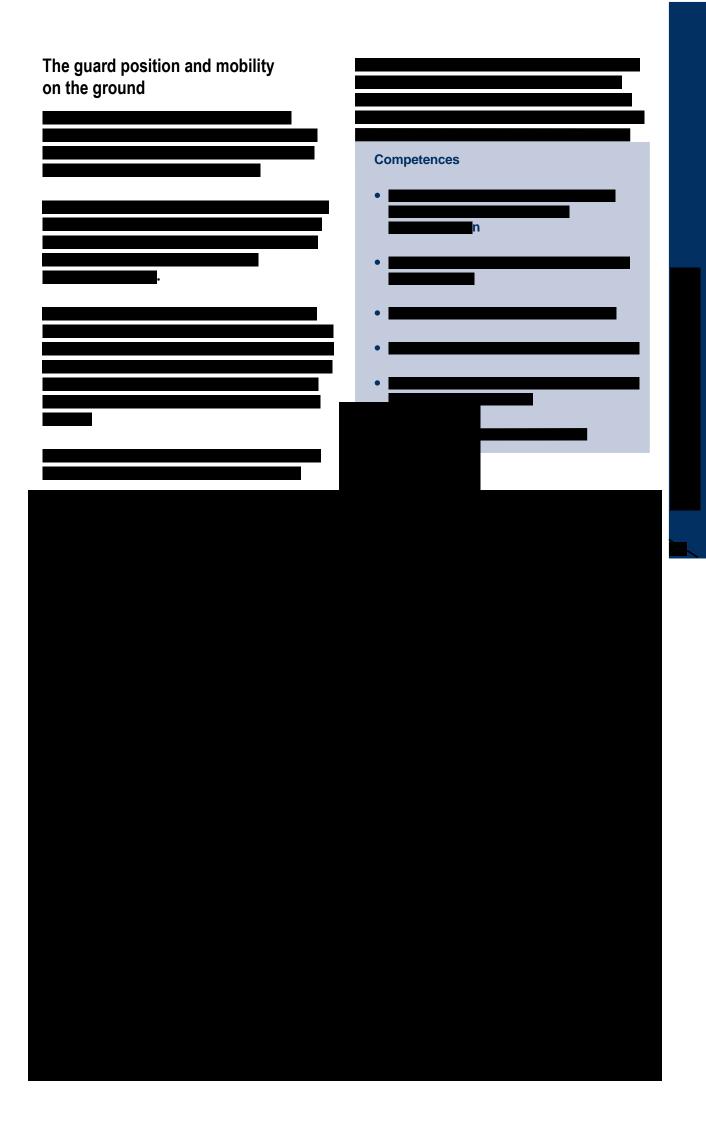




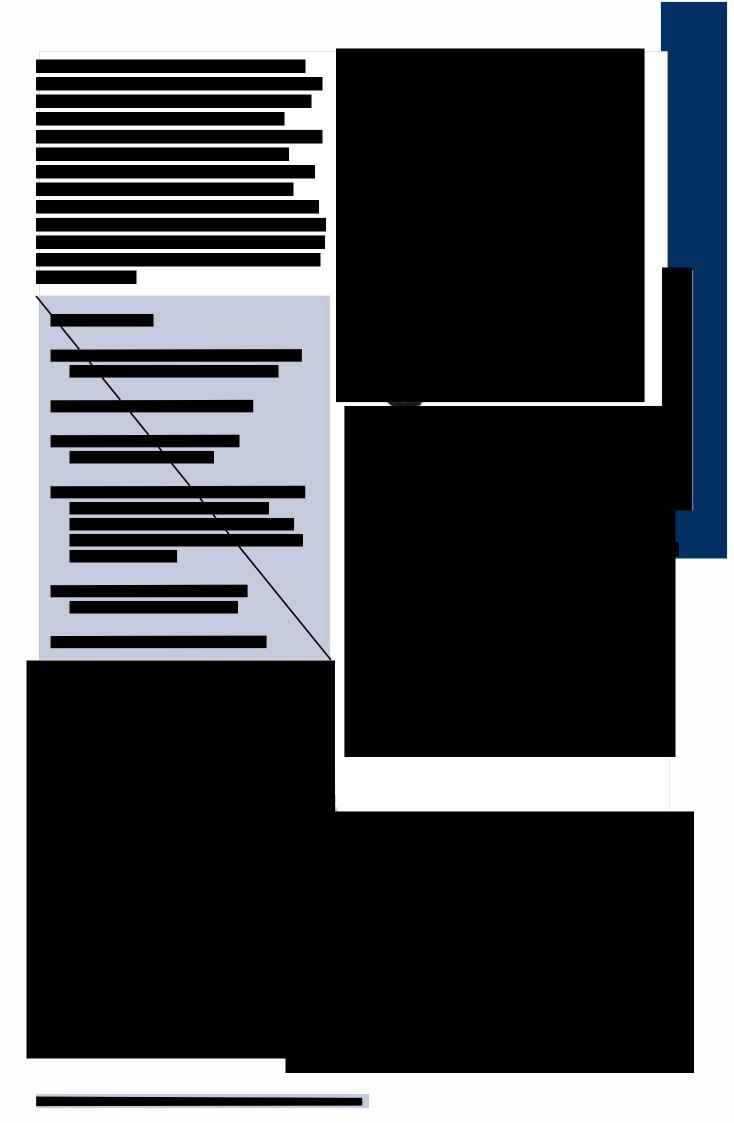


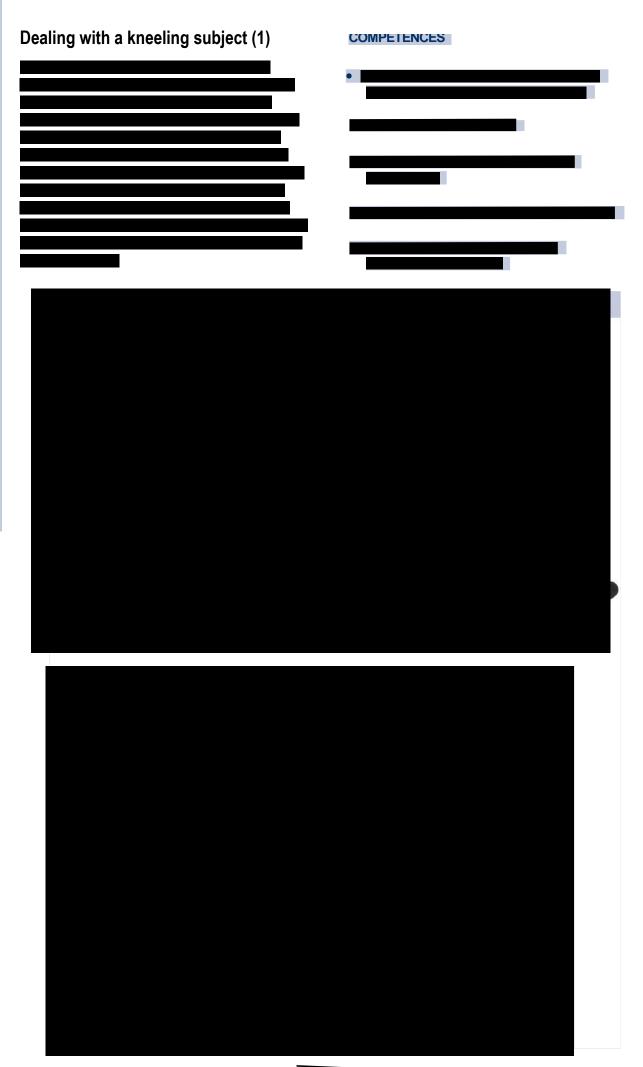


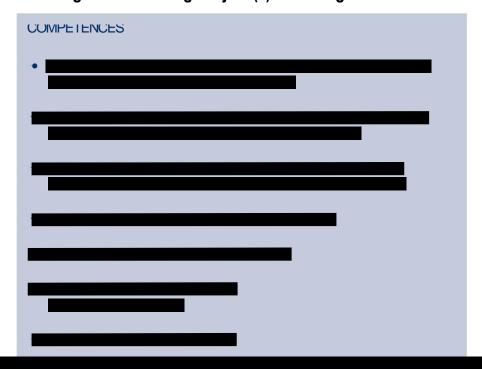




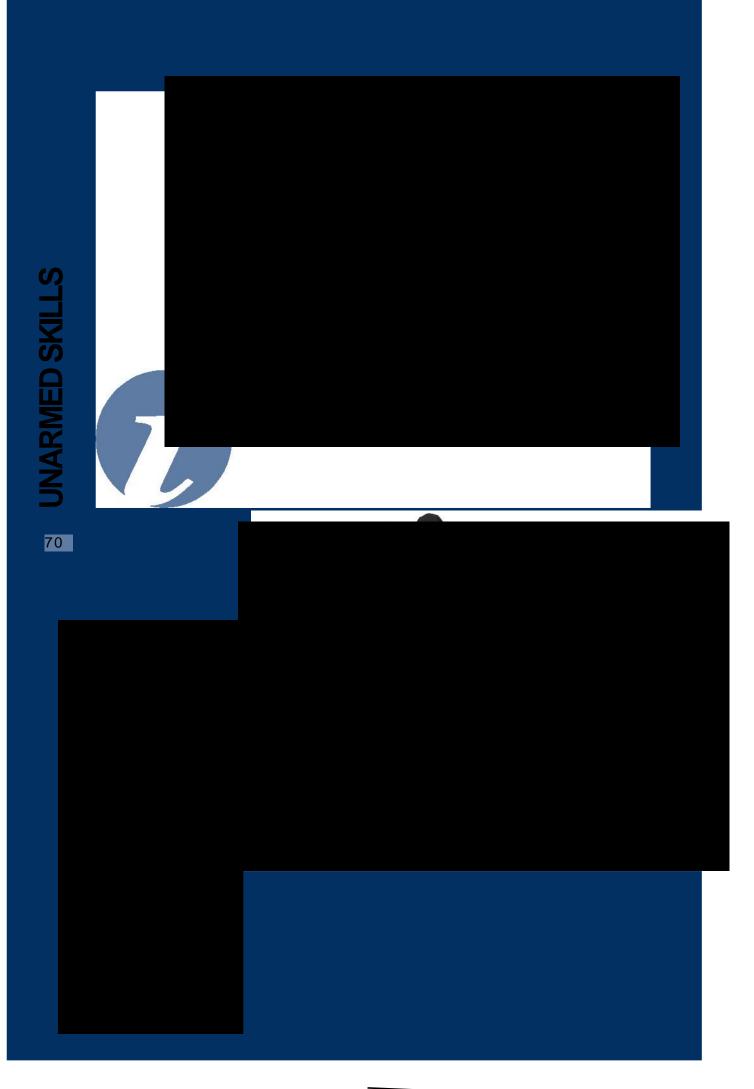


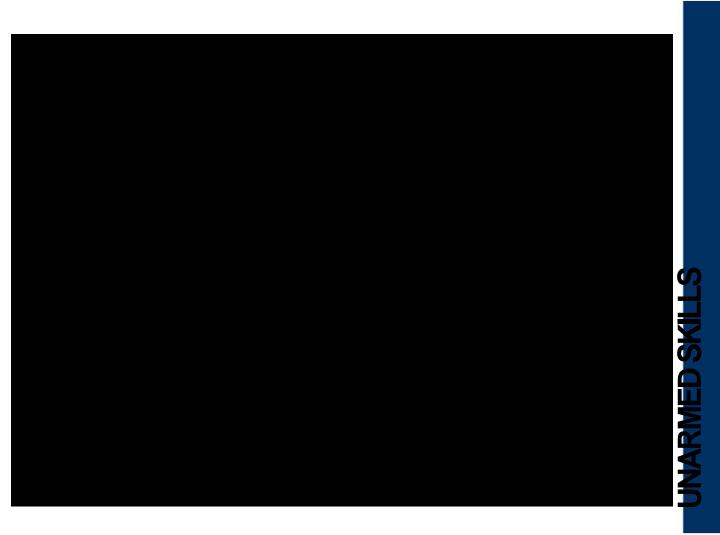


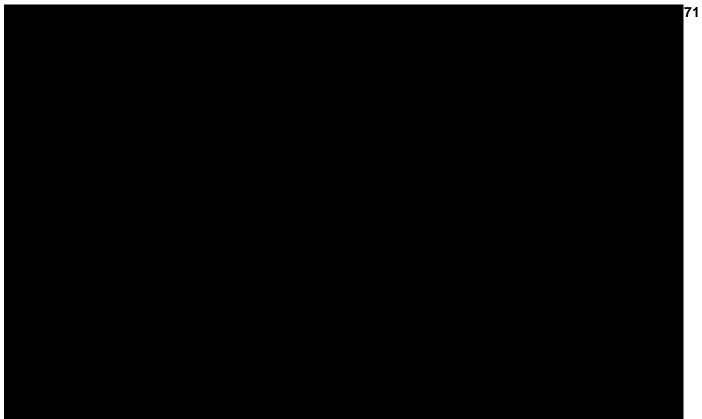




8 UNARMED SKILLS









Dealing with multiple subjects

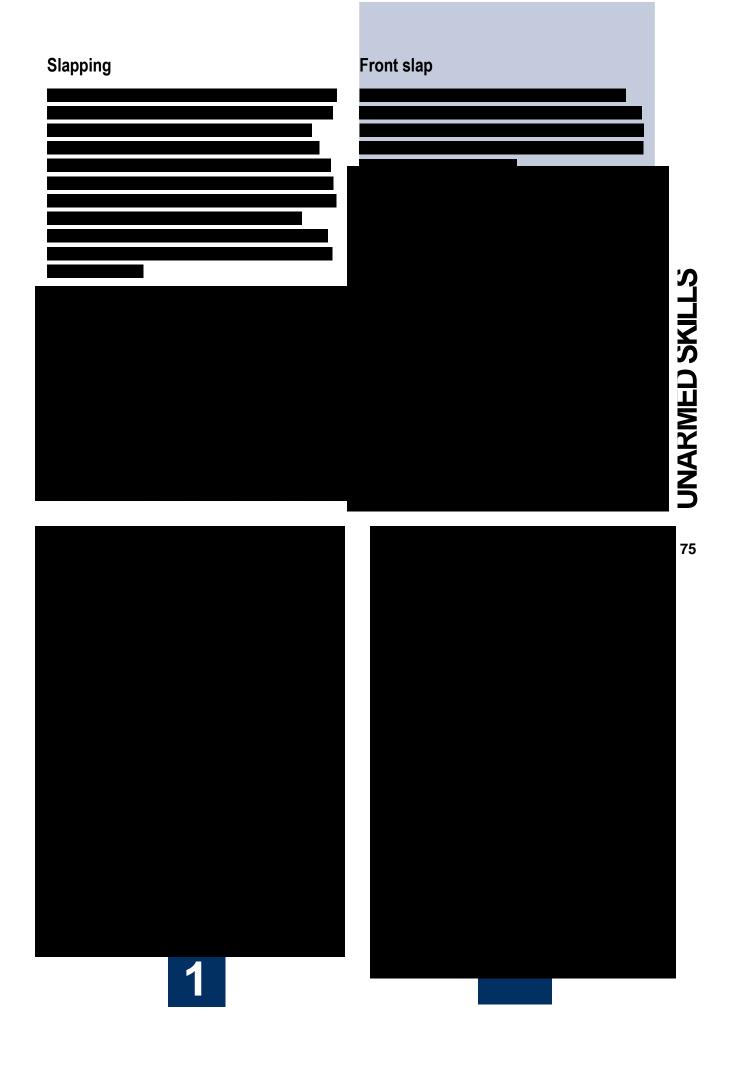
COMPETENCES

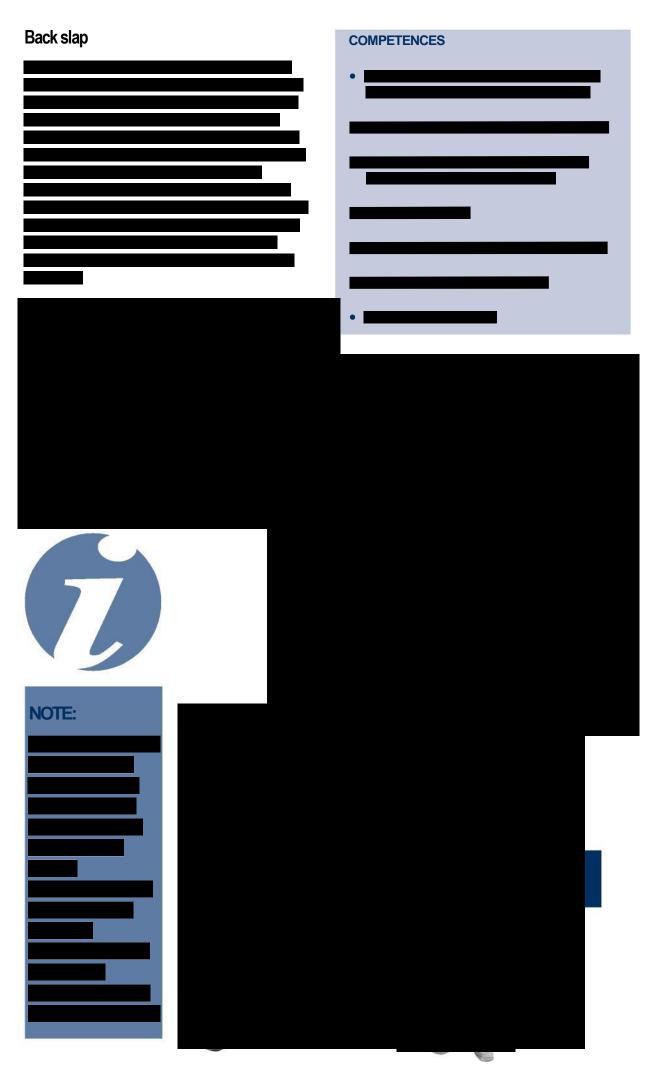
Additional and specialist techniques

The following techniques, although not overtly specialist in nature, may be deemed to be so when used by some officers who may find personal difficulty in application. Although easy to employ, they are the subject of power generation, which may need to be practised.

Punching

COMPETENCES

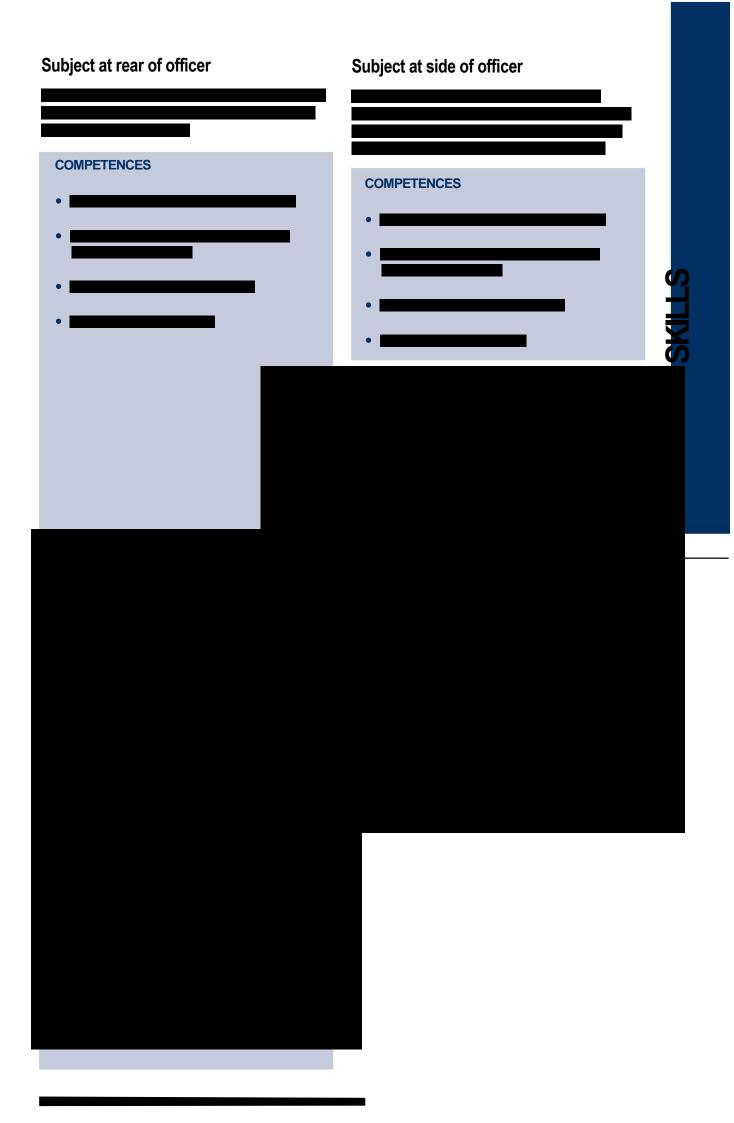


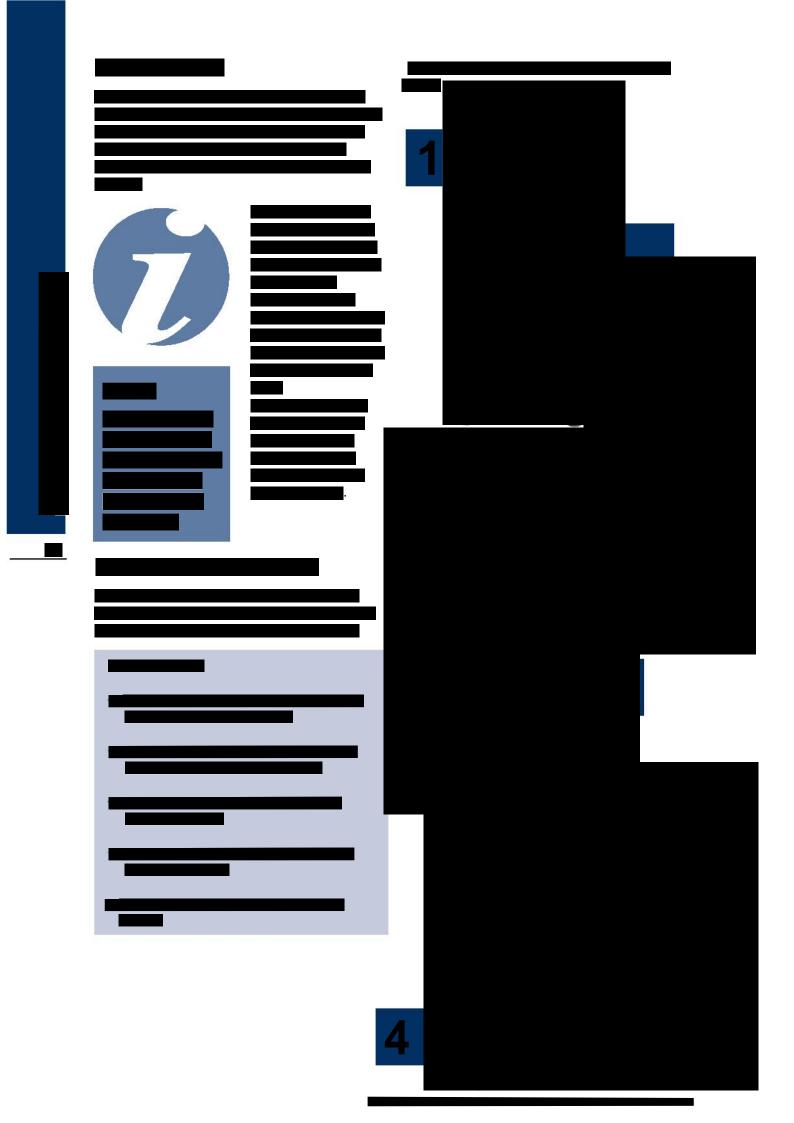




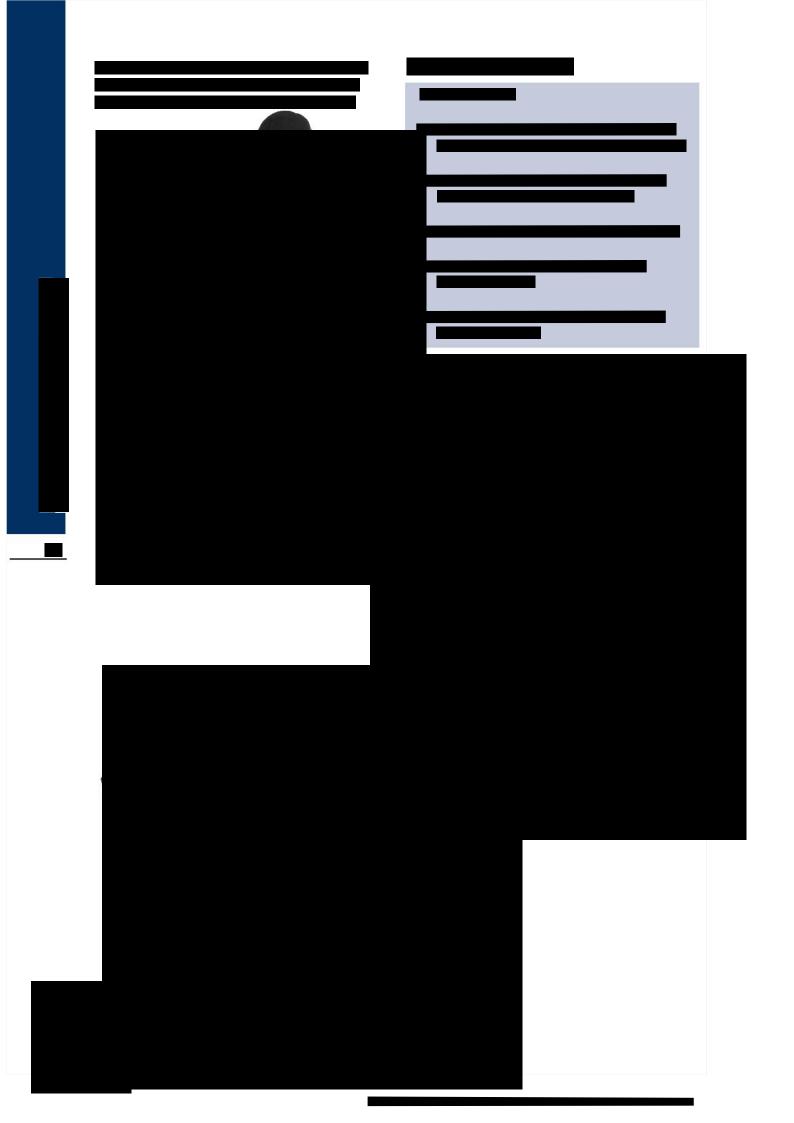
78

Use of the elbow	Subject at front of officer
	COMPETENCES
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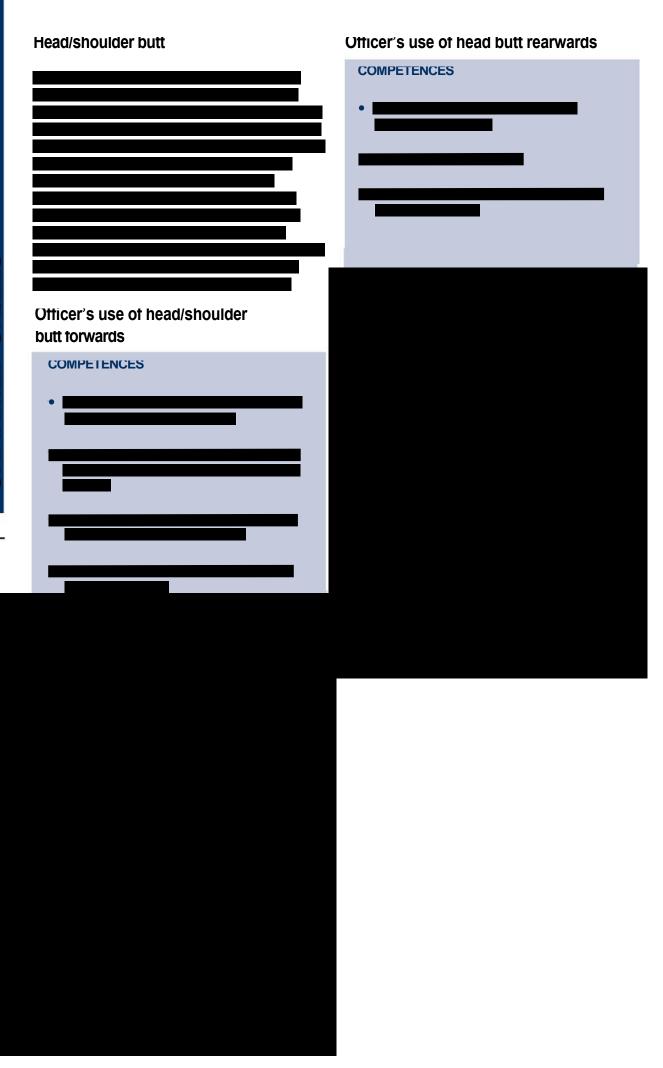




Rear neck lock release seated The following photographs demonstrate a punch to the face. **COMPETENCES**

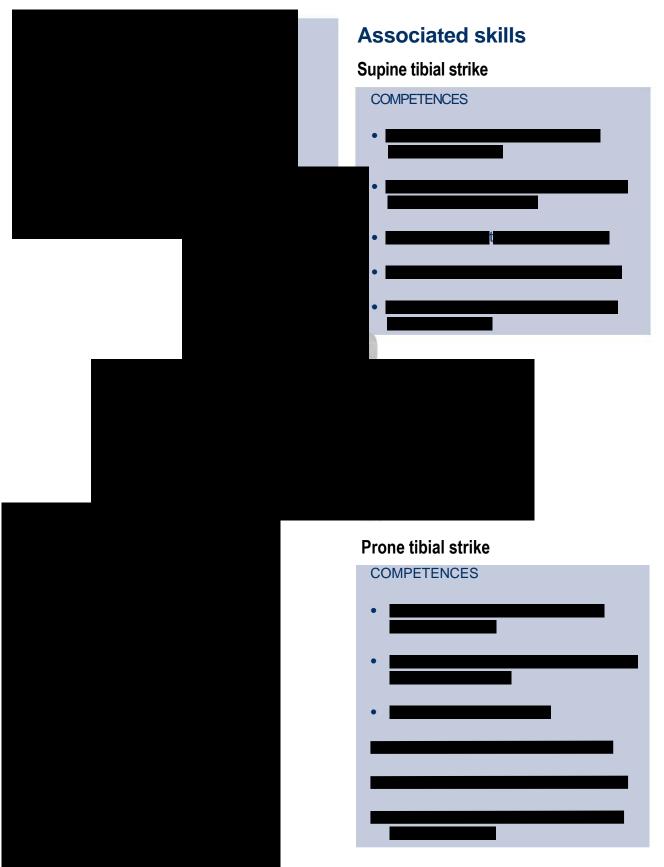












Further reading

- PPCT Defensive Tactics Instructor Manual. PPCT Management Systems
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- Martin, L., Ease of Restraint, An Aid to Law Enforcement
- Applegate, Colonel R., Recognised Authority CQC Techniques. Infantry Journal, March 1943
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- Knight, L., PhD, *ISC Control Points*. ISBN-0-929736-19-2.
- CODA Training Syllabus
- Chin Na, The Grappling Art of Self Defence. Ohara Publications. Incorporated Burbank California 91504
- Consterdine, P., Streetwise. The complete manual of personal security and self-defence. Protection Publications. ISBN 1-873475-527.



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USE OF FORCE

The aim of this module is therefore to:

- Understand the contents of this module
- Be able to apply the contents of this module where necessary
- ♦ Link with other modules contained within this manual

Introduction

The basic proposition in law is that the use of force is unlawful unless it is justified. Therefore, in order to make an appropriate decision regarding a tactical option for dealing with conflict a sound knowledge and understanding of the law on use of force is essential.

The powers for police officers and, in some circumstances, members of the public generally to use force are contained in a limited number of common law and statutory provisions. These are set out below. However, in the light of the Human Rights Act 1998, it is also extremely important for officers to understand the applicability and scope of the provisions of the European Convention on Human Rights (ECHR). The fundamental rights and principles contained in the Convention should be regarded as the basic 'ground rules' upon which the common law and statutory powers are exercised.

Human Rights Act 1998

The Human Rights Act has two basic purposes.

- 1. The law of the European Convention on Human Rights and specifically the rights and freedoms set out in the Convention will be actionable before UK courts.
- 2. Courts and tribunals, public authorities and Government Ministers will have to act in a way that is 'compatible' with the law of the Convention. Failure to do so may be unlawful, although not a criminal offence.

The principle rights and freedoms of the Convention include:

Article 2: the right to li	Te
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Article 3: prohibition of torture, inhuman

and degrading treatment

Article 5: the right to liberty and security

of the person

Article 6: the right to a fair trial

Article 7: protection from punishment

without legal basis

Article 8: the right to respect for private

and family life

Article 9: freedom of thought, conscience

and religion

Article 10: freedom of expression

Article 11: freedom of assembly and association

Article 14: freedom from discrimination.

The full text of the Articles can be found in the Human Rights Act. Their application to policing and other activities by public agencies can be found in case law originating from that Act and the ECHR itself.

It is recognised within ECHR law that the responsibility of the police service (and other public authorities) is not only to comply with the Articles in respecting the human rights of individuals, but also to take positive action to protect the rights and freedoms they outline. It is therefore important that all officers carefully consider the legal parameters of each of these rights and freedoms at every stage of policing.

There is a further presumption that some Convention rights can only be interfered with by any kind of State action where the Convention expressly allows it. The conditions for such interference are set out within the wording of each of the Articles. For example, the rights provided for in Articles 8, 9, 10 and 11 each have qualifications attached to them. The first part of each Article provides the right while the second specifies legitimate reasons for the qualification of the right.

In general terms, the rights can only be interfered with:

- a) where the interfering action is in accordance with the law, and
- b) the action is 'necessary in a democratic society'
- c) the interference serves a legitimate objective

In deciding whether the action was 'necessary in a democratic society' it will be necessary to consider whether the action:

- a) fulfilled a pressing social need, and
- b) pursued a legitimate aim, and
- c) demonstrated a reasonable relationship of proportionality between the means employed and the aim pursued. This means that the action was designed to:
- impair as little as possible the right or freedom in question
- meet the objectives of the domestic law in question
- not be arbitrary, unfair or based on irrational considerations, and be balanced against the severity of the effect that the action has on the individual or group. The more severe the effect, the more important the objective must be for the action to be considered legitimate.

3

The approach that should be taken can be summarised in the simple mnemonic PLAN.

Proportionate

- action taken must be proportionate in all the circumstances. An option is unlikely to be regarded as proportionate where a less injurious, but equally effective, alternative exists.

Legality

- there must be a legal basis for taking the action. This can derive from either common or statute law.

Accountable

- officers should record their decision must be able to account for why they chose a particular course of action and, in some cases, what other options may have been available and why these were not chosen.

Necessary

- the action taken must have been necessary to carry out the lawful duty.

The ECHR is a living instrument and seeks to take account of changes in society and the prevalent values recognised within it. For example, actions which were considered reasonable 10 years ago may be viewed as unreasonable by the courts today.

Use of force and human rights

When making a determination as to whether the level of force used was lawful in any particular instance the courts will take cognisance of the Articles under the ECHR.

The rights which are most likely to be directly interfered with in situations where force is used are:

Article 2: the right to life

Article 3: prohibition from torture,

inhuman or degrading

treatment

Article 8: the right to respect for private

and family life.

Article 2: Right to life

- 1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law
- 2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
- (a) in defence of any person from unlawful violence:
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

The European Court has held that 'in keeping with the importance of this provision (the right to life) in a democratic society the court must, in making its assessment, subject deprivation of life to the most careful scrutiny ... taking into consideration not only the actions of the agents of the State who actually administer the force, but also all the surrounding circumstances including such matters as the planning and control of the actions under examination' (McCann v United Kingdom (1995)) 21 EHRR 97.

A breach of Article 2 can arise in cases where death occurs unintentionally, or from more than the minimum use of force necessary.

Where death occurs the concept of reasonable force within Section 3 Criminal Law Act 1967, Section 117 of Police and Criminal Evidence Act 1984 and the Common Law is likely to be interpreted according to the stricter test of absolute necessity. This will involve the determination of two questions:

- (i) whether the use of lethal force was 'strictly proportionate' to the achievement of one of the aims set out in Article 2(2); regard being had to the nature of the aim pursued, the dangers to life and limb inherent in the situation and the degree of risk that the force employed might result in the loss of life
- (ii) whether the operation under scrutiny was 'planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force.

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

This is an absolute right and, therefore, if action is found to have amounted to torture etc, a breach of the right will have occurred.

The activities prohibited by Article 3 were characterised by the European Court in Ireland v UK (1978) as:

- (i) torture deliberate inhuman treatment causing very serious and cruel suffering
- (ii) inhuman treatment treatment that causes intense physical and mental suffering
- (iii)degrading treatment treatment that arouses in the victim a feeling of fear, anguish and inferiority capable of humiliating and debasing the victim and possibly breaking his or her physical or moral resistance.

Where extreme and excessive force is applied, or where the application of force is maintained for longer than is necessary, to achieve a lawful aim this may amount to torture etc.

Article 8: The right to respect for private and family life

- 1. Everyone has the right to respect for his private and family life, his home and correspondence.
- 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health and morals, or for the protection of the rights and freedoms of others."

As can be seen from the above, Article 8 provides a qualified right which can be interfered with, providing one of the conditions in paragraph 2 applies.

Article 8 is not just a right to privacy. It has been held to include respect for an individual's physical and moral integrity. For this reason, an assault may amount to a breach of Article 8.

In relation to all the above articles the use of force must be based on an honestly held belief that it is absolutely necessary, which is perceived for good reasons to be valid at the time.

On each occasion that force is used it should be reported how, why and to whom.

Further reading

The concepts discussed above are enshrined in a number of international doctrines and conventions as well as domestic law. These include the European Convention on Human Rights itself, the United Nations (UN) Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These are all recommended as further reading.

Common Law and statutory provisions

The powers relating to the use of force are contained within:

- ♦ Common Law
- ♦ Section 3 of the Criminal Law Act 1967
- ◆ Section 117 of the Police and Criminal Evidence Act 1984.

Common Law

The common law recognises that there are many circumstances in which one person may use force upon another without committing a crime as, for instance, in sporting contests or surgical operations. Included in the common law is a person's right to protect themselves from attack, to act in the defence of others to prevent crime, to arrest offenders, and if necessary to use force on another in so doing. If no more force is used than is reasonable to repel the attack, such force is not unlawful and no crime is committed. Furthermore, a person about to be attacked does not have to wait for their assailant to strike the first blow or fire the first shot; circumstances may justify a pre-emptive strike.

These laws will be interpreted according to the following principles and to give effect to the rights and freedoms set out in the ECHR:

- minimum use of force
- proportionality of force to be used
- seriousness of circumstances to be prevented
- right of self defence.

The Criminal Code Commission Bill 1897

The following statement accurately described the law on this subject:

"We take one great principle of the common law to be that although it sanctions the defence of a man's person, liberty and property against illegal violence, and permits the use of force to prevent crimes, to preserve the public peace and to bring offenders to justice, yet all this is subject to the restriction that the force used is necessary; that is the mischief sought to be prevented could not be prevented by less violent means and that the mischief done by, or might reasonably be anticipated from, the force used is not disproportionate to the injury or mischief which it is intended to prevent."

Section 3 Criminal Law Act 1967

Section 3(1) of the Criminal Law Act (CLA) 1967 states the following:

"A person may use such force as is reasonable in the circumstances in the prevention of crime, or in the effecting or assisting in the lawful arrest of offenders or suspected offenders or persons unlawfully at large."

It should be noted that Section 3, CLA applies to all persons and all circumstances. It makes no reference to terms such as:

- minimum force
- proportionality
- police officer.

There is no specific reference to police in Section 3, CLA and neither is there any reference to a police officer's use of equipment such as batons, handcuffs, CS spray etc. Police officers who, during the course of duty, use force against another person are personally responsible for such use and may ultimately be required to justify their actions in a court of law. Police officers cannot simply rely on their status or orders given to them by any other person as a means of defence.

It must be remembered that any use of force by police officers carries with it the risk of injury. It must also be clearly understood that the use of higher levels of force may result in serious injury or even possibly death. Therefore any force used must at all times be proportionate and reasonable in the circumstances.

The interpretation of the word 'reasonable' is a key issue concerning use of force. The issue of 'reasonableness' is a question of fact to be decided in each individual case. Officers may need to consider, before resorting to the use of force, which of the following will result in the greater harm: the subject (actual or suspected) escaping or the subject being injured.

Use of force by police is related to the circumstances as perceived by individual officers at the time of the incident. It must be borne in mind that what is regarded as reasonable in one set of circumstances may well be unjustified in another. Force used in civil disorder or where there is a high threat or risk of injury to police or public may not be justified in a more tranquil setting or different time.

Where force is used in the prevention of crime or in effecting an arrest, officers must consider whether there are any viable alternatives available. The following, which emanate from recommendations of the Criminal Law Revision Committee in 1964 regarding the Criminal Law Act, should be borne in mind:

Force must only be used when it is:

- reasonable in the circumstances
- an absolute necessity
- the minimum amount necessary
- proportionate to the seriousness of the case.

Self defence: case studies

The following, in addition to the need to give effect to the ECHR, may be factors which the courts will take into account when deciding what is 'reasonable'.

Williams v Queen 1984 (Honest belief/ mistake as to facts)

Lord Lane said:

'The test to be applied for self defence is that a person may use such force as is reasonable in the circumstances as he honestly believed them to be in the defence of himself or another.'

Oatridge 1991

'An accused who mistakenly believes he is being attacked, may still be able to rely on the defence of self defence'

Chisam 1963

'A person can use force to ward off an anticipated attack, provided it was anticipated as imminent'

Beckford v Queen 1988 (Self defence)

Lord Griffiths said:

'A man about to be attacked does not have to wait for his assailant to strike the first blow, or fire the first shot, circumstances may justify a pre-emptive strike'

Palmer v Queen 1971

Lord Morris said:

'It will be recognised that a person cannot weigh to a nicety the exact measure of his necessary defensive action. If a jury thought in a moment of unexpected anguish a person attacked what he honestly and instinctively thought was necessary, that would be most potent evidence - that only reasonable, defensive action had been taken'

Blackburn and others v Bowering and others (1994) 1 WLR 1324

'In deciding whether a defendant exerted reasonable force in defending himself, a court must judge him on the basis of what (reasonably or unreasonably) he believed to be the facts and not on the basis of what the facts actually were.'

The Judicial Studies Board, with the approval of the Lord Chief Justice, has produced a model direction on self-defence which is now widely used by judges when summing up to juries. The direction contains the following guidance:

'Whether the plea is self-defence or defence of another, if the defendant may have been labouring under a mistake as to the facts, he must be judged according to his mistaken belief of the facts: that is so whether the mistake was, on an objective view, a reasonable mistake or not.'

R v Clegg (House of Lords)

'In most cases of a person acting in selfdefence, or a police officer arresting an offender, there is a choice as to the degree of force to be used, even if it is a choice which has to be exercised on the spur of the moment, without time for measured reflection.'

The Court of Appeal went on to say that the use of force must not be so grossly disproportionate to the mischief to be averted so as to deprive a person of a defence under Section 3 of the CLA 1967.

R v Hegerty 1986 (Genuine belief of imminent danger)

The judge came to the conclusion that 'it was probable that the defendant acted almost instinctively to defend his colleagues without having time to assess the situation in the light of police regulations relating to the use of baton guns, and without having time to balance the nature of the injury which might be caused to the deceased against the nature of the injury which might be caused to one or other of the two police officers'

DPP v Hawkins (1988) 1 WLR 1166

It is well established on the highest authority that a prisoner need not submit to an unlawful arrest, but may instead use all reasonable force to free himself from the police officer's custody. This case concerned the detention of a person who had not been informed of their arrest as soon as was reasonably practicable, which is a requirement of Section 28 of PACE. The court considered the use of force during the period between the arrest and the point at which the person should have been told of their rights and said:

'Section 28(3) plainly dictates the circumstances in which an arrest may be found to have been unlawful and it determines decisively the consequences following the time at which that becomes apparent. In my judgement, however, it says nothing in respect of the intermediate period during which it is not practicable to inform the person arrested of the ground for his arrest.'

Section 117 Police and Criminal Evidence Act 1984

Where any provision of this Act:

- a) confers a power on a constable; and
- b) does not provide that the power may only be exercised with the consent of some person other than a police officer, the officer may use reasonable force if necessary in the exercise of the power.

Again, the responsibility for the use of force rests with the individual officer, who will be answerable to both criminal and civil courts. As the above demonstrates, the court will expect each police officer to be able to justify their decision to use force and the level of that force. In determining whether the force was reasonable, courts will take account of the need to give effect to the ECHR.