

# REAL SITUATIONS OF FIREARM USE

RESULTS OF A STUDY FOR POLICE TRAINING

Institut de  
Seguretat Pública  
de Catalunya



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In recognition of officers who patrol our streets every day to keep us safe and who, thanks to their approach, can bring a smile to the face of those experiencing their worst moments, as well as handling extremely dangerous situations despite feeling fear "like most people".

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Coordination of this work: Manel Jovani and Jordi Vilardell

Authors: Manel Jovani Gómez, Jordi Vilardell Molas, Josep Lluís Florensa, Remei Linares and Carles Valero

Technical coordination and publishing: Conxita Gandia

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## **ACRONYMS**

ARRO	Operational Resources Regional Area
CFBP	Basic police training course
ISPC	Institute for Public Security of Catalonia
PG-ME	Catalan Government Police - Mossos d'Esquadra
SAP	Provincial Court Ruling
STS	Supreme Court Ruling
USC	Public Security Unit



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# PRESENTATION

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Police officers' actions in which they have had to use firearms have significant implications, both professionally and personally, as well as an important social impact. The initiative of this study is to analyse real cases of firearm use during police interventions in armed confrontations, with serious life-threatening situations, to consider current training in this area and to propose future lines of action.

The Institute for Public Security of Catalonia continuously looks to improve the various annual training sessions and, obviously, the training on the matter in hand. Thus, one of the aims of the Institute is to promote research into the various areas of safety, with the participation of experts and professionals from different disciplines to provide new knowledge and favour innovation in training.

This study has been carried out over two years by a multidisciplinary group of professionals comprising members of the Catalan Government Police-Mossos d'Esquadra and specialists from the Ministry of Home Affairs and the Institute for Public Security of Catalonia, who have gathered the information and shared the results from different perspectives: those of training, legal and police intervention. For this purpose, they have used the individual testimony of police officers who have experienced situations of extreme use of force whilst performing their duties, who have explained their cases and made this work possible.

For these reasons, and due to the importance of training in these cases, it has been deemed essential to disseminate the results of this study, particularly to shooting monitors and instructors and police procedure trainers, as they are commissioned with training our police officers.

One of the first education activities was the Workshop organised at the Institute on 15 September 2016, in which three experts and authors of reference for this study took part and three Catalan Government Police-Mossos d'Esquadra police officers told of their experiences, representing all their colleagues who took part in the study.

Another action is the publication of this work as the fourth edition in our "Safety Segments" collection, hoping it will be well received and a useful tool.

I would like to thank the great ability and work of the authors of this study and, in particular, the invaluable participation of those who, voluntarily and generously, have passed on their experience with the conviction that it could help raise awareness among their colleagues, improve knowledge of these exceptional cases and, finally, have an impact on police training.

**Montserrat Royes Vila**

Director of Institute for Public Security of Catalonia

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# INTRODUCTION<sup>1</sup>

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Police officers<sup>1</sup> actions in armed confrontations with life-threatening situations are empirical evidence. This type of intervention is often complex and has significant repercussions on different aspects.

The aim of this study<sup>2</sup> is to take a closer look at police actions in which police officers have to use their firearm. This will be done from a broad perspective starting from the moment a person decides to join a police force, undergoes a selection process and receives initial training as a student in a police academy. The process and finishes with the subsequent continuing training that must be received throughout their career to deal as safely as possible with actions in which they must use their firearm, from a physical and mental perspective as well as a legal one.

When a police officer faces a firearm intervention they experience diverse physiological, emotional, instinctive, cognitive and behavioural reactions with a level of intensity that is difficult to assimilate and that takes a toll. Therefore, one must bear in mind that police officers also need some time to internalise what they have felt and what they have experienced in this type of interventions.

Within the police force, when a firearm intervention occurs, an internal investigation process begins to uncover the facts and the action carried out, which is perceived by the officer, not as an element of transparency, but as an evaluation and questioning of their professional conduct.

Legally, when a firearm intervention occurs, legal proceedings begin to find out whether the authorisation given to police forces to use force has been used appropriately or arbitrarily. But often, as jurisprudence shows, it is deemed that the police officer must have some technical knowledge and extraordinary training that, in most cases, not only does not conform to reality but also omits the fact that the autonomic nervous system of any person, police officer or citizen, faced with a threat to their life is activated. As a result, they make conscious and unconscious assessments that determine a, one could say primitive, reaction of survival and to save life. One explanation can be found in the fact that common language and the basis of technical knowledge are different within the police sector and the legal sector.

The full breadth of these relevant and unknown aspects is not always considered. For this reason, we must consider what those involved could do, so that none feel undervalued from their perspective. In this sense, police officers want to be held in esteem and respected by the organisation in which they work, while the organisation wants to be recognised for its professionalism, in the same way that lawyers want to respect the law and its application. The objective is for this to have positive repercussions for citizens.

**1.** This study ended in June 2015, which must be borne in mind if there have been any subsequent legislative updates or modifications regarding the matter in hand.

**2.** This study has been carried out by a multidisciplinary group of authors: from the Catalan Government Police-Mossos d'Esquadra (PG-ME): Remei Linares, Chief Inspector of the Assessment Area, and Carles Valero, Chief Corporal of the Arms Unit; from the Ministry of Home Affairs: Josep L. Florensa, lawyer and Head of Criminal Matters; from the Institute for Public Security of Catalonia: Manel Jovani, Deputy Inspector of the PG-ME and Deputy Chief of the Police Instructors Area, and Jordi Vilardell, PhD in Psychology and Head of the Leadership Centre.

In view of these approaches, this work has analysed real case studies of police actions in armed confrontations with serious life-threatening situations, to compile all the necessary information and data to consider these aspects.

Regarding the collection of information, it has been organised into three blocks. The first is related to the bibliography that supports police officers' frequent technical and psycho-physiological responses to firearm confrontation situations, as well as the circumstances that surround them. The second block focusses on the empirical information extracted from the real case studies analysed, in relation to the same questions in the first block. The third block is linked to the research of jurisprudence linked to police firearm confrontations.

Regarding the consideration of this information, the creation and dissemination of a document has been suggested. With regards to the document, the option of framing it within the category of a specialised report on technical responses and human reactions occurring in this type of situations has been considered, to favour a common language and real knowledge of these responses and reactions. With regards to the dissemination, the wish is to pass the study on to various law enforcement agencies and the legal sector. The reasons are obvious for the law enforcement agencies and, regarding the legal sector, it is worth highlighting that it is ultimately responsible for determining whether, from a legal point of view, the officer has acted in accordance with the law.

Once this task is done, this work would be unambitious if a specific law enforcement training body, such as the Institute for Public Security of Catalonia (ISPC), did not work with it in the belief of improving any aspect related to police conduct, such as this. This belief arises from the idea that permanent learning, in the form of technical knowledge and operating procedures, always plays a decisive role; in this case, it can modulate perception of a threat and the reaction before such a threat, whether taught in a real, symbolic (through information) or simulated manner (through case studies). This has resulted in ISPC training on this matter being subjected to constant updates and validations of the tools and the training programmes, as with the case in hand, to corroborate whether the training programme contains, or can contain for future courses, the proposals indicated by the police officers who have been directly involved in firearm confrontations.

This study has been structured in three main parts, which correspond with the chapters of this book:

- Chapter 1, on background deals with the legislative and training areas, as well as previous studies on how people react (mentally, physically and psychologically) when exposed to police actions that involve a serious threat to life;
- Chapter 2 includes the core of the study: it deals with the evolution of this study since its origins, through the explanation and analysis of the case studies, to the final results with some conclusions and specific training proposals;
- Chapter 3 is dedicated to the legal evaluation of police officers' use of firearms and the jurisprudence; the legal view of some of the cases in this study and other similar cases may help officers to understand the reason behind the criminal proceedings that begin after these actions and the final decision.

## CHAPTER 1

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# BACKGROUND

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## LEGAL AND LEGISLATIVE FRAMEWORK

All police actions carried out in Catalonia every day are subject to the legal framework comprising international, state and Catalan law. Catalan and state legislation are in accordance with international laws. In our case, the state and Catalan regulations dealing with the use of force and the police are mainly the following:

- Spanish constitution, 29 December 1978
- Organic Law 2/1986, of 13 March, on law enforcement agencies (LOFCS 2/86)
- Organic Law 10/1995, of 23 November, on the Criminal Code
- Law 10/1994, of 11 July, on the Catalan Government Police-Mossos d'Esquadra (PG-ME)
- Law 16/1991, of 10 July, on the Catalan local police forces
- Instruction 5/2008, of 11 March, on the use of firearms by PG-ME force officers
- Catalan police force ethical code, approved by Government Agreement GOV/25/2015, of 24 February

Throughout this legislation the principles on the use of force appearing in international regulations are repeated, channelled and developed, particularly in the following rules and standards:

- European Convention on Human Rights, 21 September 1970
- Resolution 690 (1979) of the Parliamentary Assembly of the European Council, relating to the declaration on police, 8 May 1979
- Resolution 34/169 of the General Assembly of the United Nations, which approves the code of conduct for law enforcement officers, 17 December 1979
- Basic principles on the use of force and firearms by law enforcement officers, approved at the 8th United Nations Congress on the Prevention of Crime and Treatment of Offenders, held in Havana (Cuba) between 27 August and 7 September 1990
- Recommendation Rec (2001) 10 of the Committee of Ministers of the European Council to Member States on the European Code of Police Ethics, 19 September 2001

As the purpose of this study is to focus on police officers' use of firearms in real cases, reference shall be made exclusively to what legislation provides on this specific point, without addressing the more generic scope of the use of force.

The most important points are:

- In the exercise of their duties, the police officer has acted with all necessary determination, without ever resorting to more than reasonable force to fulfil the task demanded or authorised by law
- The use of firearms is deemed an extreme measure
- Force and firearms can be used when other means are ineffective or do not guarantee the envisaged objective of the result
- Firearms may only be used in self-defence or in defence of others, in the event of imminent danger of death or serious injury, or to avoid a particularly serious offence that involves a serious threat to life, or to stop a person who represents this danger and resists authority
- Before using firearms, police must identify themselves and warn of their intention, except when doing so puts them in danger, there is a risk of death or serious harm to other people, or if it was evidently inadequate or useless bearing in mind the circumstances of the case
- When firearm use is unavoidable, officers must act in proportion to the seriousness of the offence, reduce damage and injuries to a minimum, request possible medical services for injured parties as soon as possible and inform their superiors of the facts immediately

Within the state and Catalan legislative framework, special reference is made to two identical sections of the LOFCS 2/1986, of Law 16/1991 on Catalan local police forces and of Law 10/1994 of the PG-ME. Specifically, regarding relationships with the community, they provide that police officers must:

- Act, in the exercise of their duties, with the necessary decision and without delay when the avoidance of serious, immediate and irreparable harm depends on it, and in doing so, be governed by the principles of coherence, opportunity and proportionality in the use of means at their disposal.
- Use firearms only in situations in which there is a reasonably serious threat to their life or physical integrity or to that of others and, in the circumstances, which may be a serious risk to public safety, and they must be governed, in doing so, by the aforementioned principles.

## **PRINCIPLES OF OPPORTUNITY, COHERENCE AND PROPORTIONALITY**

Police officers' application of force must always occur within the framework of legitimacy, so, law enforcement officers must know what is legally correct and the limit that the law determines as lawful.

Officers must have in-depth knowledge of a primordial aspect when applying lawful force: the principle of proportionality between the application of control measures and the resistance they aim to stop.

In reality, the principle of proportionality that is invoked by state and Catalan legislation as well as international, is not defined in any legal instrument: it is mentioned,

but always under the so-called force that is essential or the means that have been necessary, concepts that are often cited but scarcely defined.<sup>3</sup>

Below is a definition of the three principles.<sup>4</sup>

## OPPORTUNITY

Deemed as the necessity or not to use physical coercion, in accordance with the information known about the situation and the subject in question. The police officer must assess the circumstances of the place, knowledge of the suspect or offender, their dangerousness and possible reactions, as well as the officer's own experience to determine whether the arrest (or any other type of intervention) can be done using other means that do not involve the use of force.

In any case, the concept of opportunity means that the use of force must be reasonably essential to enforce the professional objectives. If it is possible to use other alternative methods to solve the problem in hand, use of force shall never be justified.

## COHERENCE

Once a police officer has decided to use force, because it is lawful to do so, they must choose from among the legal means provided and available, that which is most suitable and which adapts to the specific situation. The officer must act with the skill acquired in the instruction or training received. Together with this skill in the use of force, the police officer must act with emotional serenity and self-control.

## PROPORTIONALITY

Finally, once the use of force and the most suitable means have been decided, the police officer must adjust the intensity of its application, in such a way that it never exceeds the limit of that which is strictly necessary to gain control of the person and/or the situation.

## FIREARM USE

Instruction 5/2008, of 11 March, on PG-ME officers' use of firearms, lists the specific situations in which firearms may be used and others in which they cannot. This is shown in table 1.1.

**3.** *Una propuesta alternativa de regulación del uso de la fuerza policial.* Criminal Policy Studies Group. Malaga: Tirant lo Blanch, 2012.

**4.** From the description of article 39 of the Catalan Code of Police Ethics, approved by Government Agreement GOV/25/2015, of 24 February.

**TABLE 1.1. Specific situations for firearm use**

YES, they may be used	NO, they cannot be used
<ul style="list-style-type: none"> <li>In the event of armed attack and imminent risk to life and to the physical integrity of the police officer or other people.</li> </ul>	<ul style="list-style-type: none"> <li>Firearms cannot be removed from their holster or shown exclusively to intimidate</li> </ul>
<ul style="list-style-type: none"> <li>When the alleged offender offers armed resistance, putting the officer's life or that of other people in danger and cannot be restrained or arrested using less extreme measures.</li> </ul>	<ul style="list-style-type: none"> <li>Except for well justified and exceptional cases, always linked to a serious risk to the integrity of life of the police officer or third parties, warning shots cannot be fired to intimidate or to make an alleged offender cease their activity.</li> </ul>
<ul style="list-style-type: none"> <li>In self-defence or to defend others, when there is an imminent threat of death or serious injury.</li> </ul>	<ul style="list-style-type: none"> <li>If, despite everything, shots must be fired to intimidate, whenever possible they must be fired into a surface that absorbs the energy of the bullet and does not cause it to ricochet.</li> </ul>
<ul style="list-style-type: none"> <li>To repel an imminent and violent firearm attack against people, buildings and facilities the custody or surveillance of which has been entrusted to the PG-ME</li> </ul>	<ul style="list-style-type: none"> <li>If an alleged offender escapes on foot or in a vehicle, firearms must never be used if, during their escape, the offender does not put the life or physical integrity of the police or other people in danger.</li> </ul>
<ul style="list-style-type: none"> <li>To prevent the use of explosives, firearms or other dangerous objects that threaten people's lives or physical integrity.</li> </ul>	<ul style="list-style-type: none"> <li>Except for specially justified cases, shots must not be fired at the wheels of moving vehicles to stop them.</li> </ul>
<ul style="list-style-type: none"> <li>Against dangerous, injured and/or dying animals when they are a direct or indirect danger to people, if there are no other feasible solutions in a reasonable amount of time and without this compromising safety, or when the circumstances of the place and time mean it is the only viable option.</li> </ul>	<ul style="list-style-type: none"> <li>If there are groups of uninvolved people close by, due to the high probability they will be in danger</li> </ul>

## MENTAL, PHYSICAL AND PSYCHOLOGICAL PROCESSES IN LIFE-THREATENING SITUATIONS

### PHYSICAL REACTIONS

In serious life-threatening situations, such as armed confrontations, human behaviour plays a critical role.

Most people have not had the experience of being in a situation of imminent danger and, when this happens, some may have emotional, cognitive, behavioural, physiological or instinctive reactions that increase the danger for themselves as well as for others. So, each person's responses may range from an attitude of physiological activation to a real lack of control over their behaviour.

As Manual Fidalgo (1996) says, in physics, once can precisely predict, for example, the reaction of a material subjected to an external pressure. In behavioural sciences, there is no simple criterion that helps predict, in detail, an individual's reaction to a critical situation. The variables to consider are extremely numerous and there are various reactions to such stimulating situations and, furthermore, they depend on the context in which they appear. On the other hand, if two subjects react differently to the same stimulus, this could indicate that it comes from one or more variables that provide an objective difference in sensitivity to the unsettling cause and, for example, it could be like the different perception of intensity of the cause, called experienced threat; a notion of great importance in the study of human behaviour before external threats.

So, to carry out effective preventive work, the chain reaction a person often experiences in a serious life-threatening situation must be understood and known. In this

way, people may become more aware of it, bear it in mind and not be surprised when it appears. Similarly, there is the possibility of detecting personal variables that may determine similar reactions among people.

The chain reaction begins with the way it is presented; the context, place and characteristics of the matter in question. Subjects perceive the situation and the threat it implies. At that moment, the autonomic nervous system activates and assessments are made on the context and one's own adaptive resources to deal with the situation. These assessments may not be conscious ones, but they do generate a conscious emotional state through their interaction with our plans of action or our actions. So, after activation and assessment, the person executes actions or plans of action.

At that moment, a determining factor of situation-adapted behaviour is information or knowledge, as it is possible that these plans and/or actions that are executed are interrupted by the development of the armed confrontation situation. The discrepancy or interruption that may arise in these cases is a central element to perceiving the situation as highly emotional. Something does not fit with what was planned and the body must prepare itself for the situation, physiologically and cognitively. It is at this point in the process when the person has the greatest demands, reassesses the situations and has information on the success or failure of their efforts. If the interruption does not disappear or alternate plans are not possible, the physiological and cognitive system may translate that into a state of agitation that may give rise to emotional reactions such as fear, anxiety, anger, etc.; instinctive reactions of attack, escape, etc., or even perceptive distortions. These types of responses are dealt with in the next section, as they can give rise to unexpected decisions. At this point, a person's prior experience or training may play a fundamental role in leading the critical situation towards a solution with more guarantees.

It can be said, therefore, that this chain reaction has physiological, emotional, instinctive, cognitive and behavioural responses. However, one must bear in mind that there are associated individual factors that can intervene and modulate the presence and expression of these reactions in different people:

- Personality structure is the first essential factor; the way someone is determines a degree of predictability in their reactions;
- Gender, age, biological markers (derived from the nervous system, the endocrine system, etc.), prior academic training, personal experience, etc., are all possibly influential factors.

## RESPONSES, REACTIONS AND PHENOMENA

As mentioned, when a person is not prepared to deal with a certain situation, a state of agitation tends to appear, which may have positive or negative consequences.

Various authors have worked on and delved into this matter, with the results set out in the following sections.

### DANIEL GARCÍA ALONSO<sup>5</sup>

According to the author, when faced with an aggression, if the person is not prepared, they go through stages of positive or negative stress. If they go through eustress (positive stress) it will be a good moment to begin the defence, but if they go into distress (negative stress) it will be almost impossible to carry out an effective defence, because they can completely lose control of their body and their reactions. One of the stress markers to which the author refers and which can illustrate this

5. GARCÍA ALONSO, Daniel. *Estudio sobre la reacción del policía ante el peligro y los enfrentamientos armados* [electronic resource]. Asociación Profesional de Policías. Madrid: Bubok Publishing cop., 2012.



difference between positive and negative stress is heart rate. It is called a marker because, according to Torpy,<sup>6</sup> it is proven that experiencing emotional or physical stress causes the heart rate to increase and blood pressure to rise.

García Alonso differentiates the stages of stress, as shown in the following table.

Between 115 and 145 beats per minute (bpm)	<ul style="list-style-type: none"> <li>• The body is in optimum conditions to deal with an aggression.</li> <li>• The individual has the maximum level of fine motor dexterity, although digital ability begins to lessen.</li> <li>• They have suitable peripheral vision and good cognitive capacity.</li> </ul>
Between 145 and 175 bpm	<ul style="list-style-type: none"> <li>• Complex motor skills are lost.</li> <li>• The cognitive process and auditory capacity deteriorate.</li> </ul>
Over 175 bpm	<ul style="list-style-type: none"> <li>• They panic and this is when the maximum level of global motor skills is obtained, therefore, they can run more to escape or fight.</li> <li>• Peripheral vision is lost and only tunnel vision remains.</li> </ul>
Over 200 bpm	<ul style="list-style-type: none"> <li>• Memory lapses may occur.</li> <li>• In the following 24 hours, it is frequent for a person to only remember around 30% of what happened. This will exceed 50% in the following 48 hours and 75-95% in the following 72-100 hours. This phenomenon is called critical stress amnesia.</li> </ul>

In the same author's study, 157 police officers involved in shootings were analysed. Regarding responses and perception - related phenomena, the following specific results appear:

• Reduction of sound (auditory exclusion)	84% of cases
• Tunnel vision	79%
• Automatic pilot with little or no conscious thought	74%
• Clarity of vision	71%
• Time slows down	62%
• Loss of memory of part of the events	52%
• Loss of memory of part of their behaviour	46%
• Disassociation and sense of loss of reality	39%
• Memory distortion: sight, hearing, events	21%
• Time speeds up	17%
• Temporary paralysis	7%

6. TORPY, Janet M. Acute emotional stress and the heart. *The Journal of the American Medical Association-JAMA*, 18 July 2007. Vol. 298(3).

7. In global motricity, the largest muscles intervene. It includes activities such as walking or running and requires less precision than fine motricity (source: TERMCAT, the Centre for Terminology in the Catalan Language).

8. These phenomena are explained in more detail in chapter 2.

9. PÉREZ VERA, Ernesto; PÉREZ PACHO, Fernando. *En la línea de fuego. La realidad de los enfrentamientos armados*. Madrid: Tecnos, 2014.

### **ERNESTO PÉREZ VERA AND FERNANDO PÉREZ PACHO<sup>9</sup>**

These authors analysed 22 cases of Spanish police officers who were involved in armed confrontations, to work on so-called perceptive distortions. It differentiates between the distortions present before the first shot and after it, and includes the detail of the number of officers who experienced it and the average for the group as a percentage.

**TABLE 1.3. Number of officers who experienced perceptive distortions**

Perceptive distortions	Before the first shot	During or after the first shot
Tunnel vision	17	15
Sharpening of details	7	5
Sound reduction	16	12
Sound intensification	4	5
Slow motion	19	17
Speeding up of time	1	3
Other	---	3

**TABLE 1.4. Perceptive distortions experienced before, during or after the first shot. Group averages as a percentage**

Group	Before the first shot	During or after the first shot
Visual distortions	31%	35%
Auditory distortions	32%	30%
Time distortions	37%	35%

**JAMES L. LOCKARD<sup>10</sup>**

The author affirms that the responses, reactions or phenomena listed below can appear during armed confrontations or stressful incidences.

**Unsuitable responses**

In the face of stressful stimuli, unsuitable responses may arise in an instinctive and uncontrolled manner, through action or omission.

- **Attack.** Uncontrolled use of physical or lethal force against people or things in objectively controllable situations despite the stimulus. The most common case is the domino effect, which occurs in armed interventions in which various officers act. This effect may originate in the sound of a shot, which subsequently causes uncontrolled firing from the rest of the officers. Later, no one can justify why they shot or at what.
- **Flight.** Momentary inability to assume and control a stressful event, which they have the need or obligation to face.
- **Paralysis caused by fear.** Inhibition of the means of conservation, which not only has repercussions on fulfilling a duty but often leads to that person's death.

**Distracted thought**

Distraction of the mind regarding the crisis event or moment to wonder about trivial and unrelated matters. These fantastical intrusions are not common to everyone and cannot be said to be clearly negative in all cases; simply, they appear and coexist for a few moments.

**10.** LOCKARD, James L. *Survival thinking for police and correction officers*. Springfield: Charles C. Thomas, 1991.

### Sensorial distortions

- **Visual alterations.** An effect whereby the person seems to have suddenly entered a dark projection room and where their eyes are unable to perceive anything else other than the images on the screen. It is known as tunnel vision and prevents any other surrounding circumstances from being detected. It is an extremely dangerous phenomenon.
- **Auditory alterations.** An effect whereby the person suffers an acoustic block that reduces and sometimes cancels out the sound of their own shots. It should not be thought strange that many police officers are surprised at not having heard any of their shots. Experience shows that between three and four-times more shots are fired than thought. Even so, it is worth mentioning that the acoustic discordance does not seem to uniformly affect all sounds. The case may arise where a person's own shots are not heard while those of the adversary sound like cannon fire. Beyond the specific circumstances of confrontations, it is also easy that in some stressful situations or states of excitement some experience the fact of not having heard another officers voice or warnings over a short distance.
- **Alterations in perception of time.** An effect whereby the person perceives the facts as much faster or much slower than they occur in reality. However, the common situation is to experience the situation as if it occurs in slow motion. It is one of the most frequent phenomena.

### Memory lapse

Blurry appearance in the mind of all or part of the critical moment. The person is unable to coherently reconstruct the facts. It appears more intensely with people who experience something stressful for the first time and the effects often diminish with repeated exposure to that situation.

### DAVID BERENGUERAS DUCH<sup>11</sup>

The author analyses various cases of real armed confrontation viewed in audio-visual content and in the teaching cases that he, as a trainer, has carried out with many officers (more than two thousand in several countries all over the world). From these cases, he extracts the officers' typical reactions; in the author's words, "their malfunction".

### Individualisation of the threat

In a threatening situation, officers act individually despite being used to working in pairs. This reaction arises when two police officers perceive the threat and this forces them to pay full attention to the individual(s). That is when each police officer acts as if they were alone and designs their action strategy without considering the officer who is at their side.

### Inability to shoot where looking

In a life-threatening situation, a police officer's instinct makes it necessary to see the dangerous stimulus that is threatening them. Therefore, they cannot lose sight of the threatening stimulus at any point. This means that if the police officer is holding their gun,

11. BERENGUERAS DUCH, David. *Cara a cara ante una intervenció armada*. Barcelona: Andreu Soler i Associats, 2010.

this will be below their visual field. The result is that police officers are unable to see the rear and front sights and, therefore, they cannot choose the part of the assailant's body where their shots will land and they see the assailant as an undefined figure, as a block.

### **Tunnel vision**

When the police officer has to make great demands on visual attention, their vision becomes framed. This effect makes peripheral vision disappear (lateral vision), as well as depth (beyond that of the stimulus, behind it).

### **Serious problems for moving about with firearms**

This reaction has an evident correlation with training.

However, Berengueras also differentiates the typical behavioural observations that occur before a sudden armed aggression.

During the first stage, the police officer reacts quickly in a state of semi-consciousness:

- Spinal reflexes (withdrawal, stretch, crossed extensor)
- Startle reflex
- Semi-voluntary movements (distancing, 180° turns, fall, jumps)
- Freezing

During the second stage, the first response having started, another channel is used (cortical, slow and rich) to bring out all the learning, experience, knowledge, etc., which may favour their intervention or the manner of confrontation:

- Flight (distancing, 180° turn, spin, fall, jumps)
- Fight or defensive attack (automatic pilot)
- Freezing
- Submission

From these reactions, Berengueras goes one step further and covers the need to reflect on what could be the best training to deal with a police action in which armed confrontation occurs. In his conclusions, he also sets out the need to train police officers in this area.

## **TRAINING**

### **TRAINING OF CATALAN POLICE RECRUITS (2000-2015)**

The basic training course for police officers (CFBP) lasts for nine months with a total of 1,270 class hours. <sup>12</sup>

One of the objectives of the CFBP already envisages the intention for students to receive training to deal with various police situations: "Analyse and consider the complexity of the different situations that shall have to be dealt with, as well as adopt some action criteria in conflict situations that guarantee their intervention with impartiality, serenity, proportionality and strength, to prevent the offence and maintain and re-establish the public's safety".

<sup>12</sup>. In this study the year of reference is 2014-2015..

To carry out the corresponding analysis in relation to this study, firearms training given to Catalan police officers between 200-2015 shall be described, as well as other police procedures that are worked on in the CFBP modules and courses, mainly firing and weaponry, police procedures and self-defence. For this reason, the assessment of firearms handling is just as relevant as firing practice, as well as training relating to moving around with the firearm and other methods of use of force using hands and the police baton.

### **FIRING AND WEAPONRY COURSE (44 HOURS)**

This includes learning the skills and knowledge of firing concepts, as well as good handling and use of firearms, where safety rules are prioritised, both in firing ranges and, subsequently, in the field, which will imply the portability and use of firearms in the police profession.

The main objectives of this subject are:

- Use and control firearms in accordance with the principles of coherence, opportunity and proportionality and with the laws that regulate their use;
- Detect the correct or incorrect operation of firearms;
- Maintain firearms in accordance with the established instructions for use and maintenance;
- Know how to use the weapons studied in the CFBP: assemble and disassemble, safety mechanisms, as well as basic mechanisation units;
- Assume that the provided firearm is a working tool for the police which must be completely understood for future implementation in their profession;
- Learn the different police firing techniques and the different firing positions;
- Practice firing exercises at the range to guarantee knowledge of police defence firing is attained.
- Know how to identify and solve the main firearm malfunctions.

The 44 hours of the subject are divided in the following way:

- Firing theory (6 hours)
- Handling (12 hours)
- Long gun practice exercises (4 hours)
- Theory assessment (2 hours)
- Handling assessment (2 hours)
- Handgun practice exercises (18 hours)

### **HANDGUN PRACTICE**

Of these exercises, the first four hours are spent on precision firing, to mechanise the main fine motor skills movements necessary to carry out an effective shot with the firearm (particularly, how to hold the firearm, trigger precision and taking aim elements):

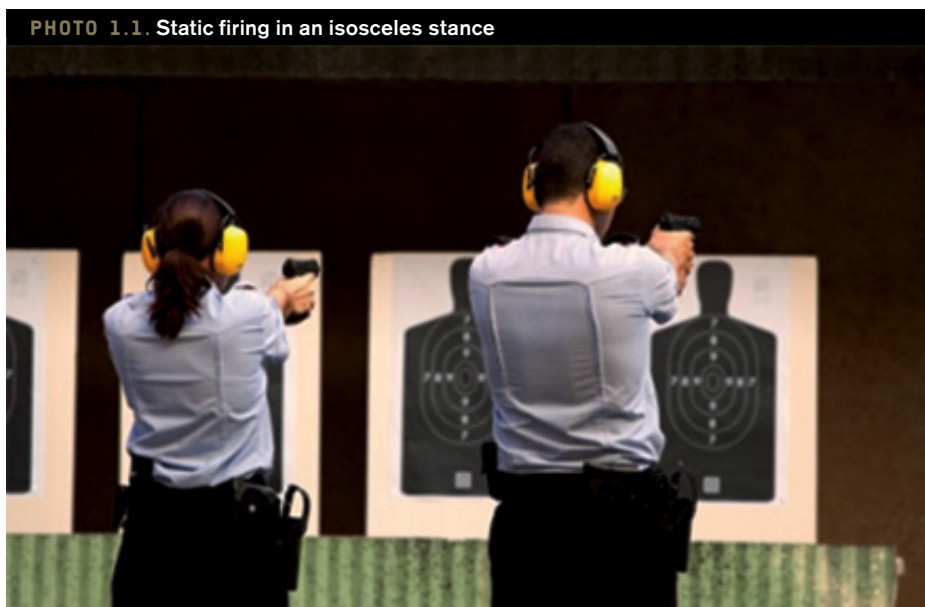
- Exercise 1: precision firing, double-action, 45° firearm
- Exercise 2: precision firing, double-action, with unholstering

The remaining 14 hours is for police defence firing practice, to better adapt to police actions with firearm use. This is a defensive instinctive firing method based on not using aiming elements to fire when proximity makes it unnecessary. Focussed

on the reality of confrontations with firearms, this firing practice has been provided in the CFBP since 2000. To quickly assimilate the technique, it is preferable to hold the firearm with two hands and make the weapon a prolongation of the arm. Unlike precision firing, in this method it is important not to think about the firearm or aiming elements but to concentrate on the silhouette and, more specifically, on the area one wants to hit. Another special feature is that it is done with both eyes open, which broadens the field of lateral vision, also known as peripheral vision:

- Exercise 3: police defensive firing with a cartridge in the chamber
- Exercise 4: police defensive firing, with a cartridge in the chamber with reduced impact area
- Exercise 5: police defensive firing with a cartridge in the chamber, reduced impact area, with time (assessment in 2nd round)
- Exercise 6: police defensive firing, without a cartridge in the chamber
- Exercise 7: police defensive firing, without a cartridge in the chamber, with time
- Exercise 8: police defensive firing, without a cartridge in the chamber, reduced impact area, with time
- Exercise 9: police defensive firing, with a cartridge in the chamber, reduced impact area, with time (assessment in 2nd round)

These police defensive firing practice sessions begin with a holstered firearm every time the candidate fires. The officer must unholster the firearm as quickly as possible, within 4 seconds, be ready to fire and fire at the silhouette. The marksman uses an isosceles stance and fires 5 metres away from the silhouettes.



Three exercises are done (3, 4 and 5) with the initial position of the firearm with a cartridge in the chamber and four exercises (6, 7, 8 and 9) without a cartridge in the chamber. In exercises 5 and 9 the shot is assessed, comprising firing 10 shots aimed at a sheet of white paper in the centre of the silhouette. To pass there must be at least five shots within the sheet of paper, independently of their distribution. In other words, no more points are awarded if the shots are in the centre of the sheet, as would occur with the concept of target practice.

Once the firing practice exercises are finished, no directive or indication is given to the candidates about the best way to carry the service firearm (with or without a cartridge, with or without the safety catch), although the advantages and inconveniences of each position is mentioned and a suggestion is made to always carry the service firearm the same way.

Obviously, throughout the firing and weaponry course constant reminders are given about firearm use safety rules. This prioritising of safety means that no dynamic exercise is carried out with a firearm..

### **POLICE PROCEDURES COURSE (80 HOURS)**

CFBP candidates are trained on the theoretical and practical knowledge of the identification, search or handcuffing of people. It is a comprehensive course that covers various operational techniques.

Among others, students internalise various concepts that are relevant to police work such as safety measures in interventions, working in pairs, communications with the control room, etc.

Regarding firearm use, three techniques studied in this course are described below.

#### **Movement with a firearm**

One of the CFBP police procedures is called movement whilst patrolling, access and precautions in enclosed areas. Within the various techniques, there is movement on foot with a firearm, comprising the movement of candidates in pairs in a high-risk situation and, therefore, with the possibility of holding firearms.

Two stages of training must be mentioned:

- Before Instruction 5/2008, candidates were trained in the techniques of movement in pairs while holding firearms. These movements were practised in enclosed and open areas and sometimes on staircases.
- From Instruction 5/2008 and until the 2013-2014 academic year, these movements have been done with the firearm in an open holster and a hand on firearm position. Therefore, candidates have not received any training in movement while holding the firearm.

#### **Identification of an individual in a high-risk situation**

Two stages of training must be mentioned:

- Before Instruction 5/2008, candidates learnt the technique of approaching an individual with a firearm giving the relevant orders from cover and at a safe distance, whilst aiming their service firearms at the offender. Once the individual obeys the orders and lies face down with their arms spread and palms facing up, one of the officers moves in and handcuffs them on the ground while the other officer covers holding their firearm.
- From Instruction 5/2008, these orders are practised with the firearm in an open holster and in a hand on firearm position even though the offender is holding their firearm.

### Stopping a vehicle in a high-risk situation

Two stages of training must be mentioned:

- Before Instruction 5/2008. The technique involved stopping a vehicle with occupants who were suspected of having committed a crime using a firearm. For this reason, the officers following the suspicious vehicle give orders to stop using the PA system from inside the police vehicle. Once the suspicious vehicle has stopped, they give instructions to the occupants to get out one by one. Afterwards, one of the officers covers holding their firearm while the other officer handcuffs the suspects.
- From Instruction 5/2008. The officer who is covering does so with the firearm in an open holster and in a hand on firearm position.

### CHANGES TO THE POLICE PROCEDURES COURSE

Since the 2012-2013 academic year and within the framework of various actions for improvement introduced in the CFBP each year, candidates have been able to carry out dynamic practice sessions outside the scope of assessment and within the police procedures course.

#### • CFBP dynamic exercises 2012-2013

In June 2013, a total of 88 students practised the two exercises described below in a continuous manner, in other words, as they finished exercise 1 they continued with exercise 2. Candidates were equipped with bullet-proof vests and a “simunition” type protective helmet. Both practice sessions were recorded with an audio-visual system.

TABLE 1.5. Dynamic exercise 1, CFBP 2012-2013		
Description		
Students arrive in pairs at one of the firing ranges set up like the interior of a warehouse. After doing a short physically exhausting exercise to obtain an elevated heart rate, the two candidates receive information that a burglar alarm has been set off at a company and noises have been heard inside which could indicate the presence of suspects. Once the candidates are inside the warehouse (the range) they see an individual ransacking some cupboards. This individual carries a gun on their waist. Officers give the relevant orders for the individual to lie face down on the ground with their arms spread and palms facing upwards; when the candidates are handcuffing the individual, who puts up some resistance, from behind and through a half-open door at the end of the range, a second individual appears and fires various blanks.		
Results	Interpretation	
57%	Detected the individual carried a gun on their waist	The tunnel vision effect on the suspect was generalised. This effect impedes distinguishing that they carried a firearm, that there was a half-open door and, above all, that out of that door a second individual came and opened fire on the candidates.
52%	Did not detect there was a half-open door	
56%	Did not see the second individual	
82%	Were surprised when they received shots	
18%	Could begin the defensive response with the firearm	

In the next exercise, the percentages of the results were obtained two different ways. The assessment of 88 candidates corresponds to a written survey done by all the students. The assessment of 22 candidates was obtained by watching the audio-visual recording of the practice session of these 22 students.



**TABLE 1.6. Dynamic exercise 2, CFBP 2012-2013**

Description			
The students arrive at the entrance to the “killer house” and are informed that they have received news from some neighbours that they have heard an argument and a woman shouting, as in a domestic violence case (VIDO). When the candidates access the interior of the residence they hear very loud and unclear shouts from a woman, similar to “Don’t do it!”. Next, they hear two very loud sounds like blows or detonations. When the candidates reach the corridor, they see an individual appear at the end of the corridor, walking unsteadily and who heads towards the exit. The individual carries a plastic handle in their hand of the type used to hold domestic drills.			
Results	88 candidates	22 candidates	Interpretation
Stopped the individual correctly		4 (18%)	Most candidates were not able to use force to stop the individual who could be a suspect of a VIDO offence in a confusing situation. For the majority, there is not a descending progression of force (firearm – hands – police baton). In most of the situations, they incorrectly interpreted the sounds, which they understood to be shots (negative bias), as well as the tool, in other words, as a firearm when it was not. This results in the use of a firearm against an individual that is not in compliance with the law.
Let the individual go without acting		12 (54%)	
Shot him	25%	4 (18%)	
They identified the blows with a blunt instrument as shots	53%		

#### • CFBP dynamic exercises 2013-2014

During February and June 2014, students carried out the two exercises described in the following tables and which were also recorded with an audio-visual system.

**13.** The ISPC Boulevard covers over 2,000m<sup>2</sup> and reproduces a junction typical of any urban space, with businesses (bank, bar, chemist, petrol station, jeweller’s, bakery, gun shop, bingo, supermarket, etc.) and two institutional spaces (a courtroom and a police station). The police action circuit can be completed within this complex, starting with the intervention in the street, continuing with actions in the police station and finishing in the courtroom.

**TABLE 1.7. Dynamic exercise 1, CFBP 2013-2014**

Description		
In business premises on the Boulevard <sup>13</sup> an extremely aggressive individual argues with a worker. When the pair of candidates tries to calm down and control the individual, a second person enters from behind the students and fires several shots with a firearm.		
Results	Interpretation	
None of the students detected the presence of the second individual and, therefore, they could not respond to their aggression in any way.	Tunnel vision focussed on the first individual during the moment of maximum aggression meant that control of the environment was non-existent.	

**TABLE 1.8. Dynamic exercise 2, CFBP 2013-2014**

Description			
A simulation of the interior of a company is set up in one of the firing ranges, with offices and corridors. The pair of candidates receive information that inside the company a worker is indiscriminately firing at the rest of the people with a firearm (an active shooter situation). In the corridors and offices there are silhouettes of people holding various objects (a camera, etc.). The students receive the instruction to open fire at the silhouette that could be holding the firearm and if they see real people inside they can also fire if any of them are carrying a firearm. The candidates have firearms with “Simunition” ammunition. In one of the spaces at the end of the scene a person appears, shouting, with their hands up in the air with no object in them and then, in another office, a mobile silhouette appears of someone armed with a revolver.			
Results	Interpretation		
They fired at unarmed silhouettes	Many	This exercise shows the difficulty of an action of this kind, having seen the responses from students who, just after the practice, completed an anonymous questionnaire.	
They did not see any of the silhouettes	Some		
They admitted firing at the last actor who had their hands in the air	28%		
They did not fire at the silhouette with the firearm	Many		
They aimed at each other or at their feet	Majority		

Using 50% of the total number who did the practice sessions (88 students) as a sample, the answer given to some of the questions was interpreted and assessed.

The question “Have you acted using your emotions or thoughts?” was assessed and compared with the response in using the firearm: it is deemed that if they fired at the unarmed person who was shouting (the tensest moment) and if they fired at unarmed silhouettes, their actions were an automatic response and not reflective. Some students admitted they acted through thought (rational process) until the moment the person suddenly appeared shouting and running, and others admitted that they acted emotionally (automatic, instinctive or experience).

**TABLE 1.9. Responses to “Have you acted using your emotions or thoughts?”**

Admit acting through thought	Act through thought	Admit acting through emotions	Act through emotions	%
X	X			46%
X			X	19%
		X	X	27%
	X	X		8%

Regarding the questions about sensations and emotions they had before, during and after the practice session, about what they learnt and about the benefits for their personal and professional improvement, among other aspects, the candidates evaluated having learnt that they have to be more reflective, to act in the safest and most rational manner, and to be aware of police work involving a real risk, that it is necessary to be well trained.

This type of exercise is considered the most appropriate for recognising the complexity of armed confrontations, for experiencing them, for the possibility of improving the interpretation of the situation and finding the most suitable response, where they must try to avoid perceptive distortion and increase the reflective process.

A few days later the candidates received a theoretical explanation about active shooter or running amok<sup>14</sup> cases, with the guidelines that must be followed by the first officers on the scene. At the same time, they were shown a compilation of audio-visual recordings of their actions and another recording where two shooting instructors show the suitable solution to the exercise.

From the CFBP 2014-2015, two significant changes were introduced to the training of techniques in which officers could use their firearms.

**Creation of a new point: movements with firearms**

Candidates are told that this procedure must only be applied when the alleged perpetrator of a serious crime is brandishing a firearm to intimidate and/or they have just opened fire. Also in those exceptional cases in which they have reliable knowledge that there is a person who is indiscriminately opening fire against other people in a specific location.

**Creation of a new teaching unit: progressive use of force**

This unit explains the legislative framework of the use of force by police officers, the principles of coherence, opportunity and proportionality, the legal aspects (penal exemptions that may be applied if the police officer has to use force), the psycho-

14. A random episode, apparently unprovoked, of killer or destructive behaviour, followed by amnesia and/or exhaustion. Often accompanied by a turn towards self-destructive behaviour, in other words, of causing injuries or amputations or even suicide.



physical reaction of the police officer faced with an armed confrontation and the application of the progressive use of force (possible situations and a summary table).

### **PERSONAL DEFENCE COURSE (90 HOURS)**

All 90 hours are practical; they are carried out on the ISPC tatami and are structured in two large content blocks:

- 30-hour block, in which the objective is to consolidate elementary fighting forms, internalise the ground as a working surface, as well as face-to-face contact and practice what are basically sports techniques to create a basis to later complement them with police techniques and/or tactics;
- 60-hour block, dedicated to internalising the area of action of law enforcement forces and agencies regarding citizens, responding to the different types of threats, systematically applying pair work and differentiating and recognising the importance of the safety distance in different types of situations.

Until the 2014-2015 academic year, there was almost no content regarding responses to blunt and/or sharp objects and firearms.

From the 2014-2015 academic year, content has been introduced that is worked dynamically (changing partners, large and small spaces, sudden situations, etc.) to make situations more real and not work on them in such an analytical or repetitive manner:

- Maintenance of the safety distance with the police baton (2 hours);
- Attempt to draw the police firearm, from its holster and moving while holding the firearm (2 hours);
- Responses to knives: distances, evasions, use of tools and other resources, interceptions, etc. (5 hours);
- Responses to firearms: distances, use and mechanisation of tools and other resources, self-protection criteria, etc. (5 hours).

### **CONTINUOUS TRAINING FOR CATALAN POLICE OFFICERS**

The new police shooting programme of PG-ME officers' continuing training is currently undergoing evaluation. This programme forms part of a new multi-disciplinary training plan, with the introduction of other police tools such as, for example, the expandable police baton. It also incorporates important qualitative changes: pair work, transition from police baton to firearm, dynamic exercises, variety of assailants and elements of cover.

## CHAPTER 2

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# REAL CASE STUDIES

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## AIMS

- a) Know the variables that allow Catalan police officers to be aware of the reality of firearm situations.
- b) Identify the most frequent technical responses of Catalan police officers in real situations of firearm use.
- c) Detect the predominant human reactions of Catalan police officer in real situations of firearm use.
- d) Compare the ISPC training programme with the information obtained from real cases of firearm use.
- e) Assess and analyse the results, to make direct extrapolations and to see the influence of these results in such diverse aspects as:
  - The type of police firing training and exercises, distances, lighting, etc.;
  - The purchase of police tools and materials for ISPC firearm training.

## SUBJECTS AND METHODS

### CASE ORIGIN

The study data has been gathered from among PG-ME officers who, in the exercise of their duties, have used their firearm resulting in other people's injuries or death, or who have had direct confrontation with someone who used a firearm. The starting point for the study for working on these real case studies was very diverse and always using memory, as there is no computer record of actions in which firearms have been used, to be able to use the data or carry out an analysis.

The reason for choosing this group has been conditioned by the study objectives and by the possibility of accessing information of this kind. In this sense and as the initial premise was to analyse situations in which officers worked within the ordinary scope of patrolling Public Security units (USC), work began by contacting some of these officers to gather initial information to complement the research previously done on the case (proceedings, press releases, news articles, etc.).

After identifying the officers, the heads and officers in charge of the services were contacted to inform them of the study, as well as proposing they invite officers to take part, voluntarily and anonymously, and to interview them on the case, always from a training perspective.

Sometimes, and after contacting the heads of service or those involved, they explained or mentioned another case in which firearms had also been used. In this way, the range of cases was increased to a total of 28<sup>15</sup>, with some of the participating officers wishing to be interviewed. Similarly, the initial scope of the USC was expanded, as some of the cases corresponded to actions within the area of Investigation and specialist services such as Traffic or Operational Resources.

Regarding the objective of knowing typical reactions in firearm confrontations and finding training proposals to be able to work on them, the technique of purposive sampling by justified decision was used, as the sample units have been chosen depending on some of their characteristics in a rational manner and not randomly.

## TOOLS USED

### SEMI-STRUCTURED INTERVIEW ON HUMAN REACTIONS AND TECHNIQUES

The first instrument used for the study was a semi-structured interview, with the aim of identifying human reactions and techniques in firearm confrontations. Prior to the interview a presentation on the study was given which set out the reasons and established a commitment to veracity and confidentiality.

This interview was structured in three parts:

- a) in the first part, the officer freely told the facts about what happened and described the experiences they associated with it;
- b) the second part was divided into two areas to detail specific and concrete aspects:
  - Exploration of a list of typical reactions in firearm confrontations arising from the human factor<sup>16</sup>
  - Study of a series of typical reactions in firearm confrontations but, in this case, arising from the technical factor<sup>17</sup>
- c) in the third part the officer was asked for a subsequent assessment of the personal, professional and legal repercussions that arose from their action.

### TRAINING NEEDS DETECTION SURVEY

The second instrument used for the study was a training needs detection survey on firearm confrontations, structured in three questions:

- The training model they remember from their CFBP at ISPC,
- The police firing model they practised at the different firing ranges,
- The measures, both basic and continuing training, they deem necessary to respond to firearm confrontations and to those they have experienced first-hand.

**15.** Three further cases were found but for various reasons the testimony of those involved could not be obtained and finally they were ruled out of the study.

**16.** Reactions arising from the human factor are taken from existing scientific literature.

**17.** Reactions arising from the technical factor are taken from PG-ME Firearms Unit specialists, as guides and experts on the matter.

The aim of these two tools is to establish a homogenous framework of standardised testing, in other words, that conforms to some clear and detailed professional criteria regarding the conduct to be assessed. In this way, subjectivity is avoided and the people being assessed can be compared objectively.

## STATISTICAL DESIGN

The design suggested by this study is descriptive, in other words, it is limited to measuring the variables that are defined in the study. In this design, quantitative (systematic observation and structured tasks) as well as qualitative (personal narrations, open questionnaires, and analysis of documents) research methodologies have been used.

Regarding the objectives of knowing the variables of the real cases of firearm use and the typical reactions in firearm confrontations, arising from both the human and technical factor, a package of basic descriptive statistical measures has been used from information taken from the interviews.

Regarding the objective of comparing the current ISPC training programme with the information obtained from the real cases of firearm use, a package of basic descriptive statistical measures has been used from information taken from the training needs detection survey.

## SAMPLE DESCRIPTION

For the analysis of the technical responses and human reactions in real situations of firearm use and for the validation of a training programme that aims to provide an answer, a sample of PG-ME police officers who have taken part in this kind of situations has been selected.

It must be highlighted that the sample used is reduced: there are 58 officers. This is because, of the total 17,162 PG-ME officers, with 21.52% women (3,694)<sup>18</sup>, it is not known how many at any time in their career have been involved in situations that are the subject of this study.

## VARIABLES FOR DESCRIBING THE SAMPLE OF OFFICERS

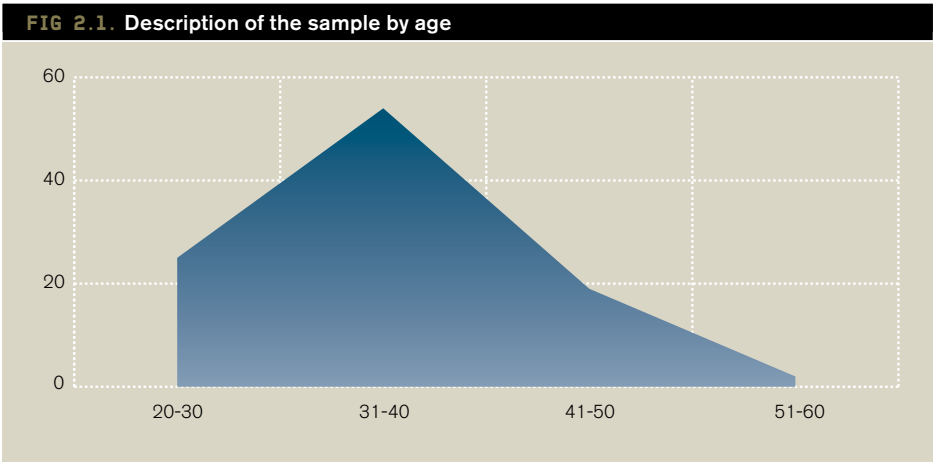
The variables that have been used to describe the sample of officers are:

- Gender
- Age
- Professional category
- Destination unit
- Length of service

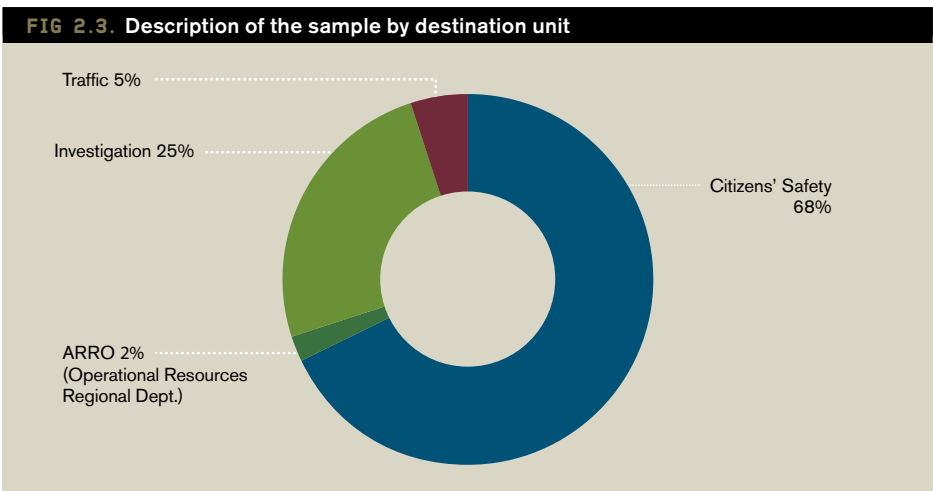
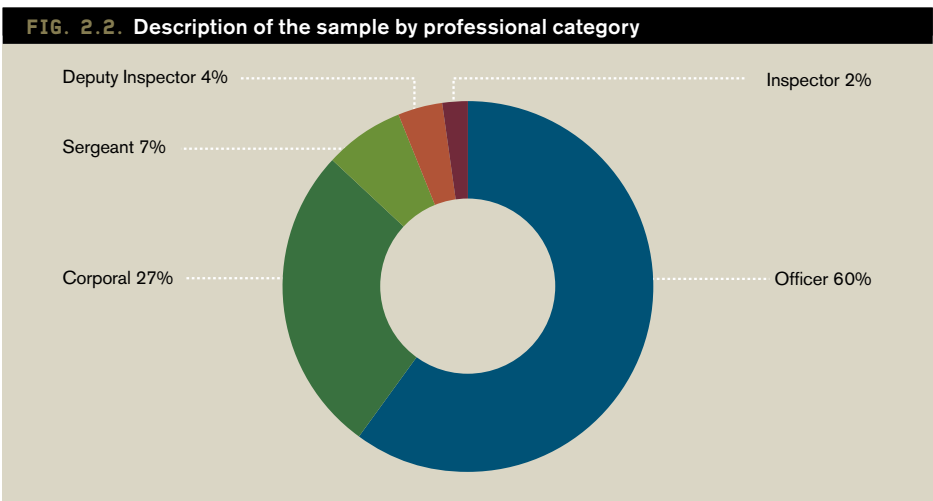
In the gender variable, it is significant that only 5% of the sample are women.

Regarding age, although all age brackets are minimally represented in the sample, it is observed that the majority is between 31 and 40 years old.

<sup>18</sup>. Data from 2014.

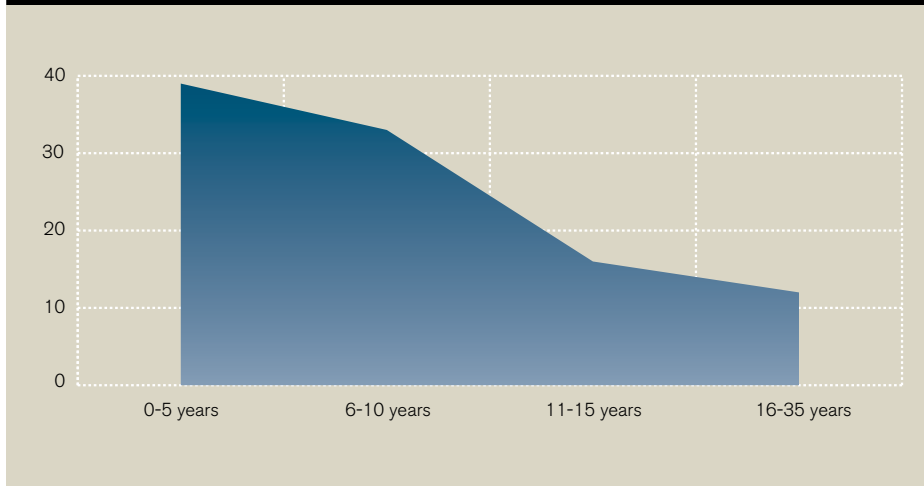


In the sample, it is also observed that the professional categories of constable and corporal are, mainly, represented. On the other hand, it must be highlighted that most of the analysed cases are experienced by the Public Security unit, followed by those from investigation.



Finally, it is observed that three quarters of the analysed cases have been experienced by police officers with less than 10 years' professional experience.

**FIG 2.4. Description of the sample by PG-ME length of service**



## RESULTS

### DESCRIPTIVE VARIABLES OF REAL FIREARM USE SITUATIONS

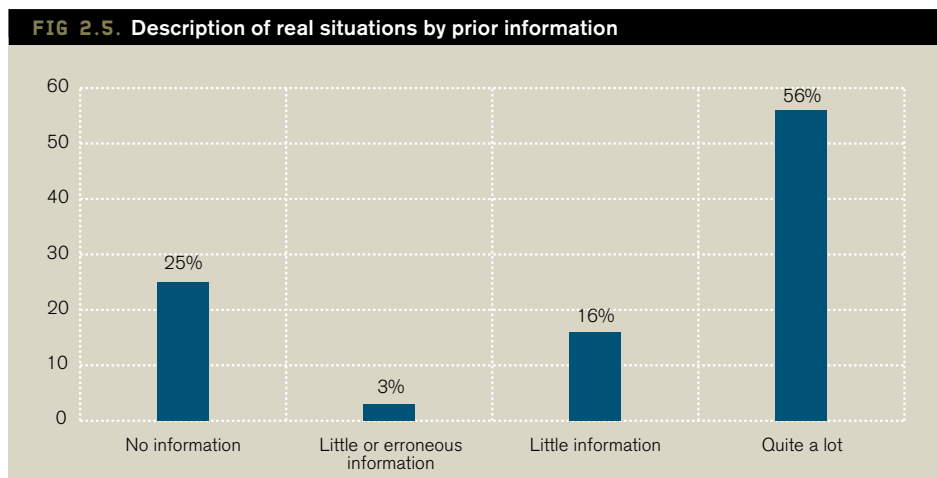
As has already been mentioned, a total of 28 real situations<sup>19</sup> in which firearms have been used, either by officers or assailants, have been considered. 58 police officers were interviewed because more than one officer intervenes in the same situation.

#### PRIOR INFORMATION

In the police officer interviews, they were asked about the prior information they had before the action. From their explanations on this variable, four categories have been established. It is noteworthy that in 56% of the cases officers had a lot of information about the circumstances of the police action they would carry out and, on the other end of the scale, 25% where they had no information.

<sup>19</sup>. Explanations of the real situations are in Appendix 1.

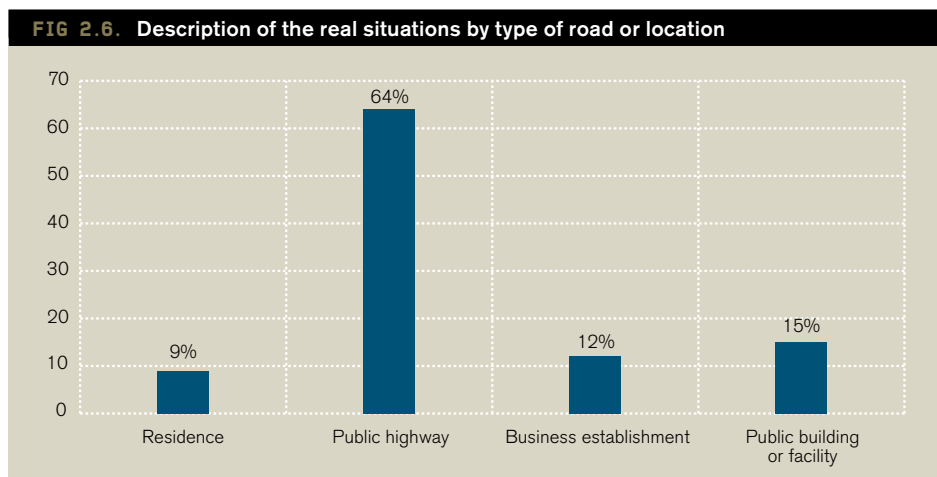




### TYPE OF ROAD OR LOCATION

The fact that the situations are dynamic and occur in various locations implies some difficulty when categorising this variable. However, four categories have been established:

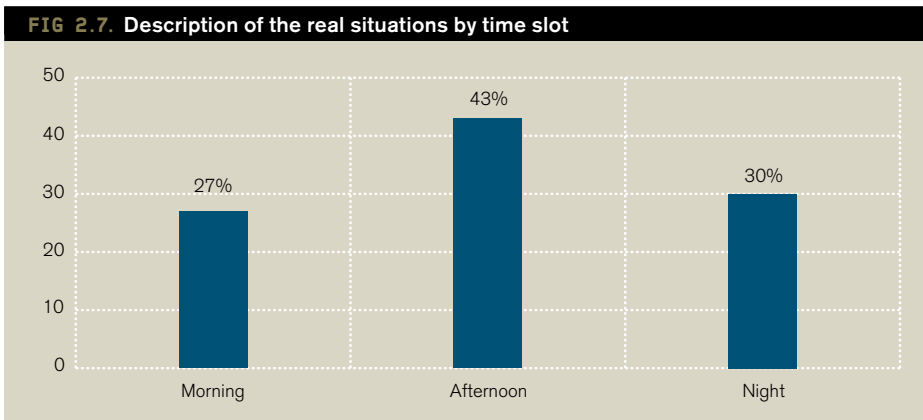
- Public highway: town centre, estate, regional road, motorway
- Public building or facility: police station, municipal library, municipal dog pound
- Business establishment: jeweller's, bank
- Residence: inside residence, residence/massage parlour, residence garden



### TIME SLOT

The times at which the confrontations are recorded have been grouped into three time slots, which approximately coincide with the normal work shifts:

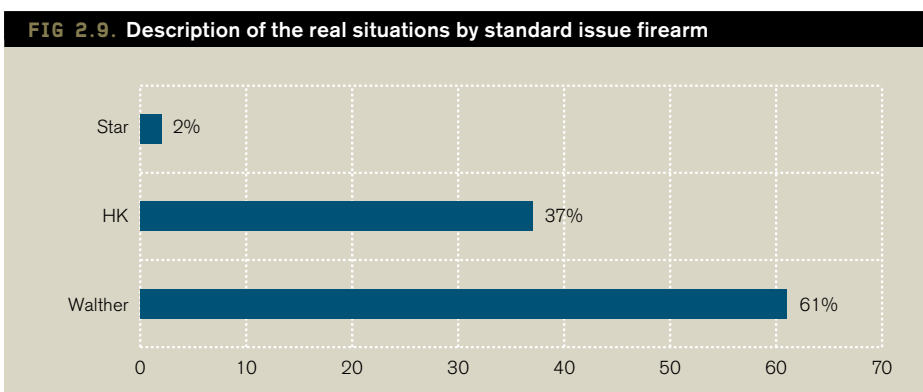
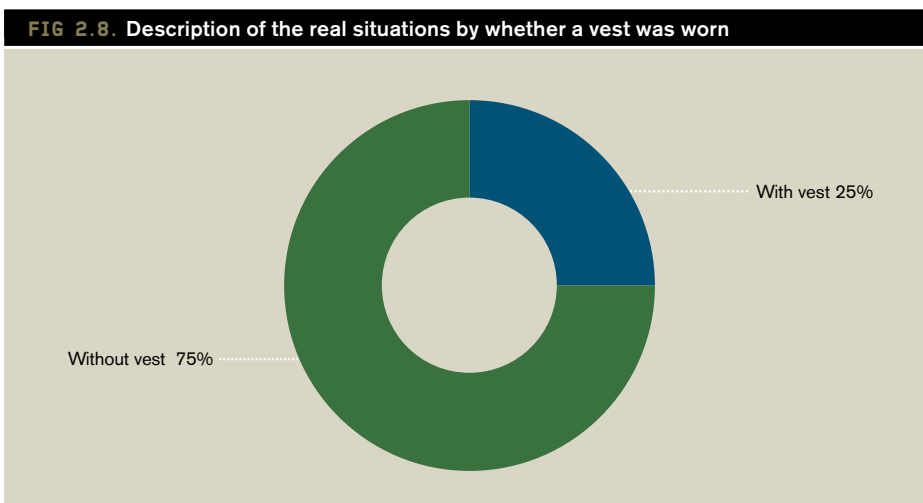
- Morning: from 6am to 2pm
- Afternoon: from 2pm to 10pm
- Night: from 10pm to 6am



**VESTS**

Reflection on whether the officers wore bullet-proof vests during the confrontation was desired. The bullet-proof vest can be external which are in the boots of polie vehicles, or internal ones which some officers have personally purchased.

It is observed that three quarters of the officers in the study were not wearing a bullet-proof vest at the time of the action. It must be borne in mind that the PG-ME did not distribute standard issue bullet-proof vests until the end of 2014.



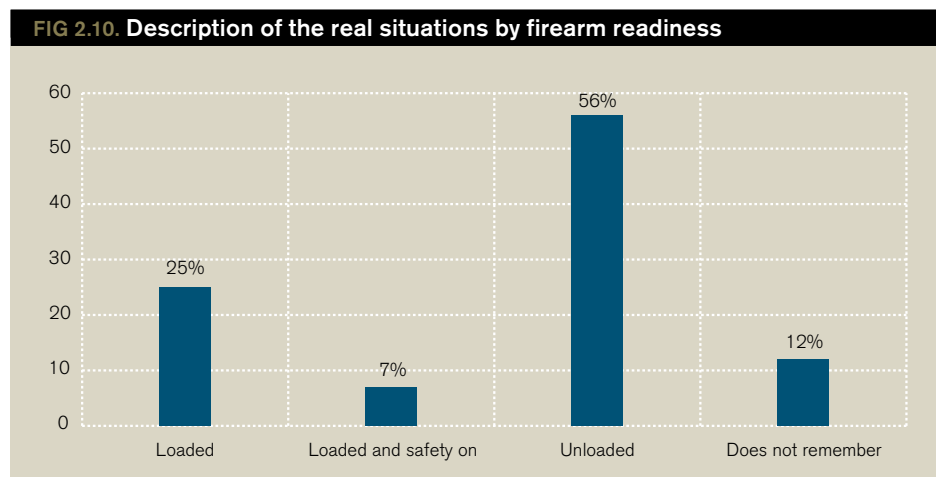
## FIREARM

In the study of the cases, the standard issue firearm carried by the officers at the time of the actions has been evaluated, independently of whether they used them or not. Below are details of the three types of firearms, by percentage.

- The Walther P-99 firearm, with a frequency of 61%, is in first position as it has been acquired as the standard issue for many PG-ME classes. This firearm does not have a manual safety and, therefore, can only be held in two positions: with or without a cartridge in the chamber.
- The Heckler & Kock USP Compact Pistol is the second most used: this weapon has a manual safety and, therefore, can be carried with or without a cartridge in the chamber and with the safety activated or not.
- Finally, the Star 31PK pistol is only found in one case, a fact which explains the low percentage in the responses. It is logical that it is the least represented as in 2004 it was replaced by the other two. It has a manual safety and, therefore, can be carried in the two aforementioned positions, as well as with or without the safety on.

## FIREARM READINESS

This variable comprises assessing how the standard issue firearm was carried at the time prior to the confrontation. It is observed that most officers (56%) carried it unloaded, in other words, without a cartridge in the chamber (this means that to make the firearm ready for firing it is necessary to pull back the slide); or they carried it loaded, in other words, with a cartridge in the chamber and ready to fire (25%).

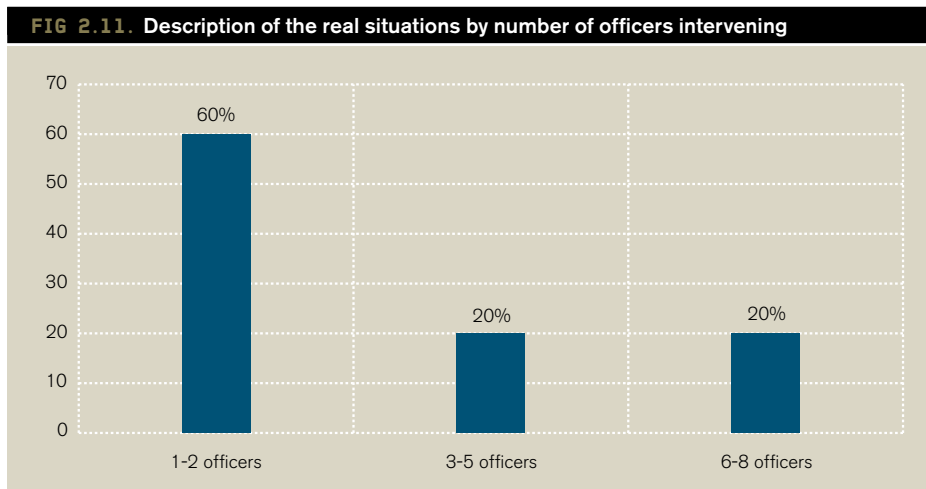


PG-ME officers do not have any directive or legislation on how to carry their service firearm and can choose from among the various options. When officers ask the shooting instructors and monitors about the best way to carry the firearm, the most common advice -without providing a specific option- is that it always be carried the same way so that each person can internalise the automatic response movements to an attack. However, most firing trainers are more in favour of carrying the firearm loaded, with the cartridge in the chamber, as the holsters now have safety elements against theft that could prevent the weapon from falling into the assailant's hands in

most cases. Officers are also advised that when they do the police firing practice exercises they do so starting from the position in which they carry their service firearm.

**NUMBER OF OFFICERS**

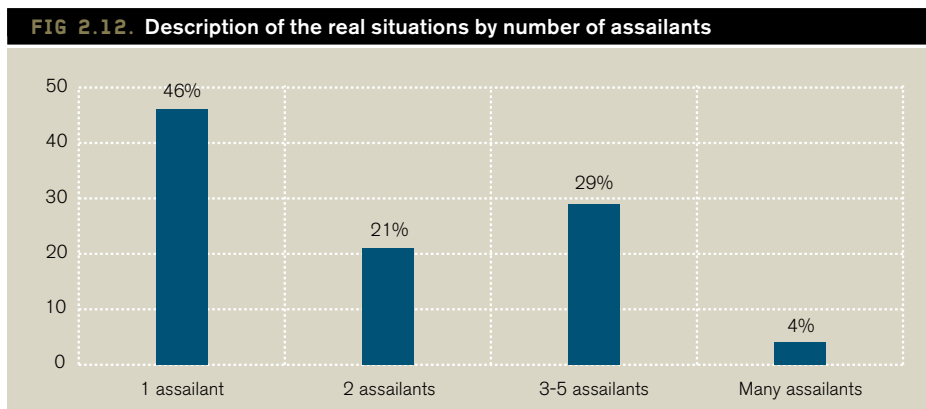
In this case the number of officers that intervene in a confrontation is assessed. It is observed that in most of the actions one officer or a pair took part.



**NUMBER OF ASSAILANTS**

The number of assailants participating in a confrontation is assessed and the most common situation is one assailant (46%).

Those cases in which there are between three and five assailants are, in the main, situations of vehicles that flee from the police, occupied by various people and who are habitual offenders. There is also a case of dangerous habitual offenders who are caught in flagrante whilst committing a robbery (case 17). The cases in which there are two assailants also correspond to habitual offenders who are stopped by police officers before, during or after committing crimes. The case with more than five assailants corresponds to the action of two officers who found themselves faced with a large group of people attempting a lynching (case 26).

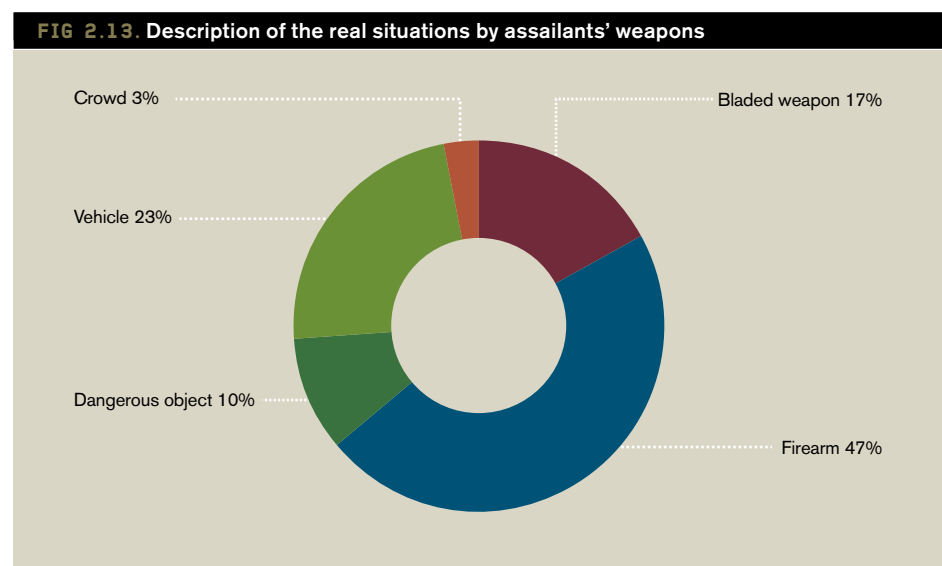


## ASSAILANTS' WEAPONS

The weapons used by assailants have been grouped and classified into five categories:

- Firearm: pistol (real and blank), revolver (real and blank) and a hunting rifle
- Vehicle: car, van and 4x4
- Bladed weapon: machete, butcher's knife and kitchen knife
- Dangerous object: large pickaxe, spade, chains and spear gun
- Crowd: a lynching mob

Figure 2.13 shows the percentages of weapons used by assailants.

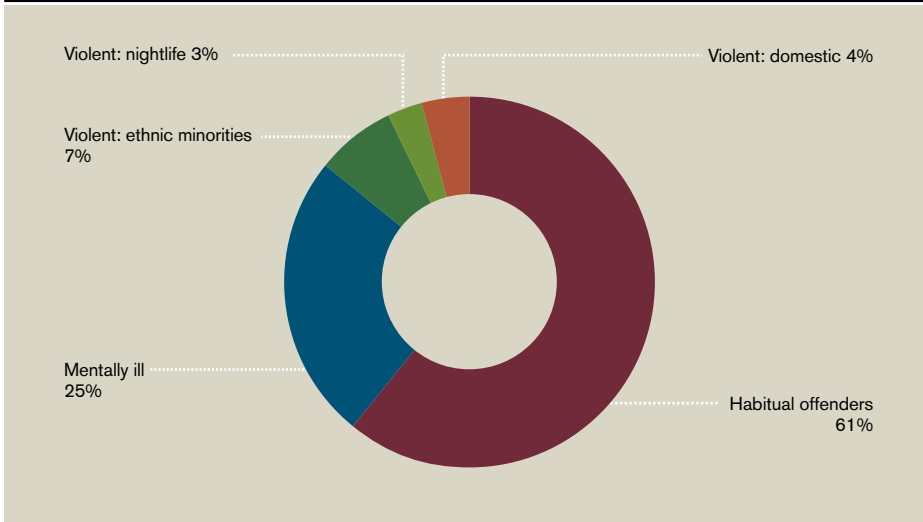


## TYPE OF ASSAILANTS

The types of assailants have been classified by their possible purpose in confrontations with the police officers. It is important to know the motivation behind an attack or the offence type, as an assailant who uses aggression to leave a place where an offence has been committed is not the same as a person with a mental disorder who directly attacks a police officer.

It is observed (figure 2.14) that in most cases they are habitual offenders, who mainly attack the officers to avoid being arrested. Cases of mentally ill people are also important and not just because of the number, but also because some of them have used more violence.

**FIG 2.14. Description of the real situations by type of assailant**



## POLICE OFFICERS' TECHNICAL RESPONSES TO REAL CASES OF FIREARM USE

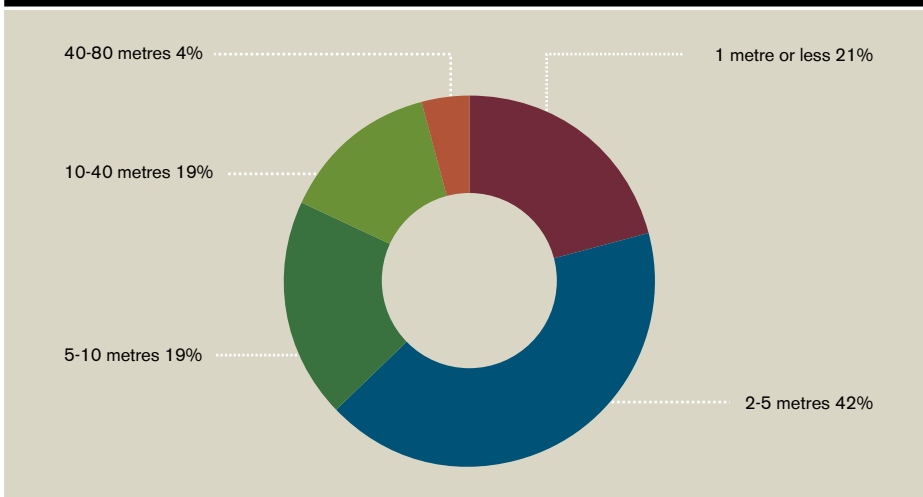
PG-ME officers' technical responses in real cases of firearm use have been assessed using the variables described below.

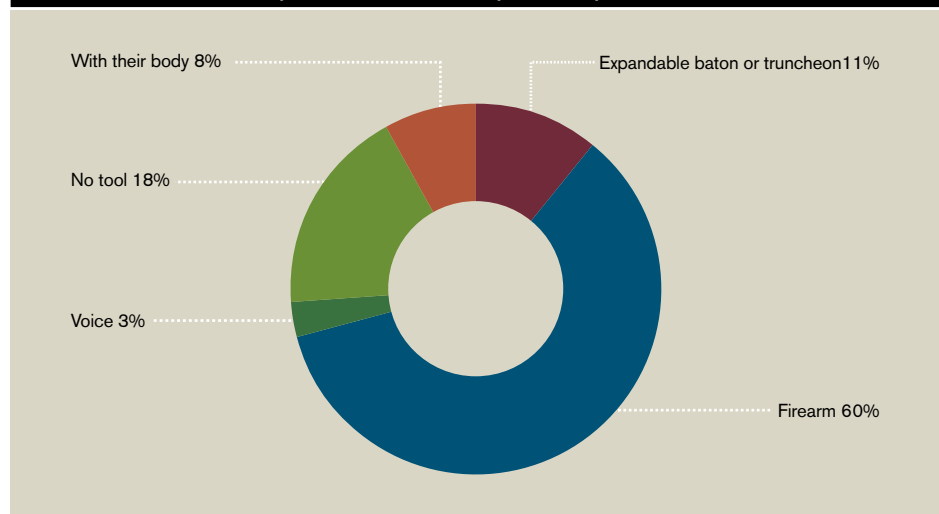
### CONFRONTATION DISTANCE

In this variable, the distance at which the confrontation has occurred between officers and assailants is borne in mind. In some cases, calculation of the distance has been approximate and in others there have been various distances in the same case due to its dynamism, as the assailants and police officers often move in these situations.

The most common distance is between two and five metres, followed by cases in which the attack happens at one metre or less (figure 2.15).

**FIG 2.15. Technical responses in real cases; confrontation distance**



**FIG 2.16. Technical responses to real cases: police response tools**

### POLICE RESPONSE TOOL

In this variable, the police officer's response to the attack has been assessed. Five response categories have been established: with the firearm, with the expandable baton or truncheon, with their body, with their voice, no tool (figure 2.16).

The firearm response is the most generalised; however, their percentage should not be surprising as the study is exclusively based on cases in which officers have used their firearm or in which their assailants have used a firearm. Cases in which officers have responded by opening fire with their service firearm have been gathered, as well as those in which they have used it to intimidate without firing.

The cases of officers who have not used any tool as a response appear in second place. These are officers who have intervened in a passive way regarding the use of force, in other words, observing, following the assailant, being victims or driving the police vehicle.

Less cases involve officers who have used the police baton or truncheon, parts of their bodies (the cases in which they have used their hands to stop the assailants have been gathered), and their voice (exclusively giving orders to the assailant to stop) as a response.

### PROBLEMS WHEN FIRING

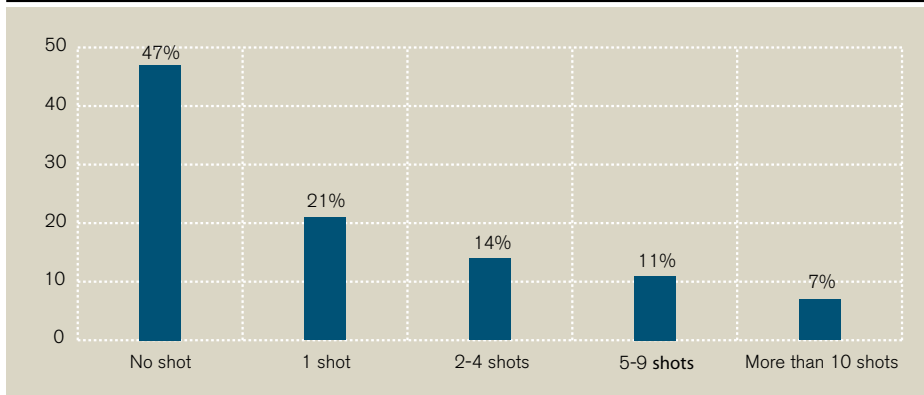
This variable considers whether the officers who have fired did so without any handling problems.

It is noteworthy that officers only had problems in 3% of cases because they did not remember that the firearm was loaded with the safety on.

In almost all the cases (97%), the officers fired the gun without any problems, independently of the readiness of the firearm.

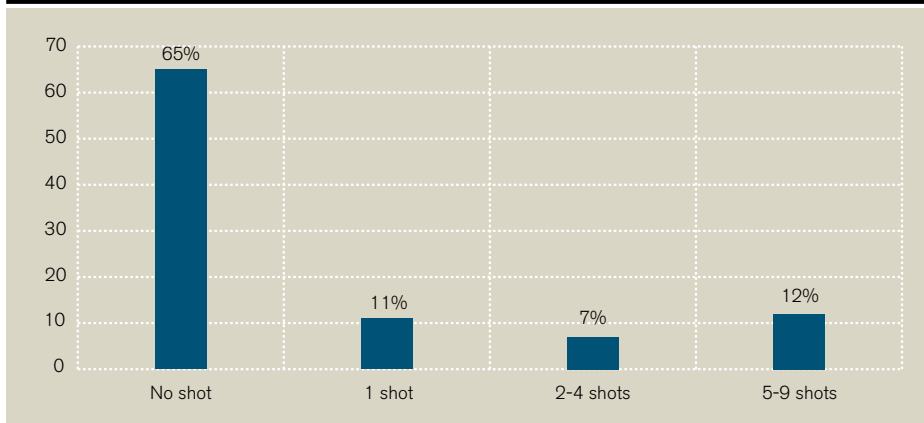
### NUMBER OF SHOTS FROM POLICE

The number of shots fired by an officer during the action is assessed. In most cases the officers have not fired a single shot, followed by those cases in which officers have fired once.

**FIG 2.17. Technical responses to real cases: number of shots from police**

## NUMBER OF SHOTS FROM ASSAILANTS

The number of shots fired by assailants during confrontations is assessed. The most frequent are cases in which the assailants did not fire a single shot, followed by those cases in which assailants fired between five and nine shots.

**FIG 2.18. Technical responses to real cases: number of shots from assailants**

## POLICE OFFICERS' HUMAN REACTIONS TO REAL CASES OF FIREARM USE

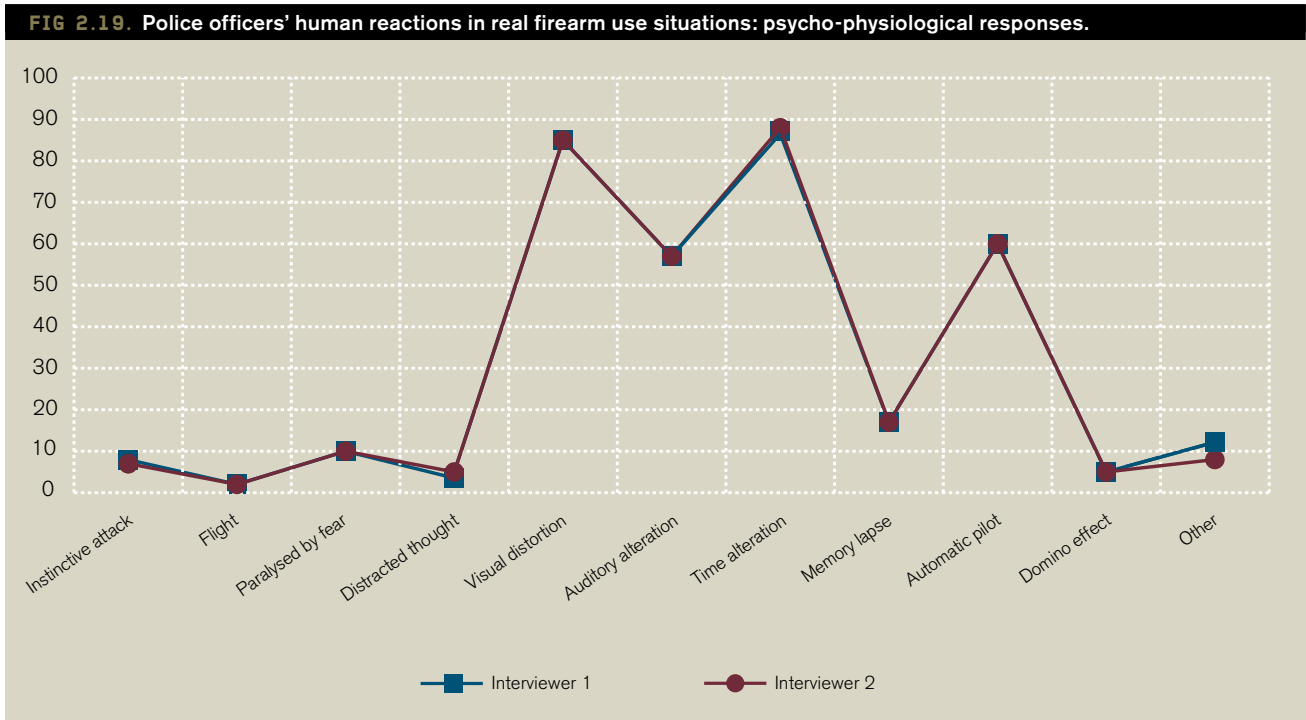
Before setting out the results of these human reactions, a methodological aspect must be clarified. These results have been obtained from two interviewers from two different fields. The reason was to bring as much objectivity as possible to recording reactions that –despite being previously defined in the bibliography– may appear or manifest themselves in interviews in extremely diverse ways. Therefore, it was deemed appropriate to make this double assessment to minimise possible bias.

Regarding reliability between interviewers, there is no deviation: only 2% in some of the reactions, possibly because of the different visions between the police and psychology professions of the two interviewers.<sup>20</sup>

Having clarified this aspect, PG-ME officers' most common human reactions to real situations of firearm use are shown in the following figure.

<sup>20</sup> See details in the table of examiners' reliability in Appendix 2.





Next, by order of frequency, a brief description of the different psycho-physiological responses shall be given. Police officers' specific responses to the analysed real case are shown in the tables.<sup>21</sup> The second level of numbering of the cases corresponds to the officer number for each case (for example, 3.1. corresponds to officer 1 of case 3).

**TIME ALTERATION**

Alteration in the assessment of time comprises perceiving events much faster or much slower than they occur in reality, in other words, as if in slow motion or sped up. It is described as a perception that is often connected with visual and auditory alterations.

Time alteration has been found in 87% of the officers.

**TABLE 2.1. Psycho-physiological responses before real situation: time alteration**

Real case	Reaction/response
1	Very slow.
3	3.1. I experienced things much slower. 3.2. Very quick from the moment we catch them. You lose notion of time.
4	4.1. It happened in seconds but I perceived everything in slow motion. 4.2. I remember everything very slowly.
5.1	Yes, everything happened faster.
6	I have the feeling that it happened super quickly. It sped by.
7	7.1. Very quick. 7.2. Everything happened very quickly.
8.1	It happened very quickly. The perception of time is very short.

<sup>21</sup> Brief explanations of each of the cases are in Appendix 1.

9	Everything happened very quickly.
10.1	Time was different. Slow at some moments.
11	11.1. Yes, very quickly. 11.2. There is an impasse after the attack that is as if time disappeared.
12	12.1 and 12.2. Neither of the officers specified if slower or faster.
13.1	Quickly at some moments and slowly at others.
14	14.1. Time moved very slowly for me considering how little it lasted. 14.2. Much slower when we were injured
15.2	Everything was very quick.
16	16.1. I remember everything extremely fast. 16.2. I remember everything much faster.
17	17.1. Faster moments and slower ones, when we were waiting for backup. 17.2. Possibly faster than normal
19	19.1. I remember it as very fast. 19.2. Although everything was very fast, I perceived it as even faster.
20	20.1. Time moved differently but I cannot specify if faster or slower. 20.2. Faster. 20.3. I remember it as something very fast and agitated. 20.4. and 20.5. I remember it as very fast.
21.1	Without specifying whether faster or slower.
22.4	Everything slower.
23	It was very quick.
24	I remember it as much slower.
26	26.1. I remember it happened very quickly. 26.2. It flew by, very quickly.
27.3	Slowly until I caught him and I was thinking he would not turn.
28	28.1. I remember slow motion images. It happened much slower than normal. 28.3. Slow moments, much slower. 28.4. Some things faster and others slower. 28.6. Slightly slower.

## VISUAL DISTORTION

This reaction is commonly known as tunnel vision, in other words, only seeing the assailant or the weapon they carry and unable to see anything else.

Visual distortion has been found in 85% of the officers.

**TABLE 2.2. Psycho-physiological responses to real situations: visual distortion**

Real case	Reaction/response
1	Entering a residence with a court order, the officer found two men who tried to attack him; he remembers that at that moment he was only focussed on the two men, without knowing what the rest of his colleagues who were entering were doing.
2	In the early hours in a town centre, some people inform the patrol about a driver shouting threatening things and carrying a firearm. One officer stated, "I'm used to doing a visual scan of situations, but during the tensest moment I only focussed on the weapon, which was the focal point of the danger".
3	3.1. The officer described his feeling of tunnel vision in a duel situation with an armed individual, which went on for a long time and was at close range: "It is confused. I feel confusion, shock, I lose sight of the world. Everything around me disappears. There is only me and him, like you see sometimes in Westerns (but he heard his colleague as a noise, he shouted but did not know what was being said). I felt that I had to protect myself and the colleague. There was a kind of noise from the colleague, I was worried about him. From that moment on, I did not respond to stimuli. A female colleague spoke to me but I didn't hear anything. I only heard the other colleague. I was only communicating with him. I only perceived him, like a tunnel effect". 3.2. The officer remembered only seeing the assailant.

4.2	A robber who left a bank armed with a pistol and had a duel with two officers from the Thefts Unit. One of the officers remembered, "it was very evident tunnel vision: very slow and him, at the end of the tunnel."
5.1	A robber who left a bank with a hostage and after firing a shot in the air, escaped. The officer stated that he only focussed on the robber and the hostage, without noticing anything else them.
6	The officer only saw her colleague lying on the ground and the assailant on top trying to stab him. Despite the tunnel vision, she could fire aiming at the assailant's leg. It was not this officer who was in danger.
7	7.1. The officer, after having been shot at close range and having had his firearm stolen, chased the assailant and every time he turned and pointed both firearms he could only see him. Later, he had difficulties seeing the registration plate of the offender's escape vehicle, despite observing it carefully. 7.2. The colleague of the officer who the offender had pointed a firearm at his head stated having tunnel vision throughout. He did not see or hear anything farther than 2 to 3 metres away
8.1	An officer was chased by an individual with a large tool and was trapped in a lower position in the area. There were various colleagues around them. When asked if he had tunnel vision, he stated, "It's incredible. I did not see the colleagues around me".
10	The officers were about to be run over by a vehicle that hit the police vehicle several times after having escaped from a roadblock. 10.1. The officer remembered having intense tunnel vision, believing that his colleague had said something but only remembering the sound of the car. He did not hear anyone; it was as if he was in a very small space. 10.2. He remembered having complete tunnel vision and only focussing on the car..
11	An individual attacked a constable and a corporal with a large tool. When the constable was injured on the ground and the assailant was about to hit him again with the tool, the corporal shouted and then the assailant went towards him to attack him with the tool. 11.1. The corporal shot him and could only see the assailant, being unable to aim at any specific point. 11.2. Officer attacked with a large tool, like a sword, by the assailant. While the assailant tried to attack, he could only see him.
12	12.1. During the attack, I remember only seeing my attacker. 12.1/12.2. After the robbers shot at the police vehicle with a shotgun, and during the subsequent car chase, both officers focussed all their attention on the vehicle.
13.2	Individual with a firearm on the public highway, who had previously shot at a house façade. When the officer found him in the middle of a street he could only focus on him, without any further details of the surrounding area.
14	Officers arrived at a residence due to noise problems during the night and there was an individual who ran away. This man hid in a dark courtyard and shot at the officers with a firearm and injured them. 14.2. Total tunnel vision when chasing the man; could not say what the apartment was like.
15.2	Only focussed on the suspects' vehicle and I could not see what my colleagues were doing.
16	16.1. I focussed all my attention on the car and on the colleague who was hanging out of the vehicle door. 16.2. I could only focus on the driver and the passenger (officer who was hanging out of the stolen vehicle).
17.1 17.2	Various robbers were robbing a jeweller's and broke the display cases. The officers caught them in fragranti and acknowledged that they could only focus their attention on the nearest robbers, without realising that there was a firearm on the display case, until after the action.
18	Action in a residence with an individual who was holding a large knife. The officer tried to mediate and converse with the individual, who had a hostage a short distance away. Throughout the action, the officer had great control of the environment, but at the precise moment the individual jumped on him with the knife, he only saw the assailant and lost visual perception of the rest. He shot instinctively at the assailant's body without being able to aim at any specific part.
19.1 19.2	Officers entered a bank where there was an individual carrying a firearm on his waist. They remember that they only focussed on that individual, without knowing if there were any other people in the branch at that moment.
20	In an on-foot pursuit of two robbers who carried firearms. 20.1. The officer commented that he did not see some colleagues who stopped a car next to him in the pursuit; he was only aware of the armed robber's hands. 20.2. He remembered chasing the robber and only seeing him. However, afterwards when the officer shot the robber he could aim and hit his legs. He acknowledged that the robber was not aiming at him, but at a colleague.
22	22.1. An individual that had escaped with a vehicle for many hours, hits the patrol car, waits at a bend in the road to hit it again, takes out a firearm, shoots several times at the officers and breaks the police car window. The officer acknowledged having tunnel vision particularly when the individual aimed at him, but despite the darkness he saw with more clarity. 22.2. Officer who had information to find an individual who had shot at officers and was armed. When he found the individual on the street and stopped the vehicle, the individual hid underneath the police car. The officer, holding his firearm, got out to find him around the police car. About having tunnel vision, he stated, "we saw him hidden under the front of the car. From that moment on, the tunnel vision was amazing. I only focussed on him and we played cat and mouse. I shouted at him to drop the gun and he shouted back no. He saw me and we aimed at each other. I know my colleague was there but he disappeared for me. I only had sight of the individual who was hiding behind the car". 22.4. Officer who shot at the police vehicle stolen by an individual who had shot at the officers several times, had crashed into various vehicles and had tried to run over various officers. He stated, "the first shot was as if the world had broken into pieces, a bubble appeared, now I understand tunnel vision. It was the first time I had a shot at another person".

23	An officer on duty at the entrance to a police station, threatened by a woman with a firearm. Acknowledged that he was only focussed on the woman and the revolver she was aiming with.
26	26.1. The officer had the person under arrest on the ground, from behind, but was not able to control him as he was completely focussed on the crowd of people who were coming closer. He did perceive the colleague who was slightly in front. 26.2. In this situation, he did not perceive the person under arrest or their colleague, who was behind. This situation shows the reality of tunnel vision, because one only perceives what is inside the cone or funnel.
28	In the pursuit of a young individual who aimed at the officers with a firearm, he aimed at their head as well as at some passers-by. 28.1. This officer remembers, "when we were close (3-4m) I did have tunnel vision, when the individual was far away I could look around more. The tunnel vision was the worst thing, it stopped me from doing things my colleague did: communicate with the control room, coordinate with other officers". 28.2. All my attention was focussed on the robber; I do not remember where my colleagues were. 28.4. I was only focussed on the robber. 28.6. Officer who decided to stop the armed individual by jumping on him. Until that moment he acknowledged controlling the surrounding area well, but when he stopped the robber he was only focussing on him.

**AUTOMATIC PILOT**

This comprises acting with little or no conscious thought, doing things in a mechanical way, without thinking too much. In some studies, such as that of García Alonso <sup>22</sup>, it is called unconscious action. In the same study, it also corresponds to so-called experiential thought: when an extremely dangerous threat or confrontation is perceived, the ability to think rationally or reflectively is reduced or eliminated, an automatic and immediate response is given to that which is perceived at that moment and a decision can be made without knowing how or justifying why.

The automatic pilot reaction has been found in 60% of officers.

<sup>22</sup>. *Estudio sobre la reacción del policia ante el peligro y los enfrentamientos armados*. Daniel García Alonso. Police Professional Association, 2012. Bubok Publishing, S.L.

**TABLE 2.3. Psycho-physiological responses to real situations: automatic pilot**

Real case	Reaction/response
2	"Getting out of the car and aiming at the individual was very mechanical".
3	3.1. "During the shooting with my assailant it was as if I couldn't think". 3.2. "From the moment the individual takes out the gun I don't think about anything".
4	4.1. "All the actions I took were defensive, without thinking". 4.2. "Everything was very automatic. From him coming out of the door to falling on the ground".
7.1	The officer remembered doing things without thinking because he was quite shaken after having his weapon stolen, and being shot at with it.
8.1	There were moments in the explanation in which he defended what he thought, but from the moment the individual chased him with a large tool, he did everything instinctively and without thinking.
9	"I had a feeling of being completely exhausted. I have never experienced that since. During the action, I did not have time to think".

10.2	The officer who they tried to run over and who shot at the car wheels several times explained, "I do not remember anything, I only gave orders. I took out my gun. I didn't think about shooting".
11	11.1. During the attack by the assailant on the officer and his colleague, he finally responded with his firearm. Of the situation, he acknowledged that he went through the steps automatically 11.2. Whilst he was defending himself against the attack by the individual, he did not think about anything.
12.2	"Them against us. Loss of control. Few thoughts".
13	13.1. "We threw ourselves on top of him. It was instinctive. At no time could we talk. It was all instinctive". 13.2. From the moment he saw the individual in the middle of the road with a firearm and until he threw himself on top, he did everything without thinking very much.
14	14.1. "From the moment they shot at me, even before, I did everything automatically". 14.2. "I did the things without thinking".
16	16.1. "You don't think, you act on what is happening". 16.2. "I entered a loop, I didn't think".
17	17.1. "There are moments you don't think". 17.2. From the moment he arrived at the jewellery shop door until the men were lying on the floor, he didn't think, everything was done mechanically".
18	At all times, the officer had good control of the environment and of the various strategies to deal with the very complicated situation of finding a man with a large knife, with a minor as a hostage and in a small space. Only during the sudden attack by the man at a short distance with the knife did he react instinctively shooting, without any time to think.
19	19.1. From the time he saw the individual inside the bank carrying a weapon on his belt, he threw himself on him and subdued him without thinking anything. 19.2. From the time he saw the individual inside the bank carrying a weapon on his belt, he threw himself on him and subdued him without thinking anything. Afterwards, he went outside to look for the other robber and ran after him until stopping him, all mechanically.
20	20.1. "Throughout the pursuit of the robbers I did everything automatically". 20.2. "I do everything mechanically". 20.3. "From the time we ran after the individuals": 20.4. "From the moment I heard the assailants' shots until I spoke with some witnesses".
22	22.1. Instinctive reaction without thinking when he was shot at and the car left at great speed, "When I shot at the car that was escaping I had no sense of distance, I did everything instinctively and without thinking": 22.2. "In those moments you act by action-reaction". 22.4. Officer who acknowledged acting throughout a large part of the pursuit without any conscious thought.
25	"I don't think anything. It happens in a matter of seconds; you see what he is doing and that he will do something bad".
28	"I admit that most of the time I was not thinking anything or very little".

### AUDITORY ALTERATION

Defined as an acoustic block that reduces and sometimes cancels out the sound of our own shots, colleagues' indications or any event. It can be included as another part of tunnel vision (visual and auditory). However, this reaction is often not as well known or considered by police officers as visual distortion.

Auditory alteration is found in 57% of the officers.

**TABLE 2.4. Psycho-physiological responses to real situations: auditory alteration**

Real case	Reaction/response
1	Entering a residence, in a face-to-face with an individual, the officer's firearm was fired and he remembered hearing the shot as very muffled. The rest of the colleagues did not hear the shot.
3	3.1. The officer in close range shooting with a robber, "I remember hearing the assailant's shots very faintly". 3.2. "I heard my colleague's shots but not those of the assailant".

4	<p>4.1. Officer who shot twice at a bank robber on the public highway who threatened him with a firearm. He did not hear the second shot, but did hear the colleague's ones.</p> <p>4.2. Officer who shot several times at the armed robber, "I only remember sounds up to the second or third shot and from then on until he fell. I fired 9 or 10 shots".</p> <p>This auditory distortion could be extremely important when distinguishing who fired the shots. The clearest case was that of the bank robber who intimidated officers with a firearm and who pulled the trigger several times, when a cartridge case got stuck in the ejection port. The two officers shot and were convinced that the robber did so too. One of the officers even saw how his colleague fell to the ground at the same time as the robber aimed with the gun and his interpretation was that the officer had fallen from the impact of some shots that did not exist.</p>
6	The officer who shot at an assailant who had a blade, "Upon shooting and after shooting. It was like being in fog".
7.1	The officer did not hear his colleague's shots and does not remember the sound of the shot that injured him.
8.1	The officer who fired various shots in a face-to-face confrontation with an individual who attacked him with a large instrument, barely heard his own shots but remembered that officers who were far away from the location did hear them, "Shots sound like St. John's Eve firecrackers. They were heard like this by myself, the rest of my colleagues and the medical responders. However, they could be heard from the beach".
10.1	When describing what he had heard at the time they tried to run him over and both he and his colleague fired several shots at the vehicle, he stated, "Time stood still and I remember firing at the wheel and that the gun didn't fire. A lot of tunnel vision. I didn't hear anything. As if the space was very small, I did not evaluate whether I could hurt them, but I did think about a ricochet towards me. I think that my colleague said something to me but I only remember the sound of the car. I didn't hear the shots". "I had no problem preparing the gun to fire, but I don't know if the first shot fired. I mean, when I fired I remember that it was like it hadn't fired and that led me to load the gun. Even later, I checked it because I had doubts about it having worked correctly".
11.2	The officer, attacked with a large instrument, did not hear his colleague's shots from a few metres away.
12	<p>12.1. Car chase after some robbers who shot at the police vehicle with a hunting rifle. The officer fired several times from inside the vehicle and heard them as muted.</p> <p>12.2. The police car driver heard the car engine very well but not the shots by his colleague in the passenger seat.</p>
14.1	Officer who was shot at close range with a hunting rifle, "I recognised the sound of the shot but I did not hear the colleague who spoke to me when I was injured".
15.2	Officer who was shot in the leg by a colleague in an action arresting dangerous and aggressive individuals, "I didn't hear my shot, but I did hear how the colleague shouted".
16	<p>16.1. Officer who shot at the vehicle escaping with their colleague hanging out of the door, "I wasn't aware of the sound of the shots, they didn't bother me; they were like firecrackers".</p> <p>16.2. Of the four shots fired by his colleague ten metres away, he only remembers hearing two.</p>
17.2	This officer fired a warning shot at the entrance to premises which some dangerous criminals were robbing, "I didn't hear my shot, but I did hear how my colleague shouted".
18	At the time of firing in a small room in a residence, the officer heard it very faintly. He also remembered that the people who were in the room also perceived it the same way. However, other officers who were outside the domicile, on the ground floor, heard it very loudly.
19.1	When this officer entered the bank, he found an individual armed with a gun on their waist. Later, he remembered that next to the individual there was a woman who was crying but at that moment he did not hear her.
20	<p>In an on-foot pursuit of some armed robbers, there was an exchange of fire.</p> <p>20.1. "I remember hearing some shots but not all of them".</p> <p>20.3. "I heard the individual's shots and those of the sergeant. Those of the colleague who stopped the vehicle by my side, no".</p> <p>20.4. "I heard the shots very faintly".</p>
21.1	This officer heard his shots and those of the colleague very faintly (motorway car chase of some robbers who had rammed the police vehicle several times).
22	<p>22.2. "I barely heard my shots, those of my colleague I did not hear" (officer who felt he was playing cat and mouse around a car with an assailant; the latter injured an officer's arm with a firearm).</p> <p>22.4. "I remember barely hearing my shots".</p>
23	Officer who was on duty at the entrance to a police station and who was threatened with a firearm. Even though at first he heard the assailant when threatened with the firearm, later he did not hear what the person said when waiting inside the reception area with the baton ready, "I was only focussed on looking ahead".
26	<p>26.1. "I heard the shot as if wearing earmuffs" (this officer fired a warning shot in front of a lynching mob).</p> <p>26.2. "I remember hearing the shot very muffled".</p>
27.3	Officer who subdued an armed individual outside a police station and who advanced behind the individual who had his back to them. At 5-10 metres away in a straight line, a senior officer was shouting orders at the individual and the officer did not hear it.
28.1	On-foot pursuit of an armed robber. Officers fired several warning shots. This officer acknowledged hearing them as slightly more muffled than usual.

## MEMORY LAPSE

Memory lapse has been found in 16% of the officers.

These lapses are difficulties after the event to remember all or part of it and often create a lot of anxiety. As the psychologist Fernando Pérez Pachó<sup>23</sup> highlights, in situations of intense stress often a sensorial overload occurs that can cause problems remembering what has happened. This unwanted effect occurs due to the release of stress hormones generated during an intense trauma. It is known as critical incident amnesia. When the heart rate reaches 175 beats per minute, it increases the difficulty to remember what the person has done during the armed confrontation. The greater intensity and impact of the incident, the greater the amnesia, and if the police officer is injured the effects multiply.

As observed in the following table of responses, that clearest cases of amnesia correspond to the most serious situations; some coincide, furthermore, with injured officers: an officer who had a gun aimed at his head; an officer pursued by a mentally ill person with a large pickaxe; an officer whose arm was injured with a firearm in an armed confrontation at close range; an officer injured by a mentally ill person with a large spade, about to be hit again once on the ground; an officer injured by several pellets from a fired rifle; an officer threatened with a firearm at close range; an officer who was shot at with a hunting rifle within the police vehicle; an officer in direct confrontation with an individual brandishing a blade and afterwards a firearm; an officer in direct confrontation with an individual who threatened him with a firearm.

**TABLE 2.5. Psycho-physiological responses to real situations: memory lapses**

Real case	Reaction/response
3.2	He said there were many things about the action he did not remember, without specifying further.
7.1	"I don't know if the individual shot at us again, nor do I remember my colleague shooting at the car, something that seems to have been done in front of me".
8.1	"I don't remember anything about the garage until I saw the individual threatening the colleagues with the pickaxe outside":
11.2	After receiving a strong blow to the arm with a large instrument, there was a lapse of time in which this officer did not remember anything. The next image he remembers was seeing smoke coming out of his colleague's gun barrel, as he had just shot at the assailant. The lapse in time included his colleague's shouts, who called the assailant's attention to get him to move towards him, the assailant's movement and this officer firing two shots, "I don't remember anything until I opened my eyes. A long time passed before I opened my eyes, it's as if time did not exist":
12.1	This officer did not remember some parts of his action over the following days.
14.1	The officer injured by the pellets, "I don't remember anything from the moment my colleague told me he had requested backup until the first patrol arrived".
22.2	After a few moments of playing cat and mouse with an individual armed with a firearm around the undercover police vehicle, he saw him four or five metres away, he shot at him and noticed a bullet grazing his arm. This officer did not remember part of the situation: until he saw the individual sat in the driver's seat of the undercover police vehicle with which he escaped.
28	28.1. "In the following days it was more difficult for me to remember the tense moments and afterwards I still didn't remember some of the moments". 28.3. "I don't remember where I fired the shots and thought I had fired more".

23. PÉREZ VERA, E.; PÉREZ PACHO, F., 2014.



## OTHER REACTIONS

These are reactions that are not classified as common based on the scientific literature, but which are set out here as surprising.

Depending on each interviewer, these have been found in 7% or 14% of the officers..

**TABLE 2.6. Human reactions in real cases: others**

Real case	Reaction/response
1	Subsequent difficulties to avoid repetitive images and thoughts about the event.
3.1	Hyperactivity after the action, he entered a loop and did many repetitive things with no sense.
4.1	The officer fell forwards whilst shooting on the move. <sup>24</sup>
6	The officer lost sight of his assailant, who was behind the officer's partner and holding a large knife. He acknowledged he had never run so fast. <sup>25</sup>
22	22.1. Despite the darkness, he saw everything more clearly. This can be considered one of the visual alterations, extremely uncommon it seems. 22.2. He had some images of the action that were well etched on his memory and which were remembered often in great detail.
12.2	In the lapse in which he fainted it seemed that time did not exist.

## PARALYSED BY FEAR

This is one of the typical reactions described in a situation of great stress, where the person is blocked and incapable of responding. Sometimes they can even disconnect totally from the situation for a few seconds.<sup>26</sup>

This reaction has been found in 10% of the officers.

**TABLE 2.7. Human reactions in real cases: paralysed by fear.**

Real cases	Reaction/response
3.2	Faced with an individual threatening officers with a firearm, he momentarily went blank and was incapable of responding.
6	In this case, it was a stage prior to flight.
7.1	The officer became blocked before a suspect's unexpected action of aiming with a pistol during an identification.
7.2	It lasted for a very short time, impossible to define the time, but according to the officer's description it was a second or two. Faced with a completely surprising and bifocal situation, as he perceived his colleague was being threatened with a firearm at the same time that another individual showed him a sawn-off shotgun.
11.2	It lasted a very short time. After being attacked with a large object, the officer remained blocked and lost consciousness for a few seconds.
20.3 i 20.4	After seeing an individual shooting at them, the two officers remained hidden behind a vehicle for a few moments.

## INSTINCTIVE ATTACK

The description corresponds to the instinctive or uncontrolled use of physical force against the assailant, without responding with any of the techniques received in their police training.

**24.** This is one of the reactions that David Berengueras mentions in his work *Cara a cara ante una intervención armada* i aporta tres teories sobre quina és la raó.

**25.** This can be adapted to what is described in Daniel García's study, as a panic situation, where the heart rate rises over 175 bpm and so they obtain the maximum level of global motor skills.

**26.** According to García Alonso, (2012), this corresponds to fainting due to low blood pressure.



Depending on the interviewer, this has been found in 5% or 7% of the officers.

**TABLE 2.8. Human reactions to real cases: instinctive or uncontrolled attack**

Real case	Reaction/response
3.1	This is a very exceptional and spontaneous reaction comprising of kicking the assailant when the latter was already falling to the ground after receiving a shot.
10.2	It is very like the domino effect: specifically, continuously shooting until the danger disappears (in this case a vehicle that tried to run over the officers).
19.1	Extremely instinctive reaction of throwing himself on an individual who was carrying a firearm.
28.6	Instinctive reaction of throwing himself on an individual holding a firearm.

### DOMINO EFFECT

Also known as a chain reaction, this is the name for shooting repeatedly when other shots are heard, independently of whether they are from an assailant or a colleague. 5% of officers have responded in this way.

**TABLE 2.9. Human reactions to real cases: domino effect**

Real case	Reaction/response
4.2	A robber threatened this officer with a firearm and, upon hearing shots, which came from his colleague, the officer shot repeatedly until the assailant fell to the ground. It is true that the officer did not know that the shots had come from his colleague and not the assailant. He stated, "Everything happened very quickly, I had heard shots and I didn't know if they were his or not. I think the second shot was mine".
10	10.1. "I felt a mixture of a feeling of defence and that we had to stop these people. I drew my gun out of the holster and shot several times at the wheels. Me from one side and my colleague shot from the other side. I stopped shooting because I ran out of bullets". 10.2. "I was not aware of how many shots I fired. I stopped shooting when I saw one of the individuals get out of the car".

### DISTRACTED THOUGHT

This reaction comprises having thoughts that consciously invade the officer but that are irrelevant given the severity of the situation in question. Among others, for example: thinking about the headlines on what is happening, worrying about how their uniform will look afterwards, seeing what is happening as if it were a film and nothing to do with them, etc.

Depending on the interviewer, this reaction has been recorded in 3% or 5% of the officers.

**TABLE 2.10. Human reactions in real cases: distracted thought**

Real case	Reaction/response
4.1	During the confrontation with a firearm, with an exchange of fire with an assailant, this distracted thought stopped the officer from being able to act more effectively; he worried about how they would have to inform relatives of his death and the direction of the shots.

22.2	At one point, this officer worried because there were two damaged police cars and yet he was not worried about the bullet wound to his arm or the dead assailant.
27.3	A very surprising and unusual situation, such as seeing an armed man with a firearm in front of a police station, he experienced it as if it were a film. These thoughts did not prevent him from acting accordingly, making the relevant decisions and acting to solve the situation.

**FLIGHT**

The flight reaction comprises avoiding the danger by leaving the scene, due to a fleeting inability to assume and control the stressful event.

This has been found in 2% of the officers.

**TABLE 2.11. Human reactions to real cases: flight**

Real case	Reaction/response
6	This has only been recorded once, in which faced with an individual who was out of it and who was brandishing a large knife, the first reaction was to be paralysed by fear and instinctively flee, but he changed this upon seeing there were other officers in danger

**TRAINING MEASURES PROPOSED BY POLICE OFFICERS WHO HAVE EXPERIENCED REAL CASES OF FIREARM USE**

With the variety of training proposals made by officers involved in real situations of firearm use, they have been classified for two basic reasons:<sup>27</sup>

- a) to avoid duplicate proposals: many are similar but are expressed differently;
- b) to avoid the dispersion of ideas and to establish the core working points: of the suggested proposals, some minimum common denominators must be found on which to aim and unite the work efforts.

The categories in which the various training proposals are included are: reality of confrontations, specific police operating procedures, dynamic practice sessions and others.

**REALITY OF CONFRONTATIONS**

Many of the interviewed police officers thought that it is essential for PG-ME officers to be aware of the reality of the police cases in which there are dangerous armed confrontations. The experience, what is heard and thought, the manner of reacting, etc., all of this should be known to stop the cliché of “nothing ever happens” and to prevent routine behaviours that could put officers and citizens’ lives in danger in the event of serious and sudden attacks. Together with the knowledge of real cases it is necessary for training to incorporate practice sessions based on these types of real situations.

**27.** APPENDIX 3 CONTAINS THE INTERVIEWED OFFICERS’ PROPOSALS ON TRAINING MEASURES..

### SPECIFIC POLICE OPERATING PROCEDURES

The proposals in this case are diverse, but often coincide in the request for more training, particularly practical training. Officers think they are under-trained in the use of force and demand practice sessions on subduing, handcuffing and practical firing techniques. Firing must be more dynamic and there must be better knowledge of the firearm. Training must be experiential, as similar as possible to real situations and put officers in complicated situations. Firing with gloves or reinforcing technical procedures for stopping vehicles are some of the specific requests that appear.

### DYNAMIC PRACTICE SESSIONS

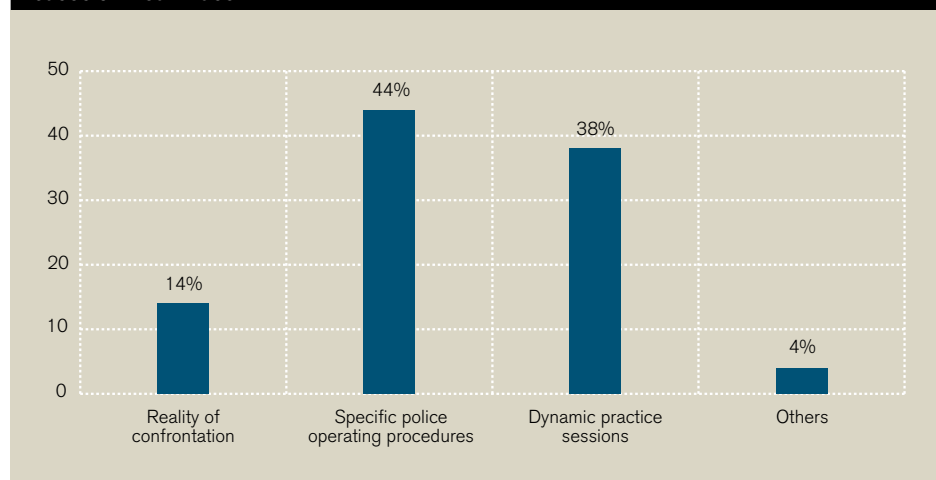
There is great interest in training including dynamic practice sessions in which officers have no knowledge of what will occur. Some officers remember some ISPC training activities as having the most similarities with their real experience (for example, the CFBO interdisciplinary practice sessions or others of resolution with use of force in specific courses, such as control and arrest or public order). They also highlight that it is not necessary for officers to use firearms to do these practice sessions as they can be done with pinball, simunition or ram type guns. Similarly, they think these dynamic practice sessions should be carried out in urban environments and that sometimes they could be done in teams.

### OTHERS

The possibility of having tools available other than the police baton and firearm, such as pepper spray or Taser guns is also a proposal that appears several times. Officers consider that these tools can help solve serious situations without having to turn to firearms.

Below is a figure showing the results, in percentages, of the joint results of the proposed training measures.

**FIG 2.20.** Training measures proposed by police officers who have experienced real cases of firearm use.



## DISCUSSION: INTERPRETATION OF THE RESULTS

The specific analysis of the real firearm use situations and of the results obtained from the study, confirms that there are many variables associated with this type of situations which must be considered bearing in mind their diversity. The typology of technical and physiological responses that most appear when dealing with these situations has also been determined.

This section shall begin with a detailed interpretation of the results obtained regarding the variables that enable PG-ME police officers to be aware of the reality of cases using firearms.

First, some references are mentioned relating to the characteristics of the sample.

### a) Gender

Using a gender-equal sample has been difficult due to the small percentage of women in the PG-ME (21%).

### b) Age

Some of the age brackets have had little representation in the sample, such as, for example, that of fifty to sixty years old. This is because this police force is still quite young and there are few members who have reached this age bracket.

### c) Hierarchical structure

The working hours on the street of the categories of Constable and Corporal (basic ranking) gives them a much higher possibility than other categories such as Deputy Inspector or Inspector. Furthermore, the proportion of constables and corporals is greater than that of other categories.

### d) Destination

Regarding the destination unit, the Public Security patrols are those who spend more time in contact with citizens. However, it must not be forgotten that the study is aimed at cases occurring within the scope of Public Security.

### e) Length of service

For this variable, it must be mentioned that the PG-ME experienced its maximum growth in force members between 2001 and 2011.

## INTERPRETATION OF THE VARIABLES

Having clarified these aspects of the sample, the result of the descriptive variable of the real situations analysed is commented here.

### PRIOR INFORMATION

This variable is interpreted as relevant due to its relationship with the surprise effect. According to Martínez Salido (2013), one of the affirmations used by shooting instructors is that “distance and surprise kills technique”. Therefore, prior information that officers may have on the cases significantly influences their resolution. The surprise effect has been established as a criterion in cases in which officers do not have this prior information or it is incorrect (47%).

For example, one of the cases in which there was little and incorrect information is case 14, where officers went to a brothel in a residence thinking that there was an argument between clients, when in reality there were two robbers; one of the robbers

shot at the officers unexpectedly and caused significant injuries. The ability to react to this situation is very complicated.

At the other end of the scale is case 17, in which officers had correct information because they had received instructions in the briefings about a gang of dangerous robbers who entered jewellery shops during opening hours, that they could be carrying firearms and who smashed the display cases. Patrolling with the vehicle along a street a woman informed them that various people were robbing a jewellery shop and when they arrived on the scene the robbers were robbing the shop. With this information, the officers could have prior structure about how they would act before a similar case.

### TYPE OF STREET OR LOCATION

There is an extremely high percentage of situations that occur on the public highway (64%). This reaffirms the idea that training must have a dynamic aspect, as in these wide open spaces it is more likely that the actions do not stay in static places, in other words, that the assailants can move around the space freely. It also entails an additional problem for officers in the use of force, due to the evident risk of causing injuries to third parties.

It is curious and difficult to interpret that, in second place, the location of these actions are public buildings or facilities (15%), although only three percentage points above that of public establishments (12%).

### TIME SLOT

If compared with the data on officers attacked in the USA between 2004 and 2013, according to the LEOKA report<sup>28</sup>, it does not coincide with the percentages per shift of this study: the shift in which most attacks occur is the afternoon shift, followed by the night shift and finally the morning one. However, in the USA report, the shift with the most attacks is the night shift, followed by the afternoon and finally the morning one. Both studies coincide in that the shift with the least attacks is the morning shift.

**TABLE 2.12. Comparison of the frequency of attacks by time slot**

Shift	USA 2004-2013	Current study
Morning	18%	27%
Afternoon	40%	43%
Night	42%	30%

### VEST

The data referring to the vest in this study are inversely proportional (25%) to those of the LEOKA report on USA police officers attacked in 2013, where 75% of the attacked officers wore bullet-proof vests. Evidently, the social and criminal reality is extremely different from the Catalan one, as the USA, in 2013, accounted for 78 cases of officers injured on duty by firearms and knives and 27 cases of police officers who died from attacks whilst on duty.

**28.** LEOKA stands for Law Enforcement Officers Killed & Assaulted, an annual report published by the FBI..

## **FIREARM READINESS**

The fact that most officers carry their firearms unloaded may be due to the unlikely probability that they have to unholster their firearm to use it and that it is considered more likely that someone might steal it. Therefore, there may be a common belief that it is better to have to “lose” a few tenths of a second loading the firearm in the event of an action that requires it, before running the risk of someone stealing it and finding it ready to fire. This thought, completely logical with the old leather service holsters that did not have safety elements, no longer makes sense with the current holsters that make it extremely difficult for third parties to steal the firearm.

Finally, the small percentage of officers who carry their firearm loaded with the manual safety on may be because the firing instructors and monitors explain that in a high stress situations, with less fine motor skills, it is very difficult to deactivate the safety.

## **NUMBER OF OFFICERS**

It is not surprising that the highest percentage of situations are dealt with by one or two officers (59%), as that is the most common operating unit in PG-ME police work. The large number of police units on duty every day in Public Security tasks are in pairs, both in vehicles and on foot.

The 42% of cases in the study in which officers faced these situations in groups are no less important, however. There are actions that, due to the aggressive or evasive attitude of the assailants, are prolonged in time and this means that other support or backup units arrive. However, as described in another part of the study, it is common that faced with these exceptional situations, the officers act individually, something that other studies have confirmed and the opportunity of training officers to work in teams in similar cases must be considered.

## **NUMBER OF ASSAILANTS**

The most common case is that of one sole assailant (46%). In the study by Pérez Vera and Pérez Pacho there is also a similar value in first place and with a similar percentage. The difference is in the second value of the current study, cases with between three and five assailants (29%); however, the aforementioned authors have in second place of importance cases of two assailants (40%). In the current study, cases of two assailants appear in third position (21%).

This may be because in this study there are various situations where there are attacks by various people in a vehicle, and there is only one case with more than two assailants without a vehicle (case 17). Therefore, the training that may arise to deal with attacks relating to the number of assailants must mainly focus on cases in which there are one or two assailants, despite there being a case (4%) where officers respond to an attack from a crowd, which should also be taken into consideration when planning training, as it is difficult for police to manage.

## **ASSAILANTS' WEAPONS**

It is logical that the number of firearms used by assailants are quite high in this study (47%) as it is focussed on cases in which assailants or officers have used them. If compared with all cases in which PG-ME officers have used force against assailants it would be seen that this rate is relatively low.

If data on the most serious cases from the LEOKA report are considered, in other words, officers who have died on duty in the USA between 2004 and 2013, there are 511, of which 474 were killed by firearms (93%), three were killed by knives (0.6%), two from explosive devices (0.4%), four by their own weapons (0.8%) and 28 by vehicles (5.2%). The reason for not considering all the cases of attacked officers in this report is because it would cover a variety of cases of use of minor force that does not correspond to the purpose of this study. Specifically, in the USA in 2013, 80% of all attacked officers (49,851) were attacked with parts of the assailant's body.

Of the data set out in the LEOKA report it can be observed that, despite the percentages being very different (as firearm attacks are almost all of them), they do coincide with the order of the first three percentages of assailants' weapons: in first position, firearms; in second, vehicles, and in third position, knives.

Seeing that vehicles are the second type by percentage in assailants' use of weapons, it raises the interest in increasing measures before vehicle aggressions against police officers, as it is quite an unknown aspect as it is not found within officers' own concept of weapons.

The other two weapon categories (dangerous objects and crowds) do not appear in the LEOKA report, but must be borne in mind due to officers' potential difficulties in evaluating suitable responses in the use of force. It would be important to work on these too.

## **TYPE OF ASSAILANTS**

The most common is the case of habitual criminals who face officers to escape from the scene (61%). It can be deduced from most of the cases that their main objective for attacking is to escape and not injure the police officers. However, the most dangerous cases for officers are those of mentally ill people (25%), from what appears in the study interviews, as they are the ones that have suffered the worst results (due to their determination to attack officers), or for the presumed desire to provoke a "suicide by police". Cases of violent people within the scope of nightlife and those of domestic violence are not common and may have similar characteristics to those of habitual offenders, from what appears in the interviews for this study.

## **INTERPRETATION OF POLICE OFFICERS' TECHNICAL RESPONSES AND ASSAILANTS' RESPONSE**

Next is the interpretation of PG-ME officers' most frequent technical responses in real cases of firearm use.

### **CONFRONTATION DISTANCE**

It has been confirmed, in the same way that Martínez Salido and the LEOKA report state, that most confrontations occur at close range.

In this study, 21% of the cases have occurred at 1m or less, 42% at less than 5m; if those occurring between 5-10m are added, it can be said that 82% of cases occur at a range of less than 10m. Therefore, police firing training that comprises exercises between 5-10m from the line of targets is an option that matches reality.

Another question relating to the distance and nature of confrontations is the dynamic of the actions. Few times there is a confrontation in which the assailant and the police officer are static: the most common situation is movement by either parties. As Berengueras (2012) affirms, training should be in this line, and therefore match reality, and practical exercises should preferably be in movement.

## POLICE RESPONSE TOOLS

It is difficult to establish a comparison of police officers' different responses to attacks where only cases in which a firearm has been used are specified, whether by the assailant or the police officer. The reason for this is that normally statistical records and reports gather all the actions in which force has been used, on all the scales of progressive use, and, even, sometimes include cases in which officers from special groups have used a firearm. However, this study is exclusively focussed on actions in which a firearm appears in the confrontation.

For guidance purposes, some examples from other countries can be given:

- Seattle Police (Washington, USA) in their 2000 statistics, reflect that most police responses with use of force are in the lower end of the spectrum: 74% of police have used their hands to resolve the action and only 1.1% have used their firearm; <sup>29</sup>
- Honolulu Police (Hawaii, USA), in their 2012 report, specify the diverse police responses with use of force in the following way: verbal orders (1.3%); physical contact: pressure points and mild physical force (29.4%); chemical agents: pepper spray and similar (7.4%); physical confrontation: kicks, punches, etc. (41.2%); intermediate weapons: police batons and Taser guns (1.3%), and firearms (19.4%); <sup>30</sup>
- Ottawa Police (Ontario, Canada), in their report on the use of force in 2010, with a total of 740 cases in which the police used force, it specifies that officers have to draw up a report every time they use force: when a firearm is fired (10%); when people are shown a firearm (37%); when an intermediate weapon is used: it appears this covers police batons (1%), pepper spray (6%) and Taser guns (3%), or when physical force is used and causes injuries (9%). <sup>31</sup>

Large differences are observed between the three police reports on the use of force. In the Seattle report (2000) it only accounts for firearms being used 1.1%. On the other end of the scale is the Ottawa report (2010) in which firearms have been used in 71% of cases (although with three different types of use). In the middle is the Honolulu report (2012) in which firearms were used in 19.4% of cases.

And in this study firearms were used in 61%. But a reliable comparison cannot be made with the three previous studies, as this study is only working on extreme cases of use of force in which a firearm has appeared (either in police officers' or assailants' hands).

**29.** Seattle Police Department. *SPD Special Report: Use of Force by Seattle Police Department Officers*, p. 5. November 2001.

**30.** Honolulu Police Department. *Use of Force 2012. Summary of incidents*. June 2013.

**31.** Ottawa Police Service. *Use of force: 2010 annual report*. 7 February 2011.



## PROBLEMS FOR THE POLICE WHEN FIRING

PG-ME officers have two models of semi-automatic pistols, of 9mm *parabellum*: the Walther P-99 and the Heckler & Kock USP Compact.

In the case of the Walther P-99 firearm, as it does not have a manual safety, it can be carried with a cartridge in the chamber (loaded) or without a cartridge in the chamber (unloaded). In the case of the HK USP Compact pistol, as it has a manual safety, it can be carried in the same two positions as the Walther P-99 pistol, and in the same two positions, with the manual safety on.

The movements that must be done with the firearm before firing are the following in each position:

- Without a cartridge in the chamber and with the manual safety on: the loading movement must be done by moving the slide back and forwards, putting the manual safety in the fire position and pulling the trigger;
- With a cartridge in the chamber and the manual safety on: the manual safety must be put in the firing position and pull the trigger;
- Without a cartridge in the chamber and with the manual safety in the firing position: the movement to load the gun must be done and then pull the trigger;
- With a cartridge in the chamber and the manual safety in the firing position: the trigger must be pulled.

As previously mentioned, in relation to the variable of firearm readiness, 64% of officers carry their firearm unloaded and 28% loaded with a cartridge in the chamber. Only 8% carry it loaded with the manual safety on. None of the officers carry it without a cartridge in the chamber and with the manual safety on.

From this study, it is seen that carrying the firearm without the manual safety on enables a response with guarantees; and also, that it is not important to carry the weapon with or without a cartridge in the chamber, as 100% of the officers made the weapon ready to fire without problems, independently of whether they carried it one way or the other. There was only one officer who had problems readying the weapon to fire as upon firing they did not remember that they had the manual safety on.

From all of this it is seen that PG-ME officers have internalised making the weapon ready to fire, independently of whether they have the firearm loaded or not. All officers who had to load the firearm first, did so without any interruption, some of them even did it without thinking, without being able to remember how or when they did it. In diverse situations of risk, some extremely high risk, they knew what they had to prepare the firearm and they had the necessary motor skills to carry out the double movement of the slide without any problems.

The weapon position in which the manual safety is on would be the least advisable in an armed confrontation. It could get even more complicated if the HK USP Compact pistol is carried unloaded and with the manual safety on.<sup>32</sup>

## NUMBER OF SHOTS FIRED BY POLICE

With 47% not having fired a single shot and 21% only firing once, it can be interpreted that PG-ME officers in general are restrictive when using their firearms in all situations. The restrictive nature in firearm use even occurs in cases in which their use could be more than justified bearing in mind the circumstances of the events.

Three clear examples can be given, such as the two cases of people who accessed police stations brandishing firearms with a presumed intention of officers opening

32. None of the officers in the study carried it in this position but there are some PG-ME officers who do, as ISPC firing instructors state..

fire on them (aiming at officers and citizens, cases 23 and 27) or the case of a robber with a real and ready-to-fire gun who was chased, aimed at some of the police officers and at a citizen's head, where none of the officers who took part in his arrest on the streets of Barcelona opened fire (case 28).

The weight of possible criminal and disciplinary consequences associated with the firearm may be important for this restrictive behaviour in the use of the firearm. Some of the interviewed police officers have given this opinion. The most extreme example is the case of a police officer whose gun was stolen after being threatened with another firearm to the head and was shot in the legs with his own weapon, and who was worried about the service firearm having been stolen and not about having been threatened and attacked.

Regarding situations in which several shots are fired (between 5-9, 11%, and more than 15 shots, 7%), these are cases of dynamic actions that are prolonged in time or vehicles driven by armed assailants who escape. It does not mean that the assailants have received this number of impacts. The domino effect, which could justify many shots being fired, only appears in three of the 58 officers interviewed (5%).

## NUMBER OF ASSAILANTS' SHOTS

Like the percentages of shots fired by police officers, in most situations assailants have not fired a single shot (65%). This means that, added to the 11% of cases in which only one shot was fired, there is a high percentage of few shots (76%). The cases in which most shots were fired does not reach 25%. The explanation could be that the Catalan society has a low rate of owning firearms compared with other countries. In the same way, it could also be because in most cases in the study assailants have used firearms mainly to intimidate and escape and not to attack police officers.

## POLICE OFFICERS' HUMAN REACTIONS

When interpreting PG-ME officers' most frequent human reactions in real situations of firearm use, despite not having a large study sample, the results suggest some trends that are in line with the different works on this matter.

For example, time alterations, as the most frequent reactions in this study, are corroborated by James L. Lockard's work.

Visual distortion (85%), automatic pilot (65%) and auditory alteration (57%) are the reactions that follow time alteration in order of frequency. In García Alonso's analysis of 157 police officers involved in shootings, similar results are seen in visual distortion and automatic pilot. However, they differ more in relation to auditory alteration, possibly for two reasons: on one hand the situations analysed in this study, unlike those of García Alonso, do not always involve shootings; on the other hand, not all the people involved in the situations have the same level of involvement and proximity to the action. These two aspects, and probably others, could be why this reaction does not occur as often as determined by other studies.

Memory lapse, with 16%, would be a similar case to auditory alteration, in other words, it appears less than in other studies (40-50%) and the reasons could be those mentioned above.

The rest of the reactions appear less than 15%: unclassified reactions (14%); paralysed by fear (10%); instinctive attack and domino effect (5-7%), and distracted thought and flight (2-5%). All these are consistent with García Alonso's study and Pérez Vera and Pérez Pacho's study.

## INTERVIEWED POLICE OFFICERS' PROPOSALS

Finally, there is the analysis of officers' proposals after being asked what the best training would be to respond to similar situations to those they experienced, to relate them to what is currently being done in the ISPC training programme.

Five possible areas for improvement have been found, taken from the various proposals.

### AWARENESS OF THE REALITY OF ARMED CONFRONTATIONS

Knowledge of situations that have occurred or that occur is fundamental for police officers to be aware of the current reality of these cases, within the scope of Public Security in Catalonia. Knowledge of this reality can favour minimising the surprise effect of these situations and can lighten tunnel vision, which is one of the worst factors in the suitable resolution of these cases. It is important that officers know everything that can cause the exceptional nature of these situations. An officer who was injured has even expressed that it would be interesting for colleagues to know the reality of an officer being injured.

Therefore, a first step towards improving training is for the most outstanding actions, and their results, to be made public for all officers every year.

It is also very important that officers are aware of the most common reactions when faced with armed confrontations. Many of the interviewed officers highlight their colleagues' lack of risk awareness and how their own perspective of police actions has changed. The lack of awareness of the fact that the officer carries a service firearm could entail a significant problem when resolving situations, from not using it when it is completely necessary to using it when not mentally prepared and, therefore, using it in an unsuitable manner.

### DEFINITION AND APPROPRIATE TRAINING IN THE PROGRESSIVE USE OF FORCE

As has been confirmed in the list of cases in this study, situations in which officers use force and use their firearm are very varied. Despite there being 28 cases in which 14 in the assailants use firearms, of these 14 there are two that also used a knife and another two that also used a vehicle. Of the rest, three only used a knife, five assailants only used the vehicle and four more cases in which different tools or objects were used (spade, pickaxe, hands).

This means that to suitably train police officers, they must learn the relevant techniques to respond in a dynamic and changeable way to the weapons assailants may use. It is completely necessary, as other police forces do around the world, to determine a framework of progressive use of force.

In the most common police work situations, officers do not use force (understood in all its senses, including verbal, non-verbal and paraverbal communication) despite some people believing that police presence alone is the first step in the use of force.

In assistance actions, such as providing information to citizens or mediating between people, police officers often do not maintain a safety distance and make use of their skills to gain citizens' trust and solve conflicts.

But there are actions in which they must use force, following the principles mentioned above and with the difficulties that these reactions entail in the face of high risk situations. In general, officers have to increasingly use force, to the degree set

out in tables 2.13 and 2.14, and in response to other people's actions. It must be borne in mind that the same officers must assess the various possibilities of response depending on the circumstances, which are what should be considered to choose the suitable method and tool. Situations are so diverse it is impossible to provide an approximate list.

Another point to bear in mind, and which also offers a degree of difficulty, is that at times during situations in which officers have to use force, there may be important fluctuations in the use of force. This is known as transitions, which can increase as well as decrease.

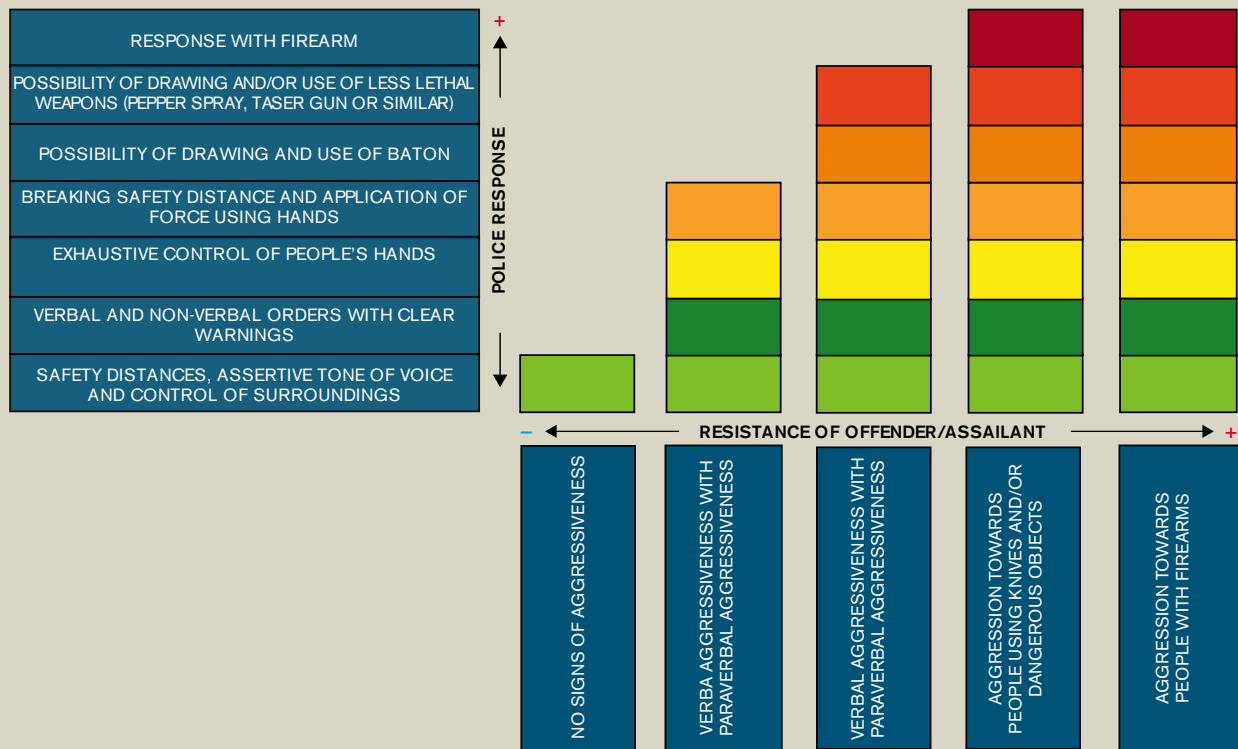
**TABLE 2.13. Degree of use of force in an officer's response to other people's actions**

Person's action	Officer's response
Identification of a suspect for a minor administrative offence or criminal offence who does not any sign of aggressiveness	Safety distance, control of the surroundings, assertive tone of voice, firm position and clear and understandable messages and questions.
Diverse situations without weapons or dangerous objects being brandished, such as identifying a suspect of a minor administrative offence or criminal offence who shows verbal, non-verbal or paraverbal aggression, arguments between people, people who do not passively obey indications, etc.	<ul style="list-style-type: none"> <li>• Safety distance, clear verbal and non-verbal orders (indications with hands and arms, firm position), clear warnings.</li> <li>• Exhaustive control of people's hands to be a step ahead of the use of dangerous weapons or objects.</li> </ul>
Aggressive verbal attitude accompanied by physical aggressiveness towards officers or other people	<ul style="list-style-type: none"> <li>• Initial safety distance, clear verbal and non-verbal orders (indications with hands and arms, firm position), clear warnings.</li> <li>• Exhaustive control of people's hands to be a step ahead of the use of dangerous weapons or objects.</li> <li>• Possibility of breaking the safety distance to avoid attacks against other people or officers.</li> <li>• Possibility of gaining the higher position (to the side or behind the person) to intervene with better guarantees for self-protection.</li> <li>• Possibility of having to apply force with their hands to reduce or immobilise the aggressive person.</li> <li>• Possibility of having to draw the police baton and hit large muscle masses.</li> <li>• Possibility (if officers have this service material and are trained to use it) of using less lethal weapons (pepper spray, Taser gun or similar).</li> </ul>
Aggressive verbal attitude accompanied with physical aggressiveness towards officers or other people, with the use of knives or dangerous objects.	<ul style="list-style-type: none"> <li>• Initial safety distance, clear verbal and non-verbal orders (indications with hands and arms, firm position), clear warnings.</li> <li>• Possibility of breaking the safety distance to avoid attacks against other people or officers.</li> <li>• In the event of continued aggressiveness, possibility of having to draw the police baton and hit large muscle masses.</li> <li>• Possibility of using the baton to hit the hand or arm with which the knife or dangerous object is being brandished.</li> <li>• Possibility of gaining distance and waving the baton to maintain the safety distance.</li> <li>• Possibility of gaining the higher position (to the side or behind the person) to intervene with better guarantees for self-protection.</li> <li>• Possibility (if officers have this service material and are trained to use it) of using less lethal weapons (pepper spray, Taser gun or similar, 40mm launcher, etc.).</li> <li>• Possibility of drawing the firearm to respond to a direct knife or dangerous object attack at close range, with clear warnings that the firearm shall be used (if the circumstances and time allow).</li> <li>• Possibility of using the firearm and, if circumstances allow, aiming it at apparently non-vital parts (lower limbs).</li> </ul>

Aggressive verbal attitude accompanied with physical aggressiveness towards officers or other people, with the use of firearms.

- If circumstances and time allow and the assailant is only threatening with the firearm but not opening fire, the police officer may bear in mind all the response options of the previous situations, even the use of hands, the baton or less lethal weapons (particularly if the assailant can be subdued from behind).
- If the assailant draws a firearm at a short distance from officers they must preferably try to get the firearm and prevent it from being fired, attempting that the barrel is aimed at places where there are no people, as the officers' reaction times (unholstering their firearm, readying it to fire and providing an effective response) shall always take longer than that of someone holding a firearm in their hands.
- If the assailant is beyond the officers' initial safety distance, the initial response should be to quickly put more distance between them and, if the environment allows, to do so laterally as running away in a straight line may enable to assailant to easily use their firearm against the officer. Aim to maintain a great safety distance and to give orders from cover. Draw the firearm and if the assailant does not obey orders and is shooting at officers or other people, use the firearm against them.

**TABLE 2.14. Summary of the degree or progression of use of force**



**SHOOTING IN MOVEMENT**

Some officers highlight that shooting whilst moving should be practised, as the situations they have experienced were not static. This fully coincides with Berengueras' work (2012) in which he affirms that officers' natural reactions, as with any other person, is to react instinctively avoiding the danger and, therefore, making evasive movements. For that reason, the large majority of the interviewed officers respond with movement to surprising attacks (the exception is marked by the physical surroundings that impedes this movement).

It is also true that to practise the practical firing movements it is not obligatory to do them with the firearm. In other words, it is thought that any exercise in which

officers must respond with movement using any of the police tools (police baton, simulation gun such as airsoft or simunition) can be a good training environment. *simunition*) can be a good training environment.

## PERSONAL DEFENCE TRAINING

Another of the officers' requests is to have continuing training in self-defence. This point is important, as in some of the cases a good first response at close range can favour the officer not having to use the firearm later.

## PRACTICE SESSIONS OF UNFORESEEN SITUATIONS

Some officers also coincide in affirming that the training they have received that was closest to the cases they experienced are some practice sessions they have done on a course, where they have simulated entering a flat or business premises and where they have been faced with surprising actions. They also highlight that it is important to be able to create stress so that an approximate situation can be experienced.

The holistic vision in training in the use of force could mainly comprise this kind of exercises, where the four previous training areas are put into practice (being aware of the reality, degree of use of force, shooting in movement and self-defence). This kind of training can initially be carried out in a closed and then open space (as Berengueras mentions).

This kind of training can be deemed individual, as in most cases the officers highlight having worked individually and not being aware of their colleague's whereabouts. It is also true that similar situations have hardly been practiced and, therefore, this can also influence the individual response. However, it seems the instinctive response holds more weight before an attack than training experience.

## PROPOSALS: PRESENT AND FUTURE TRAINING

### ISPC TRAINING

Below is information on what is being done, as well as what is planned for ISPC training relating to the proposals.

#### Proposal 1: being aware of the reality of armed confrontations

##### *Currently*

- The CFBP has included the theory and practice of the progressive use of force in teaching unit 12 since CFBP 2014-2015, and non-assessed dynamic practice sessions have also been held since CFBP 2012-2013.
- Since 2000, the practical firing training practises police defence firing, in which aiming elements are not used and the weapon is drawn from the holster (both with or without a cartridge in the chamber), from five metres away. This technique, reinforced by annual firing practice, has been internalised by PG-ME officers and

they can ready the firearm to fire automatically without any problems, independently of the initial readiness.

- Publication of this study.
- Organisation of a workshop at ISPC, particularly aimed at firing and police procedure training staff <sup>33</sup>.

### **Proposal 2: definition and appropriate training on progressive use of force**

#### *Currently*

- The theory and practice on the progressive use of force has been included in teaching unit 12 since CFBP 2014-2015.
- Non-assessed dynamic practice sessions have been carried out since CFBP 2012-2013.

#### *Planned*

- Unify the diverse modules on the use of force in one single course, module or sub-module. It could have a qualification similar to the progressive use of force.
- Incorporate the technique of handcuffing suspects on the ground in high risk situations while holding a firearm in the CFBP police procedures course.
- Incorporate the technique of stopping vehicles in a high-risk situation while holding a firearm in the CFBP police procedures course.

### **Proposal 3. Shooting in movement**

#### *Currently*

- Although the firearm is not used, since CFBP 2012-2013 dynamic practice sessions have taken place in which candidates practice movements with a similar weapon (blank or simunition).
- Since CFBP 2014-2015, candidates practice a technique of movements with a firearm in high risk situations.

#### *Planned*

- At the end of CFBP 2014-2015, a shooting practice session shall be held in which candidates shall have to individually fire in movement.
- Create various dynamic practice sessions to be implemented from CFBP 2014-2015.

**33.** The workshop was held on 15 September 2016, with the participation of experts and authors consulted for this study David Berengueras, Daniel García and Fernando Pérez, as well as three of the interviewed officers.

#### **Proposal 4: self-defence training**

In this aspect, as the proposal requests continuing training in self-defence, it does not make sense to talk about it in the CFBP.

#### **Proposal 5: practice sessions of unforeseen situations**

##### *Currently*

- Interdisciplinary practice sessions of some situations which candidates must solve using force are done in the CFBP.
- Dynamic practice sessions since CFBP 2012-2013 to date.
- Micro-practice sessions of the progressive use of force since CFBP 2014-2015.

##### *Planned*

- Unify the diverse modules on the use of force in one single course, module or sub-module. It could have a qualification similar to the progressive use of force.

## **LIMITATIONS OF THE STUDY**

The most palpable limitations of this study have been found in the stages of selecting the sample and the methodological design.

At the case and information gathering stage, it had to be assumed from the moment in which the study was envisaged that one of the important limitations was being in a country where firearm use is low frequency behaviour in police forces and that, therefore, the size of the sample would be affected.

The difficulty of carrying out a systematic investigation of the case information had to be added to this, because there is no specific record for this type of cases. This point has entailed great effort by the working team.

In the study design stage, reviewing the bibliography confirmed that there were few works on this matter. This entailed an extra task of developing the necessary methodological tools for carrying out the objective.

## **TRANSPORTABILITY OF THE STUDY**

The possibilities of continuing to develop this study could pass through three different channels.

Firstly, it would be desirable to continue working with the PG-ME and Catalan local police forces to broaden the sample and consolidate a methodology of action in this organisation when faced with real situations of firearm use, which could have positive repercussions on the legal security of those involved and in the safety of our citizens. With this increase in the sample, statistically significant work could also be done on the relationships between the different variables arising in the study, and from these,



suggest actions for improvement in a very relevant matter for society and the police organisation itself of which there is still much to investigate.

Secondly, it would be a good idea to continue this research with the aim of updating and validating new training activities, in accordance with the group's needs in this field of study.

Thirdly, although it is deemed to come after the other two points, transferring this knowledge to other law enforcement agencies cannot be forgotten, with the aim of clearly and consistently reproducing the results of this study. In this way, it would be seen whether different or irreproducible results appear and their scientific value would be tested. To do this, a systematic type of transportability would be required. This transportability is where results are reproduced in different conditions to the original ones and can be done by the same researcher or by a different one in another location.

If done with law enforcement agencies in Spain and other countries (United Kingdom, USA, etc.) two further aspects must be considered, as well as that mentioned in the previous paragraph. Firstly, it would have to be seen whether the use of force model is the same: if the model varies, certain points of the methodological tools used would have to be modified. The second aspect would be to see the idiosyncrasy of the territory: if a country has significant peculiarities that affect its safety, that would possibly have certain repercussions on firearm use. Therefore, certain variables would have to be adapted to the specific context and/or environment.

Therefore, transportability of this study to other environments within the scope of law enforcement agencies would be relatively easy.

If a working relationship arises from this transportability, it would be a real empirical fact and could move from being a training programme with a particular police force to the establishment of a generalisation in terms of target population and procedure.

## INTEREST OF THE STUDY

The benefits that this study could bring to the PG-ME and Catalan local police forces are listed below.

- Modern and evolving professional image: for the interest in evaluating and analysing this type of extreme situations with sometimes tragic and undesired results.
- Incorporate the results of the study and modify aspects to achieve constant improvement in police training.
- Bonus of quality, assessment and continuing improvement, using objective elements.
- Improvement in police officers' perception of safety.

## CHAPTER 3

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# LEGAL ASSESSMENT OF POLICE OFFICERS' USE OF FIREARMS. JURISPRUDENCE

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When a police officer has used their firearm and has caused third parties' injuries or death, they normally do not know about the criminal proceedings that commence. The way the legal system has to handle the case often only increases the feelings of anxiety of officers involved in this situation. It must be borne in mind that, although the police officer's action does not have disciplinary consequences, it is inevitable that criminal proceedings be opened and all the circumstances that have led to the use of a firearm are assessed to declare if there is criminal liability or not.

At this point it is worth highlighting three essential factors of this structure.

- a) The perspective in the hearing changes. It is no longer important whether the action was correct in policing in abstract terms, but whether the specific police officer's behaviour was suitable for staying within the limits of risk generated by the firearm use. Generally, it may be thought correct policing to fire a warning shot before firing at someone, but no judge would demand that when an officer has faced imminent and serious danger to their life (Supreme Court Ruling [STS] number 22).<sup>34</sup>
- b) The police action that must be assessed by the criminal judge is not static and unmovable, but is shown as dynamic, always adapting (or that would be convenient) to the affected citizen's reactions and to the circumstances surrounding the action. A fact that often begins in a suitable and lawful way, can suddenly turn in an instant, through the officer's lack of adjustment to the new situation or an excess in the intensity of the police action (STS number 7 and 8).
- c) Police shall always be required when using their firearm to make a weighted judgement of proportionality. The police officer must explain that the use was ideal to achieve the pursued purpose, that it was necessary in the sense that it could not be replaced by any other less detrimental means, at least potentially, and that it was proportional in the strictest sense, considering the seriousness of the fact that gave rise to the use of the firearm and the police officer's suspicions had regarding the affected citizen. This proportionality judgement should accompany all police actions, but in cases of firearm use it must be possible to explain it from the very beginning, without contradictions, so that the criminal judge not only knows what has happened but also why the police officer has acted the way they have at each moment.

It must also be considered that, within the criminal scope, the assessment of the police action in which the firearm has been used includes an analysis of the risk that

**34.** Appendix 4 has a list of thirty-seven legal decisions on police actions in which a firearm has been used; hereinafter reference shall be made to it using the number in which they appear in order: for example, STS number 22 corresponds to 22. *Supreme Court Ruling 19-5-2010.*

has led to the firearm being unholstered and the management of the risk that has implied its effective use; for this reason, these two ideas must be borne in mind.

- a) While the firearm is holstered no criminally evaluable danger appears. Neither the safety, double action nor skill in using the firearm produce this effect; in other words, the risk is completely excluded when the firearm is holstered, although, hypothetically, one could consider real events in which shots came from holstered weapons (something that is almost impossible with the holsters and weapons PG-ME officers currently use).
- b) Once unholstered, the risk arises and it is up to the legal body to assess whether this is permitted or not. Therefore, it is not necessary for the weapon to be fired or that only one shot is fired, but the simple fact of carrying it in the holster ready to fire immediately or in one's hand, even with the safety on, already generates an evaluable danger.

## HOLDING THE FIREARM

The first thing that must be asked is why the officer in that particular situation has unholstered their firearm what has caused the police officer to verify this behaviour. Because it must be made clear that this is a human behaviour (and, therefore, voluntary) which will generate the legally condemned danger that produces the result: if there is no voluntary conduct, there is no action, in the broad sense of minimally conscious and minimally voluntary, or controllable at will, human behaviour. And if there is no action there cannot be a crime, which in a classic formulation, is the typically unlawful, guilty and punishable action.

### THE FIREARM IS UNHOLSTERED THROUGH THE POLICE OFFICER'S INVOLUNTARY ACTION

If the firearm is unholstered due to a struggle with the citizen when the police officer tries to prevent the former from taking it, the existence of action cannot be verified nor, therefore, criminal liability (Provincial Court Ruling [SAP] Girona number 1).

However, in a situation as described above, there is conscious and voluntary behaviour by the officer: carrying the firearm without the safety and unloaded in the holster, which enables it to be fired in a situation like the one described. So, does criminal liability arise?

The answer is negative for three reasons:

- Among the police there is no *lex artis* in accordance with which the firearm must be carried with the safety on when on duty at night. The undeniable risk that police assume, in their job and duty, means they can carry firearms and do so in the conditions they deem suitable and in proportion to the risk to their lives and third parties. So, neither the legislator nor the authorities have regulated this matter in precise terms to give some margin of autonomy to officers who assume the risk, so they carry the weapon in the conditions they deem most suitable. Specifically, carrying the firearm:
  - without the safety: this does not automatically determine a breach of the objective duty of care, as there are official service firearms that do not have a manual safety (Walther P-99);
  - unloaded: this is the position that provides the greatest safety.

- The hypothetical rule that orders the firearm to be carried with the safety on is not designed to prevent the death of people who try to take the weapon from the police: end of the protection of the rule.
- What causes the detrimental result is precisely the victim's behaviour, who struggles to take the firearm and thus fires the shots, and not due to the firearm being carried without the safety on.

## THE FIREARM IS UNHOLSTERED THROUGH THE POLICE OFFICER'S VOLUNTARY ACTION

When the weapon is unholstered due to the police officer's voluntary action three different situations can occur: the officer's conduct is suitable in light of the situation created; that an initially lawful and suitable conduct by the officer becomes, as the circumstances change, unsuitable conduct; and, finally, the police officer's conduct is unsuitable from the beginning.

### SUITABLE CONDUCT

The creation of a legally condemned risk is absent in the situations described below:

#### Permitted risk scenarios

These are a necessary consequence of an action that is rational and proportional in the given circumstances. Examples are found in the following cases:

- STS number 2 "At that moment, the colleague warned him saying, "Be careful", and he could observe that the car was moving and coming towards him quickly, so he unholstered his service firearm, already loaded and without the safety on, holding it with both hands."
- STS number 3 "Because of an investigation that the aforementioned police force was doing on a Moroccan individual who they suspected was trafficking the narcotic substance "hashish". Assessing the circumstances of the entry and search, as there was no information on whether the occupants of the flat could be armed or not."
- STS number 4 The police officer carried the weapon without the safety on and ready for use when he went to a beach, at 2 o'clock in the morning, to identify twenty people who had clandestinely accessed the coast, not knowing whether the person who escaped was armed and how they would react when identified."<sup>35</sup>
- STS number 5 The police officer, when getting out of the police vehicle, was holding the firearm to intimidate, for mere exhibition to facilitate the arrest of a drug-trafficking suspect, when, furthermore, he saw the latter drive the car in reverse to escape, crashing into several police vehicles.
- STS number 6 The repeat offender affirms that the police officer unholstered his weapon when it was not necessary. In reality, he only unholstered it when, during the struggle with the citizen – a large person- he saw that, far from ceasing with his attitude, at one point he made a gesture of putting his hand inside his clothes. It does not imply an excess that, in itself, gives rise to the creation of a legally condemned danger.

**35.** Circumstances of real or possible risk that could be known ex ante due to their professional actions advised acting with the weapon prepared.

"Regarding the observance of the safety distance, although it is recommendable whenever possible, should the accused unholster the weapon near the place where the struggle occurs, but does so keeping the safety on and, therefore, in conditions in which the firearm cannot fire, so that the risk of an involuntary shot occurring, if the safety works, is non-existent. The risk created with the unholstering of the weapon does not exceed the permitted risk limits."

**STS number 29** The police officer had seen how, in the attempt to escape, those who at that time acted like criminals had tried to run him over and he had had to jump to the side to avoid it, and how, next, after colliding with the police vehicle, they continued on their way. The use of this kind of violence, not just against property, but also against the officer's person, justifies that the latter prepared to use the firearm.

### **Situations of risk reduction**

The police officer causes the result that has occurred but at the same time prevents a more detrimental result from occurring.

### **Situations covered by the principle of trust**

The results produced are not objectively attributed to whom has acted trusting that others remain within the permitted limits of danger.

### **Situations arising from the prohibition of return**

Referring to conditions prior to the real causal ones, made by whom is no guarantee of the avoidance of the result.

## **INITIALLY SUITABLE CONDUCT BUT FINALLY EXCEEDS PERMITTED RISK**

Once of the cases is STS number 7. After a police vehicle pursuit of a stolen van, two police officers get out of the police vehicle and order the van occupants to get out, but they are not obeyed:

- The police officers unholster their weapons and one of the officers (a) loads it, but the other (b) does not; they repeat the order to get out of the car (a situation of real danger for the officers, which justifies taking out the gun);
- Finally, the van occupants get out and, as the police officers order, lie face down on the ground;
- Police officer (a) give the handcuffs to officer (b) to handcuff one of them; officer (a) aims his firearm on the ground where the other suspect is, with his index finger on the trigger (there is a minor risk because both are lying on the ground and are aware of having a gun aimed at them; their ability to react is drastically reduced);;
- When a lorry involved in the pursuit passes by, officer (a) turns 90°, raises his left hand to signal it to stop and, when officer (a) pulls the trigger, it fires.

The liability (professional recklessness) arises from the fact that, having the suspect within the firing area, he does not take any precautions in the readiness of the

weapon and keeps it ready to fire, they momentarily focusses his attention on something else and, at the same time, makes a movement that is contraindicated in these circumstances, in the context of which he unexpectedly pulls the trigger.

A second case is described, in which it is worth distinguishing three stages (STS number 8):

**STS number 8** "The Civil Guard, knowing that there had been an armed robbery, suspected the occupants of a vehicle stopped in the dark and approaches them with his service gun in his right hand which he cautiously holds loaded and with the safety off".

In this first stage, the behaviour is prudent and fits the orthodox rules of guaranteeing his defence in the face of a possible attack.

**STS number 8** "The officer orders the driver, who had got out of the car, to put his hands on the vehicle, physically forcing him to do so, after which, correctly and prudently, he proceeds to frisk him, only using his left hand and keeping the right hand in control of his service gun which he held in his right hand".

It continues to be quite suitable behaviour.

**STS number 8** "He orders him to lie down on the ground and faced with resistance to do so voluntarily, the officer holds the suspect's shoulders from behind with both hands without letting go of the gun, and in that way, struggles to lie him on the ground, an operation of resistance and strength in which the gun located near the lower part of the suspect's right ear fires causing mortal injuries, from which he dies four days later".

Serious increase in the perceivable risk and serious inattention to the objective duty of care observed by the officer up to that moment.

After the search:

- The gun should have been holstered, or
- The safety catch should have been activated if both hands had to be used to put the suspect on the ground, or
- If it were still necessary to consider a possible attack by the suspect, keep the gun in the right hand exclusively dealing with the weapon and use the left hand in the struggle; and if the suspect's resistance could not be overcome in that way, he would have to stop or receive help from the other officer present.

The third example comes from the case of an officer whose weapon fired whilst being cleaned (STS number 25):

**STS number 25** "Being on duty as a Civil Guard in Alcalá Prison 2, he prepared to clean his service firearm, a pistol of the make Star, model BM, 9mm parabellum calibre. Before starting to clean the weapon, his colleague Manuel José C.L. entered the room asking for another colleague, leaving a few moments later as the person he was looking for was not there".

Suitable conduct.

Immediately, the officer leaves the room, holding the gun in his hand, the magazine in place and five bullets inside, to get some cloths from a cupboard in the corridor. When he reached the cupboard, it fired whilst moving the slide to see if there was a bullet in the chamber as it was the normal way he carried it when on duty. This bullet hit his colleague: serious negligence.

STS number 25 "Being a Civil Guard and, therefore, a professional in handling guns, with which they are provided by the authority for their own defence, demands scrupulous care with these instruments both in their use and cleaning" [...] "Cleaning the weapon, which naturally requires it to be taken apart, requires taking all the precautions that should almost entirely minimise the risks arising from such action".

## UNSUITABLE CONDUCT

Serious negligence, in the following case:

STS number 9 «"The accused, taking out the firearm he had due to being a local police officer, in a situation which due to its minor importance did not require this action".

An argument between one of his sons, who had been wronged by the breaking of a car window, with two youths, regarding whom there is no record that they were responsible for breaking the window. He creates a risk in the situation in which a shot was fired and killed one of the youths.

STS number 9 "The subsequent fact to the seriously negligent action of whom now appeals, that one of the youths who argued with the son confronted him and resisted, leading to a struggle with the firearm holder, is a circumstance that the accused could and should have foreseen as an effect of the situation that he had himself caused with his unnecessary and negligent conduct.

It is a circumstance that the officer could and should have foreseen as an effect of the situation that he himself had caused with his unnecessary and negligent conduct.

Another case, with two different facts (STS number 10): the police officer, off duty and dressed in civilian clothes, when to X's house, asked them about the boy he was looking for (and who had allegedly attacked his partner's son) showing his service weapon, spinning it around one of his fingers, and then leaving after being told that he had not done anything: minor offence for threats.

STS number 10 "Moments later, as per the statement of facts, he meets the Moroccan youth Luis Pedro, and after grabbing him by the neck, he asked whether he knew anything about the attack on José Maria, and upon replying he knew nothing, the accused put the firearm to his head, later leaving when told that it was not the boy he was looking for, and that the attacker had been someone else".

Serious offence for threats. <sup>36</sup>

In another case, the officer tried to show what he had done with the gun, a few moments before, to prevent a fight in the toilets of a disco, with the gun loaded, lifting it up and down and putting it within reach of those present; the officer, guarantor of the risk arising from their service firearm, increased it in a legally considerable manner:

STS number 11 "It is undoubtable that he had tried to demonstrate what he had done with the gun moments before, by preventing a fight in a disco toilet, with the weapon loaded putting it at the height of those present, as shown in the ballistics report (folio 127 verso)".

**36.** The distinction between coercion and threats is the following: when it is an attack on the victim's will it is coercion; when it is an attack on their peace of mind (they are made to understand that their life or integrity could be in danger of imminent or future loss) they are threats..

- Situation using a stun grenade

SAP Barcelona,

number 37

«Both the design of the intervention as well as the decision to give stun grenades to the officers involved, met the Action Protocols for the GEI<sup>37</sup>, the current legislation on officers' use of weapons and instruments, and in any case, both decisions were supervised and ratified by the accused's superiors».

«In view of everything, fully accredited, we must uphold that the operation was carried out in accordance with how it had been designed and, in short, that the officers identified themselves as police and that the two occupants of the vehicle stubbornly disobeyed the orders they were given to raise their hands and open the doors».

Therefore, so far, there was no recklessness.

With all that, it is necessary to consider the following reflections on risk management, to open channels and set suitable preventive measures:

- Holding the firearm in one's hand for personal reasons, unconnected with professional duties, gives rise to the criminal liability of the officer (STS number 9 and 10). Even so, the risk generated by a verified action in a professional ambit, but that is not lawful or justified for the compliance of police duties, shall be a legally condemned risk (STS number 11).
- Therefore, not only must it be a professional action of the police officer, but also a justified and lawful action; on this basis, three things must be considered.
  - a) The way the firearm is carried does not itself generate a legally condemned danger (loaded or unloaded, with or without safety, ready to fire, etc.). Each police officer can and must decide how to carry it, as long as they do so the same way (SAP Girona number 1).
  - b) Unholstering the firearm must always respond to the appearance of a serious danger for the police, for their life or their physical integrity. Danger that not only may be real, but that is also a potential risk that has been verified, statistically and/or by the police, that tends to arise in similar situations to those the officer in question faces (this is rational probability – STS numbers 3 and 4). And, in any case, between this real or probable danger and the police action there must be the necessary proportionality, with their points of suitability, necessity and proportionality in the strict sense (STS number 6).
  - c) The professional, lawful and proportional action, in response to the risk generated by a citizen, can stop being such and become a danger that is of interest to a criminal law response whenever it does not fit the surrounding circumstances. Not knowing what has increased or decreased the danger generated by the affected citizen and not adjusting the police reaction at each moment, gives grounds for police negligence rulings (STS numbers 7 and 8).
- Sometimes, attention should not only be paid to the police officer's conduct, but the victim's behaviour is also essential to produce the result, therefore:
  - a) There may concur lawful and correct conduct by the police officer, which does not imply an excess that creates a legally condemned danger, with a very significant contribution by the victim to the result: absolution of the police officer.

**37.** Special Intervention Group of the PG-ME.



STS number 6 "It is precisely the deceased's action of grabbing the weapon in the way he did that implied an increase in the risk that it could fire. Therefore, the result produced is not so much of the permitted and controlled risk created by the accused, as its transformation into risk that is not permitted through the deceased's action. It is the risk created by the latter which produces the result":

- b) It could be argued that the accused's conduct also creates a risk, even a somewhat condemned one, by not maintaining a safety distance after showing the weapon: conviction of the police officer.

STS number 23 "Hence the mere attitude of escaping, and more so in a situation lacking conflict as occurred here, cannot be assessed as a kind of determining causal reason for the use of a firearm, of such great detrimental potential as is recorded. The victim's attempt to escape and the injuries he suffered, appear objectively connected on the phenomenological plane; but not on a legal-criminal one, in which the genesis of that result is only referable to the intervention of conduct as unjustified and unjustifiable as that which occurred.

STS number 8 "Resistance against lying down on the ground does not cause any risk to life, nor does it intensify the result of the officer's negligent actions, who solely creates that situation. This resistance, therefore, does not add any risk because it is nothing more than mere opportunity in the officer's negligence".

- c) A police officer's conduct that creates the condemned risk may concur with a victim's behaviour that causally has a decisive involvement in the production of the result: acquittal of the police officer.

STS number 3 "We can affirm that the accused's conduct has certainly created a risk, but it is a risk that is not legally condemned in accordance with the concurring circumstances, which would justify said conduct".

- d) in any case, that the result is a consequence of a totally unexpected development of events (the part of the bullet that caused the mortal wound ricocheted twice, off the wall and the door frame) has no influence: the realisation of the risk in the result is not a problem of foreseeability and, therefore, of probability, but of whether the risk created by the action explains the produced result: the mortal wound is only explained by the police officer's shot and not by the concurrence of any other danger that threatens the citizen's life.

STS number 11 "This diminishes the importance of the strange circumstance that part of the bullet has caused the mortal wound after two previous ricochets, first off the wall and then off the door frame. The realisation of the risk, on the contrary, depends on whether that created by the action explains the produced result. This has occurred in this case, as the mortal wound is only explained by the accused's shot and not by the concurrence of any other danger that threatens the legal right."

## FIRING THE FIREARM

### TRIPLE JUDGEMENT *EX ANTE*

It is necessary for the police officer to have made a triple judgement *ex ante*.

1. Was it necessary to act in that situation? In other words, was their action legally justified?

Two types of actions raise problems:

- Those aimed at a private, not professional intervention, particularly when they are the result of anger, revenge or prior vindication;
- Those that, framed within professional motivation, move away from police tasks, either because they are not suitable for the specific situation, or because, in reality, they pursue private objectives.

2. Was use of the firearm necessary?

Judgement of proportionality.

3. Was the specific manner of using the firearm suitable?

The circumstances concurring in each case are essential for this point; in particular, regarding the influence of stress and anxiety on the officer, two different directions are needed:

- a) Sometimes it is thought that, when faced with the pressure experienced in conflictive situations, memories, fears or risks that often occur or are repeated, briefly cross officers' minds when carrying out their duties.

STS number 21 "Sensitized in these terms, he could perfectly confuse any movement, attitude or display of any object, occurring in the car, and create in him the impression (logically erroneous, if we pay attention to the proven facts) that the person who was later injured carried a dangerous weapon".

Normally, more than to base the atypical nature of the conduct, it enables a surmountable error of prohibition to be seen.

STS number 21 "Starting from the fact we are faced with an avoidable error of prohibition in which the accused errs on the factual grounds that give rise to upholding the self-defence."

- b) In others, any influence is denied:

STS number 23 "With which the decision to use it was taken coolly. One cannot lose sight of the fact that the person acting was a professional.

- The level of professional experience accumulated by a Civil Guard with more than 10 years' service.
- With the ability to shoot made evident from the concentration of the bullet wounds on a relatively small part of a moving vehicle.
- And with the necessary empirical baggage to make a correct prior judgement of the consequences of his action"

## TYPE OF SHOTS

On the other hand, it must be said that there are three types of shots:

- a) voluntary: it is done consciously;
- b) accidental: when a weapon falls without anyone's hand influencing it;<sup>38</sup>
- c) involuntarily: all the movements are made to cause the firing but one is not aware that these have been made, normally during a struggle.

A person who stumbles can fire one or two involuntary shots at a specific moment if they try to hold on.

STS number 28 "The police service firearm is used to fire instinctive shots (unholster the gun and fire quickly); it is not a precision weapon, but to fire very quick shots, more defensive than aggressive and at a short distance (five or six metres), as at a greater distance it is necessary to stop and get into the precision position with two hands".

Next an outline like that used for the analysis on holding the firearm is used, differentiating between:

- Lack of action;
- Voluntary conduct: not unlawful conduct; exculpatory circumstance of fulfilling a duty; exculpatory circumstance of lawful defence; compatibility between the two exculpatory circumstances; intent (direct and oblique); distinction between intent and recklessness; recklessness (professional, recklessness, gross negligence).

## LACK OF ACTION

This deals with an accidental shot (STS number 28) by a simple accident, without intent or recklessness, which no person of sound mind could have foreseen:

STS number 2 "And immediately he had to move out of the way quickly to save his life as he attacked him, being, however, trapped between the two vehicles in such a way that upon being hit the weapon fired, receiving injuries to his left hand".

STS number 12 "The deceased aimed the vehicle at the police vehicle, reaching it and causing the officers to jump out and, because of the impact, the officer accused lost his balance, closing his right hand as a reflex action and firing the weapon he carried".

In any case, they are different situations from those of an involuntary shot which, without intent or recklessness or foreseeability, is fired because of the struggle for the service firearm between the police officer and the victim, without the court being able to accredit which of the two pulled the trigger (STS number 28).

STS number 22 "During the pursuit aimed at arresting the suspect, upon rounding a corner the police officer found himself in front of the appellant, who interrupting his escape, brandished a screwdriver, producing a struggle between the two, during which the weapon was fired at the former hitting the appellant in his left leg and foot".

38. Something that is almost impossible with PG-ME officers' current firearms, which have suitable safety features because, although the firearm was loaded, it cannot be fired in the event of an accidental fall.

## VOLUNTARY CONDUCT

### JUSTIFIED CONDUCT, NOT UNLAWFUL

When dealing with actions by the authorities, they do not just have the power, but also the right to act in the exercise of their duties using violent means, even the service firearms they are provided with, in their mission to guarantee legal order and to serve public order “with the necessary decision and without delay when preventing a serious, immediate and irreparable wrong depends on this”, but at the same time “they have to be governed, when doing so, by the principles of coherence, opportunity and proportionality”, as established in article 5.4.c) of Organic Law (LO) 2/1986 and article 11.1.tercer.c) of the PG-ME Act 10/1994. On the other hand, articles 5.4.d) of LO 2/1986 and 11.1.tercer.d) of the 10/1994 Act specify that “they must use the firearms only in situations in which there is a serious risk to the lives or physical integrity of themselves or third parties and in circumstances that may entail a serious risk to Public Security, and they must be governed, when doing so, by the principles to which letter c) refers”. All the above responds to the mandate of article 104 of the Spanish Constitution and is inspired in the lines marked by the Declaration on the Police, made by the European Council on 8 May 1979, and the Code of Conduct for Law Enforcement Officials, approved by the General Assembly of the United Nations on 17 December 1979.

### IMMUNITY FOR FULFILLING A DUTY

#### Requirements

- That it is a police officer authorised by the relevant provisions to use violent means in the exercise of their duties.
- That the possible crime has occurred in the exercise of the relevant duties of a police officer.
- That to fulfil the specific duty within the scope of their activity, use of violence is necessary (abstract necessity) because, without that violence, it is not possible to fulfil the obligation in question at that time.
- That the specific violence used is the least possible for the intended objective:
  - that the least dangerous means are used and
  - that these means are used in the least detrimental way possible.

All of which measured with relative criteria, in other words, bearing in mind the specific circumstances of the case, among which the police officers' possibilities of action (specific necessity) must be borne in mind.

- Proportionality of the violence used in relation to the situation that gives rise to police intervention.

Assuming an unlawful attack is not necessary to determine police action: it is sufficient that the police officer is faced with a situation that demands intervention to defend public order in general or interests beyond those that law enforcement agencies have to safeguard, with the qualification that the pursuit of someone who has committed a serious crime cannot be considered on the same level as the *in-situ* repression of minor behaviour.

- STS number 13 Use of the weapon with the deceased guard [...] was correct and proportionate to the situation he faced:

- in the operational context of surveillance, waiting and arrest of a dangerous and possibly armed gang of robbers.
- The aim was to repel the firearm attack he was subjected to.
  - It resulted in the bullet wounds received to his leg and bullet-proof vest he were wearing
  - To prevent a serious and immediate danger before a situation of risk for their life or physical integrity, and even for that of third parties passing by the area.
  - As the officer was not the first to fire, as well as being obliged to shelter from the firearm attack to which he was subjected behind the Ford Fiesta vehicle.

SAP Barcelona  
number 20

The officer's use of violence firing his service firearm was necessary and proportional before the victim's violent and threatening attack, which would have killed or caused extremely serious injuries to one of the healthcare workers, due to threatening with a large pickaxe, raised and ready to hit:

- First, the police officer told him to cease seizing his service firearm.
- Secondly, he fired a warning shot into the ground, and
- When he observed the attacker continued with the same threat, he had no other alternative than to fire to save the life and physical integrity of the healthcare worker who was behind him at a distance that meant the danger was real and imminent.

### The immunity is not applied

Faced with persistent disobedience of police requirements, the officers were obliged to arrest the citizens; but the obligation to arrest them does not mean that the only possible and practical means of doing so was seriously injuring one of them (the police officer fired three consecutive shots against the rear door of the vehicle), putting their life in danger. Here, the first three requirements of compliance of a duty concur, but the last two do not:

STS number 21 Faced with the belief that there is a danger to his integrity, the accused then pointed his service firearm out of the window and with his left hand fired three shots under the terms described beforehand, one of which seriously injured Alejandro H. Specifically, it is evident that the realisation of the shots were in perfect correlation with the elimination of the allegedly foreseen danger.

Other forms of police action were feasible:

Supreme Court (TS)

Interlocutory number 36

Faced with the victim attacking again, instead of moving away, he unholstered his service firearm, which instead of firing into the air, he fired six successive shots in a few seconds, five of which hit the victim's body. [...]

Also, we must not forget that the other officer on the scene, before the victim's first attack, which hit the appellant in the left pectoral area causing a minor injury, approached the police vehicle which was a few metres behind them, to look for the batons they had left inside; behaviour that the appellant could also have done.

### Qualified immunity is applied

In STS case number 33, the two police officers' intervention was lawful: they followed the vehicle occupants due to them possibly committing Internet fraud. They were authorised to intercept the vehicle and even to arrest them.

However, what was not lawful was the final action of the accused police officer, who voluntarily fired two shots aimed at the vehicle cabin, which they knew was occupied by four people. There is an excess in the response, necessarily he had to consider the high probability that the shots would hit one of the occupants:

- He fired two shots at close range and with a descending trajectory:
- The operation chief had given specific instructions to allow for an escape if it arose, indicating that they would be arrested later, as the suspects were perfectly identified.

## IMMUNITY OF LAWFUL DEFENCE OF THE PERSON OR OF OWN OR OTHERS' RIGHTS

### Unlawful attack

A serious, real, actual and imminent, effective and unexpected attack in the form of a physical attack that justifies the defensive reaction is required, as in the following cases:

- Four rifle shots by the victim aimed at the location of the police officer who had accessed the residence (STS number 14);
- Repeated attempts to hit the serving police officers' heads with an iron spade (AP Barcelona summary number 16).<sup>39</sup>

What happens when the police officer, mistakenly, believes that it is an unlawful attack but in reality, it is not? This would be a case of putative defence, which, if based on an insurmountable mistake, will determine the police officer's acquittal for absolute immunity for lawful defence, but if it is a surmountable error it will only entail the reduction of the sentence by one or two degrees through application of qualified immunity for lawful defence. The question is, therefore, if the mistake has been surmountable or insurmountable.

The criteria to bear in mind are:

- Existence or not of alternative conduct. For this, one must bear in mind:
  - the concurring circumstances;
  - the police officer's specific preparation and professionalism;
  - it is required within the framework of their action: it is necessary to consider whether the police officer could or could not make a more efficient verification of the concurrent real situation depending on the fear produced by their mistaken belief.
- Whether the attack is real, although evaluated mistakenly, or it is unreal, as in the latter the law must offer more protection to whom has not generated any danger for themselves.
- Whether there is a surmountable error or not, as in the case of the police officer called over the radio, who was informed of the occurrence of an armed robbery.

**39.** "After picking up an iron spade with a wooden handle measuring approximately 1.30 metres long and brandishing it around, he went towards the officers with the intention of hitting them."

When he approached the scene, he was told that the offender had escaped and was armed (although, in reality, in a prior struggle the weapon had been lost). He begins the pursuit and sees the offender; he orders him to stop escaping, even with warning shots, a request that the victim does not obey. The offender hides behind a car and the police officer, believing him to be armed, interprets he wants to shoot at him, due to which he fires several shots. The victim continues running and again stops which the officer interprets as an attempt to shoot, so the police officer reacts again by firing several shots. The victim continued to run a few metres and falls to the ground; when the police officer arrives, he saw the offender was not carrying a weapon. It is a surmountable error, bearing in mind:

- it was a police officer acting within the duties of his position;
- 17 shots were fired, some of them into the air, without this use of the firearm, evidently loud, receiving a response from the victim using the firearm the police officer believed he carried;
- the shots were at close range (1.5m and 0.5m) (STS number 18).

It is possible to distinguish two perfectly differentiated scenarios in STS case number 19:

Two police officers who initially intervene in the pursuit follow different paths, and when the accused lost sight of the person being chased, he heard a series of shots, which led him to believe that the robber was attacking his colleague with a firearm, although later it turned out not to be so as the shots came from the officer.

The accused officer's mistake here was unsurmountable (despite there not having been mortal shots in this scenario).

The second comprised of when the accused arrived at the alleged offender's location and observed that he was aiming a pistol at the colleague, but at that same location there was another police unit, one of which fired a warning shot to make the offender stop his threatened intentions, at the same time as the offender shouted "Kill me! Kill me!"; faced with this situation and as the robber continued aiming at his colleague, the accused fired two shots at him, killing him.

Belief of a danger of the colleague's imminent death is incomplete if the following points are borne in mind:

**STS number 19** Upon firing the lethal shots, the person who he tried to protect was in some way protected by other police officers. One of which, also in compliance of their duty to protect, simply fired a warning shot.

The robber continued to stubbornly aim his weapon at the cited police officer, it is true that no threatening words were said, rather the opposite as he requested those surrounding him should kill him.

There is an excess in the defence as the accused officer could and did have a duty to think that there were other ways to avoid the danger, without needing to use such conclusive and disproportionate methods (service firearm).

On the other hand, a mistake is found in STS case number 21: the police officer firmly believed that his life was in danger through the possible use of a rifle by one of the fugitives, a weapon he thought he had seen.

It is possible that faced with the tension experienced in conflictive situations such as those on record, memories, fears or risks that often occur or are repeated in such situations may briefly

cross an officer's mind whilst carrying out their duty. Sensitized in these terms, he could perfectly confuse any movement, attitude or display of any object, occurring in the car, and create the impression (logically erroneous, if we pay attention to the proven facts) that the person who was later injured carried a dangerous weapon.

Surmountable for prohibition.

**STS number 21** Greater care, less hurry in the outcome, would have enabled the existence of that hypothetical weapon to be doubted, first, and then perhaps later to check the unreality of something, which was a simple illusion.

In the following case, there is no mistake:

**STS number 29** Although the appellant could believe there was the possibility they attempted to run over his colleague, there was no reason to understand that the action had already begun or that, at least, it was imminent in such a way to require a defensive action, as he did not know where the potential victim was. In these circumstances, his reaction anticipated, for no reason, the appearance of actions that could make him think the attack was imminent.

### **Rational need for the means used to prevent or repel the attack**

This comprises a value judgement of proportionality between the conditions, the instruments and the risks of the attack and their own defensive means and conduct. It is necessary to consider:

- Not the identity or appearance of the aggressive and defensive means as such, as the Criminal Code does not compare rationality of the means with proportionality of the means,
- Rather the behaviour with the use of these means, bearing in mind the circumstances of the case.

It is necessary to consider the effective situation in which the attacker and victim are found, bearing in mind:

- the victim's emotional state and the effect the risk they are subjected to in the attack may cause to their reasoning regarding the suitability of the defensive means used,
- Not so much the nature of the means itself, rather the use they have put it to and the existence or not of other alternatives of less detrimental defence depending on the specific circumstances of the case.

Unlike cases of necessity, there is no need for uniformity between the means used to defend oneself with that used by the assailant in their attack. Police officers are permitted to use whatever is at their disposal, even if it is more damaging, except for extreme cases of evident disproportion (for example, lawful defence cannot be used for firearm use against a slap), if there are no other less detrimental means and that is also foreseeably effective.

However, faced with an attack involving someone running with a large knife towards the police shouting "I'm going to kill you", it is risky to only defend oneself using the police baton. This resource could be insufficient to effectively repel such an immediate and serious attack on one's physical integrity and life, even more so if the attacker is a person who is an extreme state of agitation. Under these circumstances, it is justified



to use the firearm carried by the officer who is dealing with a knife attack so close that the shot occurs when there is no more than two metres between them.

Only the firearm remained with which to stop the attack, in other words, they had to fire against the person who had started the attack on the police officer:

- if they had fired at a vital area (head, chest or abdomen, for example): qualified immunity of lawful defence;
- as they fired at a leg (non-vital area par excellence according to jurisprudence): absolute immunity.<sup>40</sup>

### **The means used (officer's service firearm) to repel the attack is necessary and proportionate to this attack**

**TS number 16 summary** The officers' calming attitude lacks a positive response from the victim. [...] Due to the victim's particular aggressiveness and skill and/or physical strength they could not surround him to disarm him, in this sense. [...] The insufficiency for this purpose of possibly using the batons carried by the officers as the greater length of the spade made them ineffective.

The officer only fires when:

- After backing up the street, the victim hits him numerous times with the spade,
- He backs into the corner of the centre fence, which prevents him from backing up any further, and
- The victim has hit his colleague, who is on the ground semi-unconscious, and moves towards him with the intention of hitting his head.

He does not fire more than two shots:

- The first at the victim's arm and
- When the victim does not stop the attack, at his leg.

**STS number 17** State of great agitation of the victim. To definitively subdue him, the combination of police officers and other people was necessary.

### **Qualified immunity**

In the case of TS interlocutory proceedings number 36, the victim was a 68-year old man, who was visibly under the influence of alcohol, with a disability in his left shoulder, and a hip replacement that made his mobility difficult, as well as some obesity.

The police officer's circumstances were those of a young man, with professional experience and in good physical condition.

It is not proportionate to use the firearm against a garden fork, particularly when the police officer fired six shots. The officer had other less detrimental alternatives of defence than firing his service firearm six times at the victim's body..

**40.** As STS number 14 states, "The police officer's action responded to a clear intent of "controlled defence".

### **Lack of sufficient provocation for the defence**

There is no provocation as, once the son's attack on the mother has occurred, the latter having left the residence and the son remaining locked inside in a very agitated state, when the police officers arrived at the house, they shouted to make their presence known. There is no reckless conduct (this being understood as provoking the son's attack on one of the officers) because there can only be recklessness in relation to the foreseeable result (recklessness only covers as far as foreseeability).

The doctrine even rejects that reckless provocation can be deemed sufficient for the third requirement of article 8.4 of the Penal Code (CP) and always demands that this provocation be intentional, in other words, done intentionally by whom later defends themselves (STS number 14).

### **Intention of defence (*necessity defence*)**

This has two meanings:

- Need for a defensive reaction, which demands the reality of an attack, present in its existence and persistent in the creation of a risk;
- Need, skill and proportionality of the means used; as the unlawful attack disturbs the victim's emotional state, one cannot demand reflection, serenity and a calm spirit of them to coldly choose, after reasoning and deliberations, the most proportionate means of defence, with an exact calculation and defined measure as to what is strictly necessary to repel the attack.

#### **SAP Barcelona number 20**

The police officer, threatened with a large pickaxe held up high by the victim and ready to hit him at close range, could not continue running and hid behind the ambulances, as, turning to verify whether the victim had stopped threatening after the first warning shot fired by the officer, he lost all inertia and there was no time to start running again.

### **COMPATIBILITY OF BOTH IMMUNITIES**

Two reasons for excluding the fulfilment of a duty:

- If the police officer fired it was to maintain their physical integrity; the justification cannot be the fulfilment of a duty, but that of lawful defence;
- The legal system, which authorises the police to use coercive means for the fulfilment of their duties, does not authorise the use of firearms to arrest alleged offenders fleeing from police actions. The possible attack they suffer may be justified, if the legally established requirements concur, through a lawful defence channel (STS number 18).

They have different requirements as compliance only demands fulfilling a duty or exercising a right, office or post and can only correspond to whom is covered by certain rights and obligations attributed by the State, but lawful defence demands other conditions (unlawful attack, rational necessity and lack of sufficient provocation) and may be applied to any citizen in specific moments or situations (STS number 19).

To the contrary, the AP Barcelona appeal proceedings ruling number 20 deems both circumstances applicable to the case.

## **RECKLESSNESS**

A person who is aware of the legally condemned specific danger created by their conduct acts with recklessness. The legislative concept of recklessness exceeds the classic concept which comprised the existence of knowledge and intention.

### **Intentional wrongdoing**

This is not excluded when the perpetrator pursues an action they consider justified (as lawful defence or in the fulfilment of a duty), but when, through error, they have not been able to have knowledge of the objective evidence of the crime (error regarding evidence of type).

### **Extreme recklessness**

Someone who is aware or who represents in their action a serious and immediate danger that the results may cause and, furthermore, agrees with this production and decides to execute the action assuming the eventuality of causing that result, acts with extreme recklessness.

There is extreme recklessness when the police officer subjects the victim to dangerous situations that they do not have a guarantee of controlling, even though the typical result is not sought. It is not excluded for hoping that the result does not occur or because it was not intended by the perpetrator.

In STS case number 23, there was no need or constriction in the use made of the firearm, which could be reasonably deemed as arising from the nature of the situation. Willingness of the officer's action that, furthermore, was represented as a very likely chance of resulting in the victim's death.

The police officer went to the smugglers' vehicle to arrest them and when the vehicle started moving again, the officer, knowing there was at least one person inside the vehicle, unholstered his own, personal licenced firearm, but not one that could be used on duty, and fired four shots that penetrated the rear window of the car:

- When the vehicle finally stopped, police officers intentionally broke the rear window, due to which the bullet holes disappeared;
- None of the officers informed their superiors nor the judge about what had happened, denying their participation in the facts;
- The accused officer's skill at firing, as shown by the concentration of the bullets hitting a relatively small area on a moving vehicle;
- The weapon was not the service firearm and the officer tried to hide its unregulated use;
- Number and direction of the shots: aimed and localised in the area and at a cabin height at which everyone knows the driver and possible occupants' heads are found and, therefore, where they are very likely to hit particularly sensitive vital organs.

In relation to STS number 21, during a pursuit, the police officer fired three shots through the window aimed at the lower part of the pursued vehicle, where, in the same trajectory, its occupants were; shots that hit the rear door:

- The officer did not intend to immobilise the vehicle with shots aimed at the tyres; it was an officer who was an expert in firearm use (police officer and hunter), who, if he had wanted, could have fired at the tyres;
- The police officer could perfectly foresee the damage to the physical integrity he could cause to any of the vehicle occupants, because of the high risk of his action.

In another case, the police officer, informed of a robbery at a video club, when he arrived, saw a vehicle nearby driven by a person known to him as they had been arrested at some time..

**STS number 24** The accused positioned himself in the centre of the street, a broad road with lanes in both directions, and signalled to the vehicle to halt using his arms at the same time as shouting "Halt! Police!", holding in his left hand a torch and in his right his service firearm.

As the vehicle continued moving, the police officer moved to the pavement and, when the car reached him, he fired two consecutive shots at the car bonnet, in a situation in which there was no danger to him or to third parties.

Other cases we find in the following rulings.

**STS number 26** The police officer not only rushed towards the group of people, who had been involved in an argument with physical violence, with his service firearm with the safety off, struggling with the subsequent deceased person, whom he mortally wounded in the head, because of the weapon firing, but also in that statement of the facts affirmed he had pulled the trigger, which had the necessary force to overcome the own resistance of the "double action" safety which the weapon still maintained.

**STS number 33** The police officer fired the two shots at close range and with a descending trajectory; one of the bullets hit the head of one of the vehicle occupants and the second hit another's back.

On the other hand, as an example of the non-existence of extreme recklessness, we show STS case number 8, in which there is no inference that the police:

- Knew or represented the high probability or risk that the gun would fire due to the involuntary movement of their fingers;
- Nor that, if they had been aware of this danger, they assumed or agreed with the mortal result of their action persisting in carrying it out despite everything.

What is seen is negligence, as there is:

- An action that objectively creates a risk to the life of the citizen whom the police officer searched and tried to lie on the ground;
- A lack of perception of this risk, or its perception as very unlikely and without accepting the harmful result;
- Incompliance of an objective duty of care, which comprised:
  - either preventing the increase in the inherent risk of carrying a firearm abstaining from moving it towards the citizen's back to uncontrollably struggle with him, trying to lie the citizen down;
  - or, if nothing else, taking particular care with this action, if it was essential, effectively neutralising the risk by activating the safety of the firearm (an instantaneous action done with just one finger) or by the constant control of the position of their fingers of the hand carrying the gun.

## DISTINCTION BETWEEN RECKLESSNESS AND NEGLIGENCE

Regarding STS number 35, the conduct would be reckless if the police officer had fired at the driver, or at the place he occupied, aware of the high probability of hitting him; but the conduct would not be reckless if the police officer tried to aim the shots at any part of the car far from the driver and a lack of care in executing such a move was what caused the driver to be injured.

The second shot hit the right tail light, in other words, in an area far from the place occupied by the driver. The accused police officer had served for thirty years, a fact that indicates, in a rational interpretation, that he was an experienced professional who could consider he sufficiently controlled the direction of the shots.

## NEGLECTANCE

### Professional negligence

In this type, there concurs an extra of unlawfulness consecutive to the breach of the *lex artis* and the most elementary, inexcusable and undeniable precautions and care that people, belonging to a professional activity, should know, particularly the most dangerous ones.

In STS case number 30, three police officers arrived at a bank after hearing from the control room that the bank was being robbed; upon seeing the robber, who was around seventeen metres away, the officers took up positions behind some vehicles parked in a line, and when the robber fired, the accused officer fired a shot with his service firearm at the robber, but hit another police officer's head (who was unarmed, as he was an acting officer) who was in front and within the line of fire; the latter was killed.

- Use of the service firearm was legally justified, in accordance with the specific circumstances and article 5.2.d) of LO 2/1986.
- The greater or lesser skill in using the firearm, upon firing the shot that killed the other police officer, must be assessed mainly to qualify the negligence as gross or ordinary.<sup>41</sup> Being a police officer cannot be considered again to qualify their conduct as constituting professional negligence, because:
  - it would imply undue *bis in ídem* and
  - it would mean a practically objective application, inappropriate for a penal law of negligence, of an aggravated penal sub-category.

Also, in STS case number 8, after a search with a negative result, the police officer ordered the citizen to lie down on the ground and, faced with their resistance to do so voluntarily, the officer held the citizen's shoulders from behind with both hands without letting go of the firearm and, in this way, struggled to lie him down on the ground; during this operation of resistance and force, the firearm, which was held at the base of the citizen's ear, fired and killed the citizen.

- Police officers receive the necessary training and technical preparation to carry out their tasks and precise training for this purpose to fulfil their police work, among which are controls, arrests, searches, using the service weapons they have available if necessary. They train to do this and experience teaches them to do so with excellence and efficiency.
- The negligence in this case is for a breach of the objective duty of care inherent in the professional training of any police officer; it is not ordinary care demanded

<sup>41</sup> Particular duty of care in the use of firearms, inherent to being a police officer who, as a result, should have special theoretical and practical training.

from anyone in common or general areas of human interaction, but a specific operational technique that an officer must know and observe in their work.

- On the other hand, this professional negligence covers the incorrect use of the service firearm (article 142.2 CP does not apply, therefore), negligence affects the scope of the police action in an arrest or a search, holding the weapon only preventively:
  - care in the sphere of the firing technique or specific use of the firearm was not breached,
  - rather, during the execution of a search followed by a struggle when the officer held the firearm in his hand.

On the contrary, in STS number 7 they were sentenced using article 142.2 CP, as the care breached was in the specific use of the firearm.

**STS number 7** He carried out a voluntary action, although not intentional, breaching an objective duty of precaution, and caused a death, causally linked to that manner of acting, a result that would have been avoided if the care required by a code of conduct had been used. A code in this case, associated with the professional role typical of a law enforcement officer, knowledgeable in the implicit risk in using firearms and statutorily obliged, therefore, to do everything possible in the given situation to neutralise it.

## Gross negligence

This means the absence of the more elementary measures of care and which cause an easily foreseeable effect and the unfulfillment of a duty demanded of every person in the performance of their activity.

The criteria for measuring it, regarding ordinary negligence, are:

- The greater or lesser lack of diligence in the activity, in other words, the omission of care demanded in the specific action;
- The greater or lesser foreseeability of the result of that activity;
- The greater or lesser degree of breach producing the unfulfillment of the duty demanded by sociocultural rules and the specific regulations of some specific activities.

**STS number 27** During the treacherous pursuit in a poorly lit place with several obstacles, the police officer approached the fleeing person and pointed his firearm at him without the safety on; he fired a first warning shot into the air and, a few seconds later, another, in circumstances that are not very clear, in the direction of vital body parts of the person who was just a few metres away.

There is gross negligence in STS case number 30 of the three police officers who arrived at a bank after receiving news from the control room that it was being robbed: upon seeing the robber (some 17 metres away) the officers took up positions behind some parked vehicles and, when the robber fired, the accused officer fired a shot with his firearm at the robber, but hit another officer's head (an acting police officer, unarmed) and caused his death. It is gross negligence because he acted with a significant omission of the required care:

- He was a police officer and, therefore, had special training and experience in the use of firearms;
- He did not think that his colleague was in front of the line of fire of his shot, with an

- logically he was focussed on the robber, without being able to pay attention to everything behind them;
- the colleague was a mobile body, whose movements could not be controlled by the accused officer and which, therefore, could get in the way of the trajectory of the shot fired at the robber (by standing up, moving his head or changing positions).

Also, in STS case number 31: when the police officer tried to arrest a “known person” there is a struggle when the suspect brandished some scissors and made several cuts in the officer's uniform; the officer unholstered his gun, hitting the suspect's head with the intention of subduing him, whilst the latter remained sat on the driver's seat of a vehicle, and instantly a lethal shot is fired. Gross negligence in consideration of:

- The situation of the firearm (with the hammer in the intermediate safety position which facilitated the activation of the firing pin and, therefore, the imminence of the shot, upon having a bullet in the chamber);
- The way in which the firearm was used (instead of using it as a heavy object hitting with the butt, they do so directly with the barrel on the victim's head);
- The concurring circumstances: he does not move away to neutralise the suspect's attack and control the situation displaying his firearm or requesting police backup, but hits the suspect's head with the barrel of the gun, when, being knowledgeable in the use of the firearm, he could have controlled:
  - The position of the blow and
  - the position of the safety of the firearm, which has been expertly qualified as producing the result six out of every ten times.

### Ordinary negligence

In STS case number 29, there are elements that objectively diminish the risk that the executed action could cause an undesired result, in consideration of the officers' possibilities, as they executed the action, of controlling its effects:

- The direction of the shots towards the car wheels,
- The recognised consideration of the police officer as a good shot,
- The vehicle was a short distance away,
- The shots hit very close to the wheel at which they were aimed (only the ricochet of one of the bullets off an element of the vehicle determined that the deceased was hit as its initial trajectory was modified).

In some other facts, police officer shouted at a stolen vehicle to halt, positioned himself in front of it and unholstered his weapon.

**STS number 32** At first the vehicle makes a motion to stop, but unexpectedly speeds up, aiming at the officer who was in front of the vehicle, who moved aside slightly managing to avoid the vehicle, not before receiving a hard blow to his left forearm, making him turn and hit another, parked, vehicle with his back, the officer firing a shot at the vehicle, some 4.6m away.

It is ordinary negligence because:

- He fired the shot standing and once he had already been passed by the vehicle,
- The shot is aimed at the rear of the vehicle,
- Therefore, the police officer used his service firearm without being in any of the situations for which they are trained.

In the following case, he hit and killed a citizen:

**STS number 4** At 1.54 a.m., he goes with other officers to arrest some immigrants that had disembarked on one of the beaches in the area. Pursuing one of the Moroccans who had dispersed along the beach, after telling him to halt with a warning shot, he approached him to arrest him, at which moment he lost his balance and fell to the ground, firing by pulling the trigger in a reflex action.

An unlawful risk is not generated:

- When he approaches a citizen carrying the firearm without the safety on;
- Nor when he does not control the firearm when, due to the slippery condition and slope of the ground, he falls and the firearm is fired by a reflex action.

On the contrary, he does not employ suitable care by not avoiding the shot upon falling with the firearm in his hand, but it is ordinary negligence:

**STS number 4** The accidental risk of a fall that is not easy to avoid is added to the implicit risk that the normal use of the firearm entails, [...] increase in the risk that makes the control and command of the firearm much more difficult.

Despite being able to foresee the possibility of falling bearing in mind the state of the terrain, as a professional, in principle, should control the firearm in a situation like that described, the fact that he does not neutralise the risks generated by the fall does not entail gross negligence, but only a minor breach of the duty of care when it fires as the police officer is not holding it correctly at the moment he falls.

Finally, in the situation where a stun grenade is used (SAP Barcelona number 37), the criminal charge arises from how the officer used the grenade, as he was negligent in consideration of the intended purpose of its use (putting it through the hole previously made in the passenger window). The officer knew that:

- The reduced size of the hole made him lose any chance of controlling the place of impact,
- The detonation time was two seconds after being launched.

**SAP Barcelona number 37** And, however, he lets the stun grenade fall in the front of the vehicle, due to the small space and the detonation time (two seconds), it was unavoidable that it would hit the person occupying the passenger seat.

Furthermore, the police officer had the chance to launch the grenade in the back seat if he broke the relevant window with the same instrument used to break the front one, and he did not do this.



## RISK MANAGEMENT

### LACK OF ACTION

Lack of action is found in the case of an accidental shot (STS number 28) due to a mere accident, without recklessness or negligence, which no person of sound mind could have foreseen.

Also, in STS case number 2, the police officer had to quickly move away to save his life as the citizen aimed his vehicle at him and he was trapped between two vehicles, so that when he was hit, he fired his firearm. The shot causing the harmful result was fired accidentally by the pressure the officer received from being hit by the car which trapped him against his own police vehicle.

**STS number 12** The deceased aimed the vehicle at the police vehicle, hitting it and causing the officers to rapidly exit and because of the impact, the accused officer lost his balance “reflexively contracting the right hand and firing the weapon he held”.

In any case, they are different situations from those of an involuntary shot (STS number 28) where, without recklessness, negligence or unforeseeability, a shot is fired because of a struggle over a service firearm between the police officer and the victim, without the court being able to accredit which of the two pulled the trigger.

**STS number 22** During a pursuit aimed at arresting a suspect, upon turning the corner the police officer found himself in front of the appellant, who stopping his escape, brandished a screwdriver, causing a struggle between them, during which the gun fired at the former hitting the appellant in the left leg and foot.

### VOLUNTARY BEHAVIOUR

#### OPENING OF PROCEEDINGS

It is necessary to promote a change in the mentality of PG-ME officers when the acting officer, despite having used their service firearm and caused death or very serious injuries to a citizen or another police officer, thinks that the judge will not open any proceedings and will directly file it because “I’m a police officer”. They all must become comfortable with the idea that, legally, the judge is obliged to begin proceedings in the face of facts such as those described and, in most situations they are obliged to take the officer’s statement as a person of interest for an alleged crime of homicide or serious injuries.

Therefore, how the officer who has used the firearm enters the proceedings acquires capital importance; from their first statements in the police station, the importance of the following points is emphasized:

- From the first moment, being able to explain what has happened in a visual way (with terminology and details that enable the event to be “visualised”);
- The first explanation must be concordant and consistent with the others made during the proceedings;
- Reflection before the first declaration, even though the officer may be in a state of shock, with their mind in upheaval which may be saying “forget everything that has happened” and with family, friends and colleagues who, with the best

of intentions, “contaminate” their memory of the facts with unconnected contributions;

- Avoiding the drafting of direct declarations or notes in the police station, without clarifying or having a very clear idea on which procedural defence is being used, which may condition (and in fact, they do) all subsequent declarations made before the judge or court.

From a strictly legal perspective, it would be advisable for:

- The officer not to make declarations at the police station (they will do so before the investigating judge) or, if a declaration is made, that they do so as a person of interest and after having calmly talked with their lawyer;
- As they have to write out the relevant police reports, that these be assumed by investigation specialists and not by the same officers who took part in the events;
- The affected officer must understand that there will be great media interest and their name<sup>42</sup> may appear during the proceedings in some media; proceedings that may be lengthy and, at the same time, have many moments of inactivity.

Below is a discussion on the various factors that influence the assessment of the risk created with the officer's behaviour; however, it is necessary to bear in mind that these factors and, in particular, the position taken by the investigating judge before each one, shall greatly depend on the way the officer explains the investigated facts to the judge, of the importance the officer gives to each one, or the “oversight” the officer wishes to self-create of any of these factors.

## OFFICER FACTORS

### The influence of stress or anxiety on the officer

Two directions must be differentiated:

- That which uses stress to justify that the police officer confused reality with another that was “dangerous” to him; enables grounds for appreciation of a surmountable error of prohibition (STS number 21);
- Another that denies any influence in consideration of the experienced officer's professionalism, firing skill and with the necessary empirical baggage to form a correct advanced judgement of the consequences of their action (STS number 23).

The only way to vary this position of the courts would be providing veritable “evidence” to lawsuits that empirically prove the brutal influence of stress on firearm use, whether or not one is a professional, whether or not they have experience and skill.

Current experience may be very interesting in this aspect, as are other works by different police officers on this matter; but it shall always be necessary to look further and try to promote new participation: other law enforcement agencies, other professionals (forensic scientists, psychologists, etc.) and other situations.

In any case, the trend always comes up against a “mental model”, that any judge has, of the police as qualified professionals, capable of dealing with and overcoming anxiety, and with a social need, not just of the judge, for identifying police officers (or firefighters, health workers, etc.) as people in control before a risk. But not just in the intention<sup>43</sup> but also in their specific behaviour and of the resources at their disposal to achieve it. Legal authorities (which often have their courts collapsed) do not understand when the officer tells them they have not done firing practice for a long time or that what they have done does not help them face situations like the one that required

**42.** Police officers must identify themselves with their personal information when they intervene in proceedings as persons of interest.

them to use their firearm. The police officer not only has to “control” but is also obliged to obtain the necessary means to control, because society does not want to admit that risks appear that cannot be totally controlled.

### **The influence of experience**

Firstly, it is always necessary to differentiate length of service from experience (understood as participation in firing a firearm, which means knowledge is acquired). It is perfectly possible (and normal) for the officer to have many years of service but no previous participation in situations that entail firing their gun. What should be evaluable is experience, not length of service.

Despite the above, legal bodies bear in mind the officer’s length of service differently, depending on whether it is a recklessness or negligence charge; in the former, the greater the length of service, greater the control and, therefore, greater requirements in the specific behaviour, which normally serves to deny the concurrence of a reason for justification or any of its elements. On the contrary, in negligence, length of service may determine that, *ex ante*, the officer could consider they sufficiently controlled the direction of the shots (STS number 35).

### **The influence of skill in using the firearm: relationship with professional negligence**

Legal bodies think that police officers receive the necessary technical training and preparation to perform their work, as well as precise training for this purpose to fulfil their police missions, which include controls, arrests, searches, using their available regulation weapons if necessary.

Therefore, often the skill in using the firearm (whether real and accredited, whether assumed for being a police officer) will aggravate the consideration of the negligent conduct they are charged with, not just being ordinary but gross or even professional. And this, as always, is because skill is another control factor of the risk that directly arises from firing the weapon, which the officer has or should have.

However, there are occasions on which the court deems this skill (the recognised consideration of the officer as a good shot) as one of the elements (it cannot be the only one, but one of several) that objectively diminishes the risk that the executed action could produce an undesired result, in consideration of the possibilities that the police officer had, such as they executed the action, of controlling the effects (STS number 29) and enables the negligence to be deemed as ordinary.

## **FACTORS RELATING TO THE FIREARM AND ITS SPECIFIC USE**

Everyone focusses on the officer’s control of the firearm when using it, from the following outline: it is undoubtable that the officer, upon using their firearm, creates a significant risk or, at least, increases or contributes to increasing a risk already created by another person. The matter for the court shall be to determine whether that danger created or increased by the officer is legally condemned or, on the contrary, moves within the social parameters of permitted risk, for which purpose, essentially, it shall consider not only the officer’s ability (experience, skill, professionalism, etc.) but also their control regarding the distance at which they fire, the trajectory, how many shots are fired, when they fire and, particularly, whether they could have avoided firing and used other means that were less harmful to the life and/or physical integrity of the citizen.

**43.** The officer has to want to be cold and calculating, without letting themselves be carried away by anxiety.

**44.** Particular duty of care in the use of firearms, inherent to being a police officer who, as a result, should have special theoretical and practical training (STS number 30).

It is an assessment of the care with which the police officer has performed their job, where, as always, it is of great importance that the officer's explanation is clear, descriptive, extensive, detailed if necessary, does not include set phrase<sup>45</sup> fanciful constructions<sup>46</sup> and concepts that assume the judge has extensive knowledge of fields such as ballistics or police organisation.

The officer must describe what they did with their weapon to someone who was not there, who shall need "visual" knowledge; the officer offering them with their explanation a "photograph" or, better, a "video" of what happened, and that only incorporates "police factors on firearm use" in their assessment to the extent that, firstly, the officer does so in their declaration and, secondly, they are consistent with the legal-penal appreciation they must make. Therefore, three consequences arise:

- a) the way the firearm is carried in the holster (with a simple action or double action, with the cartridge in the chamber or not, etc.) is not an essential factor, as officers are free to carry it as they wish.
- b) It is necessary for the affected officer to explain what has happened and, therefore, what is possible is "adapting" their story to the parameters that arise from the jurisprudential analysis.

What shall be appropriate, in our opinion, is that officers know what these parameters are, that they "make them their own" when they do the relevant practice sessions with their firearms and, finally, these parameters "appear" when they have to really use them.

- c) It is necessary to promote a change in the focus on necessary control in firearm use in the legal assessment:
  - No longer demanding this control at the same time the investigated facts occur, as the generated stress prevents the necessary general care from being taken, and
  - Moving on to demand control in the officer's preparation, who must know not what could happen (because there are many variables), but what is required of them when they fire. And that this materialises during the investigated facts in, what one of the commented situations (STS number 14) calls, the officer's clear intention of a "controlled action".

### **Influence of the distances and trajectory of the shots**

The legal body tries to determine whether the police officer considered, when they used their firearm, the great probability that their shots could cause the death or serious injuries of another; and in this task, the distance from which they fire the shots and their trajectories, with the corollary of the area where the shots hit, are of great importance.

Normally it can be observed that at a lesser distance, the higher the risk in the officer's mind (STS number 33 and 18). That this translates into great rigour is not always exact: when dealing with an unlawful attack on the officer with a knife (or a pickaxe or large spade), the proximity between the attacker and the officer is some information that can favour the determination of the presence of the attack and of the rationality and need for the defence.<sup>47</sup>

Regarding the trajectories, they shall also serve to check the degree of control of the officer's conduct. Descending trajectories are very symptomatic, in situations of escape or pursuits by car, of aiming the shots at the vehicle cabin (STS number 23 and 33) or at the wheels (STS number 29, 32 and 35).

The construction is more problematic when the shot is aimed directly at another person's body that, at close range, tries to attack or has attacked the officer. In principle, the legal body differentiates between vital areas (head, chest or abdomen,

**45.** "Your Honour, everything happened so quickly, I don't remember it clearly".

**46.** "Your Honour, I didn't shoot at the body, or leg or foot, I shot at the shape".

**47.** Information that shall be accredited through the traces of metal, produced by the shot, that appear on the officer's hands and in the attacker's body.

for example) and non-vital areas (leg or arm)<sup>48</sup>; but it is necessary to insist in the realisation of the shot without using the mechanisms that enable aiming and in a stressful situation that makes it difficult to believe that the shot was aimed at a specific part of the body. However, as a principle of action, officers must know the need for the shot to be aimed at non-vital parts of the body; in other words, not firing at the head or upper body (thorax and abdomen), trying to find lower parts of the body.

### **Influence of the number of shots**

Although it is not a perfect equation (more shots equals more guilt, while few shots would seem to indicate more control), the truth is that the jurisprudence assesses the number of shots in direct relation to their need and the characteristics of the situation: while it deems six shots in response to a garden fork is not proportionate (TS interlocutory number 36), it does not question this proportionality when, faced with a large spade, the police officer does not fire more than two shots (STS number 17). The essential difference between one situation and another is not just the number of shots, but the surrounding circumstances of one and the other.

### **Influence of the weapon being regulation or not**

Only one situation has been found in which this factor has been negatively assessed by the police (STS number 23); and this is not just because a personal revolver that was licenced, but not permitted to use on duty, was used, but essentially because that use was framed within a series of irregularities and “lies” of the acting officers.

It is necessary to highlight this point: there is nothing that harms an investigation more than the judge “discovering” elements of the investigation that have been hidden or “covered up” by the police officers, even more so if one considers that, for the judge, there is no difference between the investigated police officer and those who investigate.

### **Influence of the imminence of the shot**

The idea of control that the legal body looks for is also apparent in this area: not being the first to fire when repelling a firearm attack to which one was subjected (STS number 13), or only firing when faced with a situation in which one cannot escape without being hit on the head with a large spade (STS number 17), results in favourably assessing the police officer’s action. On the contrary, firing two consecutive shots when there is no danger to the police officer or to third parties (STS number 24) devalues their conduct.

The above is closely linked with the need for imminence of the attack or, in general, of the situation of risk for the police officer or other citizens, when the firearm is used. Another thing that is closely linked is the imminence of the shot to which situation STS number 31 refers, in which what the legal body shall assess is, on the one hand, the officer’s awareness of the situation in which their firearm is carried and, on the other, its uncontrolled use, which shall increase the category of the negligence.

48. STS numbers 14, 17 and 27.

### **Influence of the way the firearm is used**

It is a factor that legally condemns the risk generated by the firearm use when this use is not "normal", but the firearm is used to hit someone (STS number 31) or a struggle ensues with the firearm in the officer's hand (STS numbers 8 and 16).

### **Other less detrimental defence alternatives depending on the specific circumstances of the case**

It is necessary to emphasize that there may be defence alternatives considered or known by the acting officer, and also those taken into account by their colleagues (TS interlocutory number 36) or their superiors (STS number 33). There are also references to this in other rulings (STS numbers 14, 19 and 21; AP Barcelona summary number 16).

## **FACTORS RELATING TO THE ATTACK ON THE POLICE**

### **Presence of the attack**

The present nature of the attack on the police officer is an essential factor for the judicial body to assess whether the weapon they used and the way it was used are rational and proportionate. In any case, it must be said that the proportionality required does not imply equality in the means used -if I am attacked with a firearm, I can use the firearm I carry; but if I am attacked with a knife, I could not- but a comparison of the risks created.

There is a rational need that the police officer uses their firearm when the attack is happening at that moment or is very imminent (AP Barcelona appeal number 20); and, in any case, to speak about rationality it is necessary for the attack against the officer to have begun (STS 29) and finished (STS 32) when the firearm is used.

### **Threats**

Sometimes the presence of the attack or, rather, the beginning of the attack does not appear in an obvious way: the police officer does not know whether the person will use the carried weapon or dangerous instrument against them. In this area, it is very interesting for the judicial body to clearly know the setting to be able to determine when the officer's belief (the risk created by that person is so high that it requires an action with their firearm) is in accordance with the law or not: for this reason, it is very important for police reports to include the person's attitudes, movements and words, which can prove their intention to attack police officers (STS number 19).

Whatever it is, it is necessary to highlight the convenience of gathering everything in the report and in subsequent declarations that enables the judicial body to make a lawful assessment of the situation experienced by the police officer, despite the affected officer hearing their inner voice telling them to forget what has happened, which appears, furthermore, like a brief moment in time and space, making it extremely difficult when testifying to differentiate moments and describe situations, which is what the judge wants.

## **CIRCUMSTANTIAL FACTORS**

As indicated above, all the concurring circumstances are very important to make a suitable assessment of the risks and the control the officer had to have. The judicial body shall require the officer to describe all the circumstances in detail which, by themselves, shall not determine the officer's criminal liability, but shall enable their behaviour regarding the risk created to be assessed and consider whether it is suitable and required by society or proves excess in the given response. Thus, among others, the following circumstances must be explained:

- Location (STS numbers 4, 17 and 27, and AP Barcelona appeal number 20)
- Place (STS numbers 4 and 27)
- Lighting (STS numbers 4 and 27)
- Mobile body (STS number 30)
- Silences (STS number 18)
- Presence of other police units (STS number 19)
- Citizen's circumstances (TS interlocutory number 36)

## **POLICE FACTORS**

### **Superior's orders to permit escape**

This is a factor that works against them in the assessment of the officer's control and care regarding the risk of having to use their firearm. In STS case number 33, the head of the operation had given specific instructions to permit escape if necessary, indicating that they would be arrested later as the suspects were perfectly identified.

### **First, shout an order to stop; then fire a warning shot**

Always following this protocol in consideration of the specific circumstances of the case, enables proportionality and need for firearm use to be spoken of (STS number 19 and AP Barcelona appeal number 20).

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## CONCLUSIONS AND FUTURE LINES OF ACTION

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From the analysis of the different variables, for Catalan police officers to be aware of the reality of situations with firearm use, it is evident that the trend is for cases to happen on the street, in which one or two officers intervene with the firearm initially unloaded and with quite accurate prior information, where the attacker often acts alone and with some regularity.

In this study, police officers' most common technical response when dealing with an attacker who uses a firearm is the use of their service firearm. This does not mean that, in certain cases and bearing in mind the circumstances of the situation, the officer may correctly use other resources in the use of force, such as their hands or the police baton, to resolve the situation.

In these situations, the distance of the confrontation is often minimal (less than five metres), the number of shots fired by officers and attackers is often few or absent and, when the firearm has been used, officers have not had any difficulty getting it ready to fire.

Police officers' most detected and predominant human reactions in real situations of firearm use can be divided, on one hand, into those caused by an alteration in the way external information is captured and, on the other, those that are the product of automatisms and the lack of conscious thought. The former relate to distortions in vision perception, or tunnel vision, in auditory perception and in the perception of the timing of the facts. The latter are linked to letting oneself be carried away by immediate automatic thoughts and behaviours, such as so-called automatic pilot.

If the ISPC training programme is compared in relation to the information obtained from real cases of firearm use, it can be said that whilst carrying out this study, the first steps have been taken so that, through training, Catalan police officers are better prepared to deal with situations in which they may have to use their firearm; and also, so they have better knowledge of all the aspects about using force and its progressive use. These steps must continue to be worked on and consolidated using the following lines of action.

### FUTURE LINES OF ACTION

To attain the objective of this document to set out the common language bases regarding situations in which Catalan police officers can use their firearm, the suggested measures are stated below.

- Dissemination of this study to the ISPC, through its official channels, to facilitate access to interested parties.
- Organisation of training days with the active participation of the authors of reference, who have worked on the mental, physical and psychological aspects in



life-threatening situations, as well as the officers who have voluntarily participated in this study, to explain their experiences in person.

- Dissemination of this study to the other law enforcement agencies.
- Dissemination of this study to the legal sector. Taking advantage of the Judicial School of future judges being in Barcelona and considering they ultimately determine whether the officer's action has been in accordance with law or not, it is deemed appropriate that they have this study available and know first-hand what its process has been.

To attain the objective of direct extrapolation of these results to the ISPC use of force and firearms training (in aspects such as the type of exercises, distances, lighting, etc.), the drafting of internal regulations to establish unifying procedures for handling and monitoring an officer who has intervened in an armed confrontation or the acquisition of police materials and tools, the following measures are proposed:

- Make a careful comparison of the acting officers' proposals and the ISPC training actions, to assess opportunities for improvements and possible implementation.
- Check whether the new training activities carried out because of the study have the desired effect.

From the different experiences explained by the interviewed officers, the importance of reinforcing communication around officers who have experienced a firearm situation with serious results is detected, so they feel support from the whole team throughout.

Finally, this study shows that one of the factors that often increases anxiety in an officer who has had police action in which they have used their firearm and have caused other people's injuries or death is dealing with a legal process that often, due to their status as a person of interest, adds concern and worry to the officer.

For this reason, in one part of the study, the judicial and jurisprudential view regarding these cases has been dealt with, as it can help officers understand why criminal proceedings are started because of these actions and the final decision.

In the same way, it is appropriate to promote synergies with the judicial sector regarding police training in the use of force and firearms.

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# APPENDICES

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## APPENDIX 1. DESCRIPTION OF REAL CASES

### Case 1. North Metropolitan Police Region (2004)

An investigation unit was working on a public health case, in which various entries were carried out and it was discovered that hashish was being sold in a residence.

During the morning, various two-officer units entered this residence, at the head of which there was a sergeant and a corporal. Each two-officer unit had been assigned a specific task and room.

The officers entered with precaution because terrorism-related entries had been made in the area, but without suspecting that there could be any firearm in the residence, but that five or eight people could be. The first two-officer unit entered holding firearms and the last two-officer unit recorded the action.

The corporal carried a torch and lit the way ahead, whilst with the other hand aiming with a loaded double-action (D/A) firearm. When he reached the dining room he entered a bedroom on the right that had the blinds closed and almost no light, as the officers shouted, "Police!".

The sergeant turned to the right and the corporal saw two men sleeping at the back of the dining room, on a mattress and fold-away bed, and as both tried to sit up the latter moved nearer so they would not do it and, at the same time, shouted, "Get on the floor! Police!".

The two individuals continued trying to stand up, but the corporal stopped the one on the left with a kick and the one in front of him grabbed the firearm with both hands. The corporal pushed him forwards and he was sat on the bed when the firearm hit him on the back of the head (the crown); a very soft sound was heard. The corporal tried to stand him up but the individual fell. The corporal had the firearm raised and put it on D/A and activated the safety. Everything was very fast and nobody heard the shot.

The ignorance of what had just happened was such that another corporal seized the individual to stand him up because he thought he was not obeying orders and did not know he had a shot to the head. The corporal called for an ambulance.

The corporal was acquitted because the facts were deemed an accident due to the attacker's recklessness upon grabbing an officer's firearm.

### Case 2. Central Police Region (2005)

A patrol comprising two officers were on duty in a town centre that was celebrating its local summer festival. In the early hours of the morning they heard shouting and car tyres squealing. Immediately various people approached the patrol telling them, "He's crazy, he wants to kill someone, he's carrying a gun". The officers went to the location, they saw a vehicle pursuing some pedestrians and the driver pulled out a firearm through the window whilst shouting, "Sons of a bitch, I'm going to kill you!".

The officer driving managed to block him in with the vehicle and the two officers got out aiming at the driver with their firearms and shouting for him to throw the firearm away and put his hands up.

When the driver threw the firearm on the ground, the officers saw it was an underwater spear gun and that on the backseat there was another person lying down, to whom they also shouted to raise their hands.

The officers put the gun away, removed the driver from the vehicle and handcuffed him on the ground. The second person immediately got out from the back of the car, giving a shove, and was also arrested for assault. This second person had a swollen face because he had been beaten up in a bar. After the fight, he had gone to find a friend with a car (the driver) because he wanted to find those that had beaten him up. Both were under the influence of drink and drugs and the driver had a record.

### Case 3. Barcelona Metropolitan Police Region (2005)

During a weekday afternoon, a two-officer patrol received a call from the control room informing them that for two hours two men had been in a shopping centre shopping and paying in cash with a large number of five-euro notes.

The officers contacted the centre security staff, went to the shopping centre control room and saw that the two men had split up. The patrol and two security guards headed for one of the men who had gone outside the shopping centre and who was accompanied by another guard. When the man went around a corner and saw the officers, he began running, so the officers chased him; immediately the security guards also gave chase and between them all they caught him.

One security guard grabbed him by the shirt and they began to fight to lie him down on the ground, but he showed great active resistance and as they did not manage it, officer 1 told him several times to lie down on the ground. The officer took out his baton and brandished it, but he still did not take any notice. The man tried several times to get something from his bag until he managed to take out a firearm.

At that moment, the officer threw the baton down and unholstered his own firearm, and they aimed at each other; then the man also aimed at the other officer and the security guards saying, "Stay calm, nothing's wrong", with a very tense face.

Officer 2 went to take the man's firearm when it fired. Officer 1 heard the shot without knowing where it came from, he even queried whether it had been his own firearm or not, while he continued to aim making various movements, both the man and officer 1, in a circular motion. At a given moment, officer 1 fired because he was convinced the man had fired at him and he did so at the chest, several times, until he saw he had hit him as the man bent over. From that moment, officer 1 heard another shot also without knowing where it came from and saw how the man began to fall to the ground. Finally, he discovered that the man -a German police officer dismissed from his police force and who had robbed a bank abroad- had wanted to get rid of the money from the crime and shot himself in the head with his own firearm.

#### Case 4. Barcelona Metropolitan Police Region (2006)

A corporal and a constable from an investigation unit were investigating a dangerous armed bank robber who worked alone, due to which a surveillance team was set up around various branches. These two officers were observing an area when they were informed that the suspect had just entered a branch. They moved quickly as they were very close to the location and, when they were about to reach the branch door, they agreed to wait next to the door touching the wall and holding their firearms, to be able to jump on the suspect when he came out. But everything happened very quickly and when they were positioning themselves next to the door, the robber came out; the latter, when he saw them holding their firearms, shoved an elderly person who was exiting in front of him in the direction of the plain-clothes officers.

The two officers aimed at the robber and he aimed back at them with a firearm whilst loading it; specifically, he aimed at the constable, who tried to respond observing at close range how he aimed the firearm he had just loaded (a cartridge was ejected from the ejection port) and how he pulled the trigger. The constable fired two shots at 3-4m but with no effect as the robber ran behind a dumpster. Whilst following him, he fell, the firearm fell out of his hand and he was completely exposed to the robber who looked at him.

On the other side, the corporal saw that the constable responded rapidly to the robber but, when the constable fell, he saw the robber aiming at him with the firearm. When he heard the constable's shots he mistakenly interpreted that it was the robber firing at the officer. For this reason, the corporal fired some shots whilst moving which hit the ground and injured the robber.

#### Case 5. Central Police Region (2006)

Around 10 a.m., a patrol comprising a corporal and a constable received a call about a bank robbery alarm at a branch that had sometimes had false alarms. The officers went to the location convinced that this would also be a false alarm because they knew the bank and because they had no information on other bank robberies in the region.

The patrol was very close and when they arrived they looked through the window without seeing anything strange; they went straight in to fill out the alarm datasheet and, suddenly, they saw a man stand up from a table as if he were an employee but he grabbed another man and put a firearm to his head.

The corporal thought that the worst thing that could happen would be a hostage situation or armed confrontation with the citizens, due to which he showed his hands to the robber and began to leave the bank, with the other officer slowly walking behind, both saying, "Stay calm, we're going!".

The two officers positioned themselves behind the vehicles on the other side of the street some 15-20m away from the bank entrance. Immediately, the robber exited pointing the firearm at the same man and using him as a shield, both moving towards a side street, at which point he shoved the man and began running.

Both officers went to the victim, who stated he was ok. For this reason, they began the search with their firearms in their hands. Some 50m down the street the robber had entered, he turned right down a 2m wide alleyway. The corporal thought that entering that alleyway was dangerous because if the robber was waiting for them on the other side it was easy to shoot them. However, the officers tried to enter the alleyway but the robber fired at them. The officers did not know if he had escaped or was waiting for them, so the constable went around the building but could not find him.

It seems the escape was planned and the robber had a vehicle parked close by. A few days later he was identified and arrested.

### Cas 6. Western Police Region (2007)

During a Sunday night shift, a patrol was asked to go to a local police station as there was a youth inside with a knife.

When the patrol arrived, they met another PG-ME patrol and four local police officers inside the reception area, with a youth holding a large butcher's knife. According to the local police they had charged him the week before for a driving offence and he was upset.

After talking for about 15 minutes with the youth to try to get him to drop the knife, the officers decided to call his brother from a mobile phone; whilst the two brothers talked by phone they threw tear gas at his eyes to stun him and take the knife away, but the youth opened his eyes wide, began shouting, raised his arms and threw himself at the officers.

The officers reacted instinctively, quickly moving away through the various police stations exits, but the youth followed them holding the knife in his hands. When an officer was about to fall down some stairs, a constable saw it and called his attention from one of the exits, which made the youth react automatically, he changed direction and quickly moved towards her. The constable took out the wooden police baton to intimidate him without managing to do so, due to which she went outside the building to get to a safe distance but she tripped and fell to the ground. At that moment, the youth rushed towards the constable brandishing the butcher's knife, but another officer also tried to distract him. Upon hearing shouting, he turned again and moved towards the new focus of attention, at which point they began a pursuit around the streets surrounding the police station, in the old part of the town.



The constable also ran after them but lost sight of them in a street. At that moment and when she was running, she loaded her firearm and left it ready to fire. Immediately, she found an officer lying face up on the ground, with the youth on top trying to stab him with the knife, despite that officer having fired and hit him on his thigh. As the youth was still very aggressive, the constable aimed and fired her gun at the youth's leg from approximately 2 metres away. Finally, the youth fell to the ground and they could arrest him.

### **Case 7. North Metropolitan Police Region (2007)**

Around 12 noon, a patrol comprising a corporal and a constable were asked by the control room to go to a residence that had been burgled some hours before. After finalising the formalities with the dispatcher, they went out on to the street to get the police vehicle, along a large avenue with various lanes, when some municipal workers approached and told them they had seen two men acting suspiciously as they were going up and down the street looking at the shops.

The officers saw the men speaking on the pavement on the other side of the avenue: one of them was well-dressed with a briefcase and the other wore ordinary clothes. When the officers moved towards them, the two men began to walk in different directions. This made the two officers split up as well.

On one side, the constable approached the man wearing ordinary clothes and asked for his ID, but when he put his hand in his jacket pocket, instead of bringing out the ID card he took out a firearm, pointed it at the constable's head and said, "Lie down on the ground or I'll blow your brains out!". The constable lay on the ground and the man continued holding his firearm at the officer's temple, whilst pulling hard at the service firearm to unholster it. At this moment, citizens shouted at the man to let the constable go, but he continued shouting at him not to move or he would blow him to pieces.

On the other side, the corporal approached the well-dressed man to ask for his ID but, when he was 2-3m away, he heard the constable's shouts and when he turned he saw how the man had his hand on the constable's neck and a firearm to his head. Quickly and instinctively, he turned to look at the man he had closer to him, who had just taken out a sawn-off shotgun and already had it in his hands. The corporal glanced back at the constable and saw he was lying on the ground, the man holding the firearm to his head whilst tugging to unholster his firearm. Instinctively, the corporal went towards the constable to help him, the moment in which the man with the shotgun disappeared.

The corporal left his firearm on the ground, at a short distance to be able to react if necessary, and shouted several times, "Look! I've put my gun on the ground, you can go. We have nothing against you. Go!". But the man did not pay any attention and continued tugging at the constable's firearm until he managed to take it and shot at the constable's legs as he lay on the ground. The bullet went between his legs and only left superficial burns. Next, he ran away whilst threatening the corporal with both firearms telling him not to follow.

The corporal picked up his firearm and quickly went to the constable, who could stand up on his own and they decided to start searching for the two men. Some citizens pointed out a vehicle containing the two men who were trying to escape. The corporal saw that the driver was aiming a firearm at them, at which point the corporal fired several shots, one of which hit the vehicle. Finally, the two men escaped in the vehicle. The constable was in shock and could not see the number plate, due to the situation, his injury and his firearm being stolen.

A few days later, the two men were arrested, although the firearm could not be recovered.



### Case 8. North Metropolitan Police Region (2007)

At 10.40 p.m., two constables were patrolling between two villages when they received a call to accompany the Medical Emergencies Service (SEM) personnel with a schizophrenic patient. The control room also sent another patrol as the man was known and had a record for being aggressive.

When an officer arrived on the estate where the man who had to be transported lived, the latter escaped through a wood next to the residence, but the former decided not to chase him as he had been told they had dug ditches in the area and that the man had a bow, which he had fired at the police on other occasions. Together with the other officers who arrived on the scene, they decided to leave and drive around to locate him. However, before, and together with the patient's father, they let the air out of the vehicle's tyres so he could not use it because his driving licence had been revoked.

During the last hour of the night shift, a patrol spotted the patient was inflating the car tyres, but they decided to inform the control room and not intervene until backup arrived.

The initial patrol was activated again and arrived at the residence where they waited for the SEM to arrive. At that moment, the patient spotted the patrols and tried to attack them with a German Shepherd dog, at the same time as picking up an electric pump for inflating car tyres and put it in his mouth, while sparks flew out and he laughed in front of the officers.

When the doctor and medical staff arrived, it was impossible to mediate with the patient as he was extremely aggressive and he managed to shut himself inside the house garage.

The officer of reference entered the garage with other officers and heard a very loud noise because the patient had broken down the garage door and had gone outside, into a landscaped area where there were other police units. The patient was wearing a motorcycle helmet and held a pickaxe in one hand and the German Shepherd in the other.

The patient moved towards the higher part of the area surrounding the house, where there were two plain-clothed officers, one holding a torch who tried to subdue him from behind, but the dog jumped at him. This officer fell to the floor and the patient raised the pickaxe to hit him, at which point the officers unholstered their firearms and readied them to fire whilst shouting at him to drop the pickaxe. The patient stopped and turned to look at them all, as they had formed a semi-circle around him, when the sergeant shouted for no one to shoot as there was cross-fire. The officer who was on the ground protected himself by rolling into a ball but without unholstering his firearm.

The patient looked for whom to attack and chose the officer of reference because he was not wearing the external bullet-proof vest and was not stocky. At that moment, the patient began to run towards him with the pickaxe raised above his head; for that reason, the constable ran backwards looking at him. The constable held the firearm in his hand and ready to fire, and in 1 or 2 seconds the patient was already on him as they were no more than 15m apart and the ground slope downhill. When he was 2m away, the constable fired to stop him whilst continuing to move backwards and not knowing whether the shot had hit him, but as he saw that the patient continued with the pickaxe raised and heading towards him, when he was approximately 1.5m away he fired several times whilst moving, until the patient slowed down, dropped the pickaxe, fell to his knees and then to the ground.

The officers grabbed the constable and led him to the vehicles when he heard, "Person down, Person down!" and he knew he had hit the attacker but did not know whether he had injured an officer.

Finally, it was verified that the constable fired 7-8 shots, of which 4 hit the patient and one ricocheted, slightly injuring the patient's father, who at one point during the action had come outside, despite being told to stay inside the residence.

### **Case 9. North Metropolitan Police Region (2008)**

At 5.30 a.m., a patrol received a call from the control room informing them that a vehicle had broken through a local police roadblock.

For this reason, the patrol set up a vehicle flow control; a few moments later, a vehicle matching the description and travelling at high speed with three occupants, passed them and they began a high-speed car chase with flashing lights and sirens.

The suspicious car put other drivers in danger several times, travelling in the middle of the road, some vehicles had to move out of the way so as not to collide and some pedestrians even had to move out of the way to avoid being run over. There was a moment that the vehicle left the road and entered a street whilst being chased by the constable driving.

The driver turned off the headlights and stopped after turning around and facing the police vehicle. The officer who was not driving got out of the police vehicle and, holding the firearm, ordered them to get out of the vehicle, but they did not do it instead accelerating towards the officer to run him over, so the officer fired several shots at the tyres whilst being able to get out of the way.

The vehicle escaped again the same way it had come and the constable, with the other officer in the passenger seat, continued the pursuit. When they entered an estate, they collided with another parked car and were stopped. A few metres away, there was a local police force corporal standing, holding his firearm and repeatedly ordered the vehicle occupants to get out, but they paid no attention to him either and at the same time revved the engine to intimidate the three officers who were in the middle of the street and the police vehicle to one side. Once again it sped up and tried to hit the officers, who managed to get out of the way whilst firing several shots at the car tyres, which had a second accident in a nearby street.

Finally, the acting officers managed to arrest the three occupants.

### **Case 10. Barcelona Metropolitan Police Region (2008)**

During a night shift, a detective corporal and a Public Security constable carried out a joint plain-clothed duty with an unmarked vehicle; it comprised locating themselves a few streets away from a special roadblock, to detect if any vehicles made any strange manoeuvres after passing it.

Around 5.35 a.m., on the same street where they were parked, they saw a high-end vehicle pass by at great speed and for this reason they followed it after informing via the radio. When the officers approached the suspicious vehicle, it suddenly stopped. The corporal opened the police vehicle door to get out but said to the constable not to get out in case he had to react. When the corporal put his foot on the ground, the suspicious vehicle abruptly got into gear and drove off at up to 100 km/h around the town centre streets, until it lost control and hit a building wall.

Immediately, the officers stopped the police vehicle in the middle of the street, some 5m away from the accident, got out and moved towards the other car thinking they should call the medical services due to the violence of the crash, as the whole front of the vehicle was crushed against the wall and there was a lot of smoke. But the driver put his arm over the passenger headrest and looked behind him; he started reversing and with rapid acceleration hit the police car. The two officers, who were



side by side, instinctively got out of the way so as not to be run over, fired at the rear car wheels which, with the tyres blown, managed to escape but crashed again in a nearby street. One of the occupants got out before escaping and was arrested putting up great resistance. The arrested person and the other occupants were part of a gang of jewellery thieves.

### Case 11. Barcelona Metropolitan Police Region (2008)

Around 8.30 a.m., the patrol comprising a corporal and a constable received a call over the radio to go to a municipal dog pound, as there was a man attacking other people.

When they arrived outside the location, the officers found various anxious people and the dog pound manager, who informed them that when he had come to work at 8 a.m., at the main entrance to the dog pound he had met an aggressive man who wanted to access the complex; he replied they did not open until later and the man punched him in the face and went inside.

Afterwards, the manager saw him throwing stones at some vehicles that were inside and he was concerned about an elderly couple who lived in a hut inside the complex.

The officers entered, informing the control room of the situation and having just gone through the door they saw the man at the end of a ramp. They moved towards him, at which point the man got defensive, grabbed some chains he had found at the dog pound and wrapped them around his fists. The officers ordered him to drop the chains but he paid no attention; nor did he seem to understand what they were saying as he shouted several times “politzia” and various sentences in another language.



At one point, he grabbed a spade he found nearby and brandished it at the officers, who got out their police batons and prepared for a confrontation.

The officers tried to hit the man's arms but did not manage it, as the spade was longer than the batons. The man waved the spade from side to side as if it were a sword and the constable heard how the spade cut through the air. In the confrontation, the man

moved towards the constable with the spade and hit his arm. The constable stopped him as best he could but fell on the ground and, when the man was about to hit the fallen constable a second time, the corporal shouted to get his attention and he turned towards him holding the spade in his hands. The corporal dropped the baton, unholstered his firearm (a loaded Walther) and fired a first shot but as the man continued moving towards him, the corporal fired a second shot; this made the man drop the spade, although he remained aggressive. Finally, the two officers and a security guard could arrest him.

### **Case 12. Girona Police Region (2009)**

One afternoon in February, a traffic patrol comprising two constables were making their rounds in the vehicle along a road. They received a call about a robbery in a village in the region and the control room told them to position themselves on a roundabout to look for the vehicle in which the allegedly dangerous robbers were travelling, bearing in mind they could be carrying a rifle.

An officer put on his bullet-proof vest, whilst the other drove the vehicle to the indicated location. After waiting for a few minutes, a vehicle matching the characteristics sped by, scraping against the other cars travelling along the road; behind it, there followed a police vehicle. The traffic officers also began to follow and a bit further on the robbers' vehicle entered the motorway. There it met a special ARRO roadblock which stopped it, but one of the robbers fired at the officers with a rifle shouting, "Welcome, officers!".

Immediately, the robbers' vehicle made an evasive manoeuvre, putting it in reverse and passing by the traffic vehicle, the moment in which the robber in the rear seat fired the hunting rifle with a big game bullet. This made a hole in the B pillar between the driver's door and the back door, the size of a fist. Despite the sudden situation, the traffic patrol continued following the suspicious vehicle for some time along the motorway at great speed.

Several times during the pursuit, the robber on the back seat hung out of the window and fired with the rifle at the police vehicle; when the passenger officer saw there were no other vehicles in the area he fired from the window.

The robbers began to lose the traffic officers, but they lost control of the vehicle on a roundabout exit and crashed into a building. At that moment, they were arrested and imprisoned for several violent crimes, among them, stealing the vehicle they were driving, which they had stolen after violently beating up the car owner.

### **Case 13. North Metropolitan Police Region (2009)**

Around 4 p.m., a sergeant and two constables from the Scientific Police Division were carrying out a technical police ocular inspection (IOTP) of a residence façade because someone, in relation to a conflict between gypsy families, had fired at the outside walls and one of the bullets had entered through a window and hit a bedroom wall.

While the officers were carrying out the IOTP, they heard shouting in the street and moved towards it, at which point several people informed them there was a man in the street holding a firearm, threatening people.

Immediately, the officers saw him about 40m away and shouted at him to stop as well as ordering him to throw the gun down, but the man aimed the gun at them from the middle of the street.

Despite the risks of the situation and seeing there were citizens in the street, the officers decided to confront the armed individual, moving towards him and aiming their

firearms at him. There was almost nowhere to take shelter because there were no parked vehicles on the road. The individual, when he saw the officers approaching, lowered his firearm and, when the officers were 2-3m away, re-aimed at them but no one opened fire, they jumped on him and managed to make him throw the firearm on the ground, which was loaded with a cartridge in the chamber.

When the officers had the situation under control they could verify that there were a lot of people crowded around them because they wanted to attack the man for having fired the shots at the residence.

The officers managed to prevent it and when backup arrived they put the man into a vehicle, but the situation was so tense that when the officers were guarding him, a fight broke out around them and a man stabbed another with a knife.

#### Case 14. Barcelona Metropolitan Police Region (2010)

Around midnight in February, a patrol comprising a corporal and a constable were requested to go to a residence where prostitution was known to take place and where officers had already gone for noise problems and the occasional fight. This time the call was for disturbing the neighbours.

When the officers arrived on the same floor as the flat in question, they heard shouting from inside a residence and they knocked on the door. A girl opened it and extremely frightened pointed inside. The officers saw a shadow running along the corridor and not knowing what the real problem was decided to quickly follow it.

The officers reached a patio that was on the other side of the flat and, in the darkness, they seemed to see a silhouette crouching next to a railing; at that moment, they heard an undefined noise, which they could not identify as a shot, and both felt an impact in their abdominal area.

PHOTO A.3. Corporal's chest, victim of the shooting<sup>49</sup>



<sup>49</sup>. Photograph provided by the Association for the Return to Work of Disabled Mossos d'Esquadra (AIL-MED), with the consent of the PG-ME corporal, victim of this shooting.

The corporal noticed how the impact threw him backwards and sensed it could have been from a firearm but when he saw his colleague with blood on his face, he realised both were injured. That is why he prepared to react with his firearm, but his arms did not respond, he felt weaker and weaker and realised that he was beginning to bleed from his chest and could barely breathe. He lay down on the floor and tried to communicate via the portable radio but it had also been hit by one of the more than seven hundred small game pellets fired from the sawn-off rifle of one of the men who had held up the brothel.

The constable had very similar sensations because he had noticed the impact of the pellets in his body, although he had not received as many as the corporal, but some had hit his face and caused a lot of pain. His chest was also affected and he felt extreme pressure. He had no portable radio signal inside the flat but did manage to call for backup with his mobile phone. Backup arrived quickly, although it seemed an eternity to the officers as they did not know whether the shooter would return to shoot them and because they were in a lot of pain; they were even concerned for the backup, that they could be injured if they went after the assailant.

### Case 15. North Metropolitan Police Region (2010)

An investigation unit was investigating four dangerous criminals who carried out silent burglaries in residences, but who recently also used violence and could be carrying firearms.

The day the operation was decided, a group was following the criminals with several vehicles, another group was distributed in two vehicles and other officers were hidden on foot in a woody area, where it was suspected they would go.

Two detective constables inside two unmarked police vehicles, waited for the criminals' vehicle to enter a cul-de-sac to block their way so they could not leave, so the officers in the vehicles and those hidden among the trees would arrest them.

Mid-afternoon the officers were informed that the criminals were arriving with the vehicles. Everything happened very quickly: the two police vehicles closed the exit of the four criminals, they got out of the car using different doors to escape and some attacked the officers with violence.

When one of the criminals got out of the vehicle, constable 1 was holding his firearm as a precaution, but the criminal was not holding anything in his hands and, without the constable having time to holster his firearm, the attacker grabbed it with both hands. At that moment, his concern was for the attacker not to take his firearm, for his life and that of the rest of the officers; for this reason, he pushed the criminal and heard his firearm fire, which surprised both the officer and the criminal, who dropped the firearm and ran off. At that moment, he heard constable 2 saying, "It's hit me, my leg is injured!".

Constable 2, when he was opening the police car door and put his foot on the ground, felt his leg was numb; he instinctively grabbed his calf which was wet and with surprise saw that his hand was covered in blood, and he also realised that the vehicle door from which he had got out had a hole in it and, not knowing how, he had been shot in the leg before getting out of the car. This constable saw constable 1 holding his firearm and looking shaken because he could not explain how and what had happened.

He was immediately taken to the hospital in a police vehicle. Everything moved so quickly that some officers involved in the operation did not realise what had happened. Luckily, the bullet had entered and exited cleanly and there were no after-effects.



### Case 16. Barcelona Metropolitan Police Region (2011)

For some time four men had been robbing closed bars using the tin opener method, particularly on Sunday nights. For this reason, the description of the violent and dangerous suspects was passed around during the briefings, and during a night shift a mixed plain-clothed patrol was carried out, with a detective constable and a Public Security (USC) constable.

Around 2.30 a.m., when the two officers were patrolling with an unmarked vehicle around one of the streets in the area, they saw an Opel Calibra vehicle stationary in the opposite direction, with two men inside in the front seat and two more who were forcing the metal door of a bar.

The USC constable called for urgent backup and then quickly got out of the police vehicle and ran towards the suspects' vehicle. The CID officer drove the police vehicle to block the criminals' vehicle; the USC officer broke the driver's window with the extendable baton and put his upper body through the window to try to get the ignition keys.

The situation accelerated: the two men who tried to enter the bar got into the back seats of the vehicle and the two in the front grabbed the officer, while those behind hit him; they started the vehicle, the officer hanging out and hitting the parked cars and dumpsters, until the vehicle got stuck between some dumpsters and the police vehicle, with the officer still hanging out of the driver's door.

The CID constable got out of the vehicle and seeing he could do nothing to help the other officer, positioned himself 4-5m away, on one of the pavements. In this position, he unholstered his firearm, fired a warning shot while ordering them to stop attacking the officer and hand themselves in but, ignoring him, the criminals freed their vehicle after crashing it several times back and forth and, instead of escaping, drove the vehicle onto the pavement and tried to run the officer over, who jumped out of the way and hid behind a large tree. The criminals shouted: "Take him out!" and the officer instinctively fired several shots at the tyres, as the other officer was still hanging out of the driver's door.

At that moment, the criminals let the officer go, who fell from the moving vehicle and received various blows, and they managed to escape. However, that same night one of them received medical care in an A&E for a slight bullet graze in his neck, for which he was released but was arrested in the hospital. The others were arrested a few days later.

### Case 17. Barcelona Metropolitan Police Region (2011)

The patrol comprising a corporal and a constable knew that the Pink Panthers gang carried out quick and violent luxury jewellery heists; they were armed criminals and entered with violence during opening hours, broke the glass display cases with large mallets and took the jewellery with powerful vehicles. This information had been passed on several times in the briefings because on occasion they had acted in the high part of Barcelona.

Around 6 p.m. on a weekday, while patrolling, two agitated women shouted to them that a jewellery shop was being robbed on the same street, some 25m away. They went to the premises without lights or sirens and parked on the pavement a few metres away so they could not be seen.

The constable was the first to get out of the car and ran to the small entrance to the jewellery shop, from where he saw several individuals breaking the glass display cases with mallets and axes. The corporal followed behind him. The officers held their firearms ready to fire, as they left the vehicle.

One of the robbers tried to escape, but the constable kicked him because he was holding his firearm in his hands. Both officers shouted the same order for them all to lie on the ground, but the robbers ignored them. It was an extremely complicated and risky situation, as there were four robbers, they could be armed (there was a gun on a table) and the officers were in the shop doorway.

The constable fired at the ceiling, causing the four robbers to lie down on the floor; at that moment, the officers watched over the four individuals piled on the floor. Two minutes later, backup arrived and they could arrest them.

### **Case 18. Girona Police Region (2012)**

During an afternoon shift, a patrol comprising a corporal and a constable received a radio call to go to a residence where there was a man with his ex-partner and their 8-year old son. The man stated that he did not want to leave his ex-partner's home without his son, but the mother did not want the man to take him. The man held a large machete and threatened the mother that he would not leave the residence without the son. He was very angry and had taken a large quantity of medication with the intention of committing suicide.

When the patrol arrived at the residence they found a local police patrol and a SEM unit which had called 112, as the man had very angrily threatened them with the machete when they arrived to help him.

The corporal tried to convince the man to stop being aggressive.

One of the main problems was the distribution of the room in which the father and son were located: it was a small living-room, with an L-shaped sofa where the boy was sat watching the television and the father in the narrow space between the sofa and the wall, covering the space with the machete in his hand.

The corporal tried to convince the man to put the machete down so no one would get hurt, but the man insisted that he would either leave with his son or dead.

The corporal saw the man had a very cold expression, without raising his voice and it seemed that what he was saying could be true. Therefore, the corporal made a quick assessment that if the man attacked him or the child with the machete he would have to use his firearm, as in the small space the police baton would be of no use.

During the mediation, while the man spoke with the constable and was not paying attention to the corporal, the latter readied his firearm to fire, carefully loaded it without the man realising and put it back in its holster. A few moments later, in a surprising movement and without saying anything, the man jumped on the corporal with the machete in his hand intending to use it. For this reason, the corporal quickly unholstered his firearm and, reacting instinctively, shot with both hands in front at the man's chest 86 centimetres away. The man immediately stopped and fell down dead.

### **Case 19. Barcelona Metropolitan Police Region (2013)**

At 2 p.m. one Friday in September, the police unit comprising two constables was patrolling when they received a radio call about a bank robbery, two streets away from their position. There were two men inside and another outside who was waiting in a white van. This information came from a woman who was outside the bank and was describing events using her mobile phone. She also said that one of those inside was wearing a motorcycle helmet and another, who was wearing a wig, had dropped a knife on the floor.

The two officers turned the sirens off and stopped about 50m away from the bank; when they arrived, they saw a white van drive off, although they decided to check whether the robbers were still inside.

In front of the bank they saw the informant, who told them the robbers were still inside; as the officers thought the robbers could have seen them through the glass entrance, they decided to enter holding their firearms pointed at the floor.

Inside they saw a man 2-3 metres away wearing a motorcycle helmet and a firearm tucked in his trousers, and he was also holding a man by the arm. Automatically, the officers jumped on top of the robber and managed to immobilise him. One of the constables stayed on top of the robber and the other went out to the street to search for the second robber, who seemed to have left before the officers entered.

The informant, who was still in front of the bank, told the constable where the other robber had run off. The shop owners in the area also indicated the criminal's route to the constable. When he found him running down a street, the constable shouted at him to stop but the robber kept running, threw away a wig, a knife and a bag, and the constable continued the pursuit until arresting him. Other officers located the white van and arrested the third robber.

### **Case 20. Barcelona Metropolitan Police Region (2013)**

One weekday in June, a patrol comprising a plain-clothed sergeant and constable were searching for two men who had recently robbed several businesses in the area. Around 7 p.m., they saw a car with two men inside moving very slowly. The two men got out of the vehicle and sauntered along before sitting on a bench, but they kept going back and forth to the vehicle. The sergeant informed the police station for five more plain-clothed officers to arrive, as the men's attitude was suspicious, and they all linked up via radio. Two officers stayed in a vehicle and the other three positioned themselves in different places nearby.

The sergeant and the constable were outside the men's line of sight. At 8.30 p.m., the men got some shoulder bags from inside the car and went to a supermarket, at which point they covered themselves with hoods, went inside in a determined manner and closed the shutters.

The officers knew they were robbing the supermarket but they did not see any weapons, due to which the sergeant got the officers together and they agreed to position themselves by the robbers' car and, when they went to get it, they would all jump on them. Some ten minutes later, the two men walked out of the supermarket, when one of the employees shouted, "Stop! They've robbed us!". At that moment, the robbers did not go towards the car but turned down a nearby street.

The officers ran after them and shouted, "Stop! Police!", but the men turned, aimed and fired at the officers with two firearms. When they fired, the sergeant -who was running in front- unholstered his firearm and automatically loaded it. Of the five officers who followed, two hid behind the vehicles and the other followed the robbers. The sergeant shouted they were carrying blank pistols, but there was really only one because the other was a loaded revolver.

The sergeant continued the pursuit and fired two warning shots but they did not stop; they entered a square full of people and then reached a street where there was nobody. At that moment, one of the men, who was about 10m away from the sergeant, turned around again. The sergeant fired two shots, one of which hit his leg and he fell. The officer behind him also fired. The two officers who followed arrested him. Meanwhile, the sergeant continued chasing the other man until in a large square, he threw a bum bag in a dumpster and when he turned the corner he wanted to enter a bar. At that moment, the sergeant shouted for him to lie down and the robber did. Finally, the ser-

geant handcuffed him on the ground and, as he was alone, sat on him to wait for backup to arrive.

### **Case 21. North Metropolitan Police Region (2013)**

At 3 a.m., a corporal on duty at the OAC<sup>50</sup> received instructions from his shift supervisor to set up a patrol as a lorry driver had informed them that he was parked in a motorway service area and his load had just been stolen, breaking the container. The suspects had left in a van and a car.

The corporal, together with a constable who was in the police station, went by police car to the place on the motorway where the suspicious vehicles had last been seen. On the way, they observed a van that matched the description and when they approached to check what the occupants looked like they saw they were travelling in balaclavas.

The patrol quickly positioned itself behind the van to avoid being rammed and informed the control room of the situation, as well as turning on the lights and sirens. The van did not stop but the corporal knew they could pursue them easily because it was not very powerful and seemed to be heavily loaded.

When they arrived at a toll the van did not stop and broke the barrier; the patrol followed them from behind when, suddenly, another vehicle appeared from the left which was moving very slowly, with the two number plates covered, and which joined the patrol car and made manoeuvres to ram it, at one point positioning itself next to the patrol car at the same speed.

The corporal, who was driving, did not know whether they were carrying weapons or were aiming at them as it was dark and he could not see inside the car, but he loaded his firearm, readied it to fire and stuck it out of the window with his left hand, firing some warning shots so they would not get too close. Suddenly, the car accelerated, got in front and began to throw pieces of metal.

The constable informed the control room of the situation and the corporal moved from behind this car to continue chasing the van and stopping it from entering a village. The patrol decided that the constable would shoot at the van tyres, for which reason they pulled up next to it and, leaning the firearm on the wing mirror, he aimed with one hand and fired a shot at the tyre but the van continued moving and the officers decided not to fire any more.

At the exit of a motorway tunnel, there was another police vehicle. The suspects' car disappeared but the van slowed down and between the two police vehicles they managed to stop it. One of the occupants jumped out when it was still moving at around 40-60 km/h.

Between the four officers, they arrested the two occupants of the van, who resisted, and they verified that inside the van there were around four hundred stolen jackets.

### **Case 22. Central and Girona Police Region (2014)**

Around 1.30 a.m. in July, the supervising corporal and a constable were travelling in a patrol car around a town when they saw a vehicle stopped in the middle of the main road, next to a closed restaurant. The officer approached the vehicle and saw an approximately 30-year old man removing a can from a vending machine; they asked him to move the car from the middle of the road and he told them to leave him alone or they would have problems.

Next, he got in the car and left with screeching tyres towards a regional road.

<sup>50</sup>. Citizens' Information Desk.



The officers informed the control room of the situation via radio and began to follow in the patrol car.

The driving was very aggressive and, for the 20km of the pursuit, alternated between rapid escapes and stopping in the middle of bends in the road to crash in reverse with the patrol car; at one point, he managed to hit the patrol car, the moment in which the corporal got out of the vehicle and from 2-3m away shot at a tyre but it was not effective and he quickly drove off again.

The officer continued the pursuit until they found him stopped on a straight road.

When they stopped the patrol car some 15-20m away, again the car reversed at great speed and remained crossed just in front of the patrol car. The corporal saw how the driver, who was about 2m away, fired three shots with a firearm at the front windshield of the patrol car, which broke. The constable's response was to fire from inside the patrol car when the corporal got out. Once again, the car sped off. These facts were communicated via radio to the nearest police station.

Finally, the driver crashed the car engine on a forest track and inside the vehicle a notebook was found with various notes referring to his recent actions, "Run over the police, shoot at the police!!".

At 4 a.m., they called the Deputy Inspector of the last police station they had informed to tell him of the events and that they had located the car on a forest track in his area. The Deputy Inspector went to the police station to command the search operation for the man and throughout the morning they managed various operational resources that worked on the search.

At 6 p.m., they still had not located him and whilst he was deciding how to continue the search at night, together with a sergeant, they went in an unmarked 4x4 along a forest track. Returning to the Advanced Command Centre, they found a stopped coach and a man standing on the verge; when he saw the 4x4 approaching, he made a signal to stop it but his face changed when he saw there were two police officers inside; suddenly, he took out a firearm from inside his jacket and pointed it inside the police vehicle. The deputy inspector reacted instinctively, stuck his firearm out of the window and fired a shot into the woods; at this, the man quickly hid under the vehicle.

The deputy inspector and the sergeant got out of the vehicle holding their firearms because they did not know where the man was, although the deputy inspector saw him hidden under the front of the vehicle. At that moment, they began to chase each other around the vehicle whilst constantly aiming with their firearms.

The sergeant was also looking for the man around the vehicle but the deputy inspector could only see the man.

At one point, the man fired and the deputy inspector felt the bullet graze his arm. From here on, the deputy inspector saw the man get into the driver's seat and try to put it into gear, so the deputy inspector, from the other side of the vehicle, fired several shots at the bottom of the passenger door so, with the noise, he would stop, but even so the man could get it into gear and drove the police vehicle off. At first, the deputy inspector fired a couple of shots at a tyre but it did not stop.

While this was happening, a community police officer and two other officers in a marked police car and who also took part in the search, passed the coach of reference and behind it they saw the police 4x4 driven by the man, as they already knew from the information passed on by the sergeant via radio. The patrol turned around and began to pursue the vehicle with a blown rear tyre.

The man drove making zig-zags along the road, when he saw a marked motorcycle he voluntarily rammed it, and, stopped at bends in the road trying to collide with the marked vehicle that was following. The constable stuck his firearm out of the car window several times and fired various shots to stop him, although with the first shot he had problems because he had forgotten the safety was on.

Despite everything, the man remained aggressive and continued ramming the police vehicle which remained on the verge of the forest track. At that moment, the constable got out of the patrol car and in one of the attacks he fired at the man, who died inside the vehicle from various bullet wounds, but who continued pressing the accelerator until crashing into a tree.

### **Case 23. North Metropolitan Police Region (2014)**

One afternoon in February, a constable was on duty at the entrance to a police station and, as there were no citizens in the reception area, was entering data into a computer, with the safety glass window closed.

At that moment, a young woman entered the police station and went to the desk, due to which the officer opened the window to listen to her request but, without saying anything, the youth took a revolver out of her pocket and pointed the barrel a few centimetres from the constable's face.

At first, the officer thought it was a joke and said, "But, what are you doing?!" at the same time as instinctively moving slightly out of the range of the barrel grabbing his firearm without unholstering it.

The youth's reply was "You guys aren't so brave when you're alone" while trying to open a door at one side of the reception, but the officer prevented it with a kick and locked it. He quickly grabbed his portable radio and communicated that there was an armed person at the entrance.

The officer hid behind a low wall inside the reception area and took out his police baton. Meanwhile, the youth continued very active and looking for contact with the constable but, as she could not see him, she jumped over the desk from the window to access the interior part of the reception area and fell inside. At that moment, the officer hit her twice with the extendable baton and managed to get the youth to throw down the revolver she was still holding.

### **Case 24. North Metropolitan Police Region (2014)**

Around 3 a.m. one Monday in January, a corporal and a traffic constable were setting up a roadblock at the exit of a motorway toll. This roadblock was part of a control plan against burglaries in residential estates.

After 30 minutes outside the traffic van, a vehicle with two men passed through the toll area which made the corporal suspicious, and next arrived a van at great speed.

The corporal moved a few metres towards the toll barrier where the van was passing, making signals for it to stop, but the driver turned on the high beams to dazzle the police officer and drove towards him to run him over. The corporal moved out of the van's way, but the vehicle changed direction again to hit him. Once more the corporal avoided the attempt and instinctively shot at the rear tyre from one metre away, but the vehicle continued its escape and entered the first lane where it could turn, just at the motorway exit. At that moment, a reaction police vehicle and the traffic van began the pursuit.

The road had a sharp slope and the occupant/driver jumped out of the moving van without braking which caused it to abruptly crash into the first police vehicle.

The corporal could stop the inertia of both vehicles using the traffic van handbrake.

The van driver escaped and it was not possible to know who he was, but inside there were twenty-nine LED television sets that had been stolen. The van had been notified as stolen.

### Case 25. North Metropolitan Police Region (2014)

First thing in the morning, a man with severe mental illness entered a library and threatened the people inside with a large knife in his hands, with some requests that were not understood.

The workers could call the local police and the officers managed to close him in an empty room where he could not get out.

First thing in the afternoon, an ARRO constable arrived at the location with other officers to set up an operation to try to subdue the man with minimal harm possible; knowing that the man had threatened to kill himself several times and that he had a history of psychiatric problems.

The commanders having arrived at the location, they explained the operation plan and that everything had to be done to try to get him to drop the knife so he would not harm himself. Even the town mayor had spoken with him via telephone but nobody could convince him to change his attitude.

The possibility of having four riflemen in a line about 10-15m away from the man was assessed, bearing in mind the size of the room the man was in. Shield bearers were positioned in front of the riflemen to protect them from the knife.

It was planned that three blanks would be fired first and, if necessary, orders would be given to open fire with rubber bullets, and if the man reacted against the officers, the ARRO constable would fire at his lower limbs.

The situation went on for a long time and the man, locked into the library room, alternated between moments of calmness and agitation, as well as seeming to speak to the ceiling. After two hours and a half hours, he threatened the officers who were at a safe distance with the knife. The three planned blanks shots were fired when the man began to take off his jacket and jumper and pointed the knife at his stomach saying, "Something very nasty will happen!".

The sergeant shouted the order to fire and the constable fired the rubber bullet at the bottom part of the body, which hit his hip and caused a small bruise. The man fell to the floor but was still holding the knife when the sergeant took it off him.

### Case 26. North Metropolitan Police Region (2014)

During a Saturday night shift, two Public Security officers were acting as spotters in a drink-driving operation near an entertainment area.

The corporal told them that a vehicle had suddenly turned around to avoid the road-block, so the two officers went to look for it in the patrol car. They quickly spotted it and followed along the roads with their lights and sirens on. At one point, the vehicle entered an area mainly inhabited by gypsy families and, in one of the squares, the vehicle suddenly braked, causing the patrol car to crash into the back of it.

Next, the driver got out and ran off and one officer's reaction was automatic: he got out of the patrol car and ran after him. The police driver did the same, running behind. The two officers ran about 300 to 400 metres until they stopped and subdued the escaping man on the ground. The officers asked why he ran and the man replied he was drunk. While one constable handcuffed him, the other went to the top of the street to check on the patrol car and notify the situation, but ran into three or four people and immediately there were around thirty people moving towards the place where the arrested person was being held and shouting for them to let him go.

The group of people approached the officers aggressively, so they unholstered their firearms, but the group did not move back, until someone said they also carried guns and that they would shoot. One officer fired a warning shot and that made the group disperse, but at the same time the arrested man, who was behind the officers, escaped.

A few hours later the arrested man handed himself in to the police.

### Case 27. North Metropolitan Police Region (2014)

After a meeting, a plain-clothed deputy inspector and sergeant went for a coffee in front of the police station. When they were sitting on the terrace, about 80m from the main façade of the police station, the sergeant talking on his mobile phone, he suddenly saw an officer stick his head out of a side door of the police station, holding his firearm and looking at the main entrance door; in front of the door, about 7 or 8 metres away, was a man, also holding a firearm, who was looking inside. The sergeant thought that the man had stolen the firearm from a police officer and was threatening people.

The two officials got up and moved towards the police station, crossing a road with traffic. The officials did not talk to each other and each was focussing on the situation in a slightly different way. The deputy inspector wanted to be more cautious and walk up behind the armed man and subdue him, but the sergeant wanted to move quickly and end the risk as soon as possible. The deputy inspector said something to the sergeant about moving slowly, but the sergeant did not hear him.

On the other side, an inspector who was in his office heard shouting in the police station reception area, so he looked out and saw a man shouting "I'll kill you!" holding a firearm, whilst threatening the door officers and the citizens in the waiting room. The inspector grabbed his firearm, put it behind his back, quickly went down the inside staircase and, when he got to the door, saw the man outside the police station holding the firearm. Several officers followed the inspector but he told them to wait inside the police station behind him. The inspector made visual contact with the deputy inspector and the sergeant who were on the other side of the street. In the middle was the man, holding the firearm and extremely out of control, who was looking towards the police station door. With one hand the inspector called his attention while holding the firearm behind his back with the other. This distraction prevented the man from realising that the other officials were approaching from behind. The sergeant reached the man from behind and jumped on top of him, then the deputy inspector helped disarm him.

Finally, it seems that the man wanted the officers to shoot him, as a suicide by police, as sometimes happens in the USA.

### Case 28. Barcelona Metropolitan Police Region (2014)

In the middle of October, while a detective corporal and a detective constable were doing a stake out near a residence, they saw a couple in the street acting suspiciously, looking at the businesses insistently and attentively. When they were looking carefully at a chemist, the boy put on a hood and a hat. Immediately, the two officers identified themselves and asked for the couple's ID.

The couple's attitude was calm at first, and they handed over their personal IDs. The officers passed the information on to the control room and were told that the boy had a record for robbery with forced entry, and for that reason they searched him. The officer asked him if he was carrying anything in his clothing that was sharp and, as he said he was carrying a knife, the officer ordered him to throw it on the ground and he did. The officer kicked it out of the way.

During the superficial search the youth was calm but he became agitated when the officers wanted to search the girl's handbag: extremely agitated, he said they could not search the bag because it was a woman's bag. At the same time, they began a tug of war until the boy fell, next to the kitchen knife he had previously thrown away; holding the knife he began to make horizontal and vertical movements towards the officers, who got out their extendable batons and managed to keep the distance but without managing to get the knife off him.

Finally, the youth grabbed the handbag off his partner and ran off between the cars, followed by the officers. After about 20-30 metres of pursuit, the youth took out a firearm (it was real and loaded with a cartridge in the chamber) from the handbag and the officers put away the extendable batons and unholstered their firearms. The youth kept turning around and sometimes pointed the firearm at them, so the officers tried to shelter wherever they could and continue the pursuit. During the pursuit, the youth hid inside one of the businesses, tried to steal a vehicle at gunpoint and, even held the firearm to the head of a man in a wheelchair. The officers experienced it very chaotically as there were citizens who threw themselves on the ground and other who hid between the vehicles.

During the pursuit, several Public Security officers joined the search and arrest of the youth, among whom were two constables who also chased him on foot. The youth aimed at them several times at just a few metres away. One of these constables ordered him to throw the firearm on the ground or he would shoot and, faced with a negative, fired at a metal shutter of an abandoned business, next to the youth, who continued to flee. In another street, another constable jumped on top of him and managed to get him on the ground, where he was arrested by various officers.

## APPENDIX 2. TABLE OF EXAMINERS' RELIABILITY

	Instinctive attack		Flight		Paralysed by fear	
	Int. 1	Int. 2	Int. 1	Int. 2	Int. 1	Int. 2
YES	7.14	5.36	1.79	1.79	10.71	10.71
NO	92.86	92.86	98.21	98.21	89.29	89.29

	Distracted thought		Visual distortion		Auditory alteration	
	Int. 1	Int. 2	Int. 1	Int. 2	Int. 1	Int. 2
YES	3.57	5.36	85.71	85.71	57.14	57.14
NO	96.43	94.64	14.29	14.29	42.86	42.86

	Time alteration		Memory lapse		Automatic pilot	
	Int. 1	Int. 2	Int. 1	Int. 2	Int. 1	Int. 2
YES	87.50	89.29	16.07	16.07	60.71	60.71
NO	12.50	10.71	83.93	83.93	39.29	37.50

	Domino effect		Other	
	Int. 1	Int. 2	Int. 1	Int. 2
YES	5.36	5.36	14.29	7.14
NO	94.64	94.64	85.71	89.29

## APPENDIX 3. TRAINING PROPOSALS FROM OFFICERS WHO HAVE EXPERIENCED REAL CASES

### REALITY OF CONFRONTATIONS

- Make them understand that any action can become complicated and they must be ready (case 11.1)
- Know the specific cases that have happened with firearms and practice them or view them (case 6)
- Pose real cases and they must solve them. They should know and practice them. That officers who have experienced these cases can explain them to the others (case 1)
- Encourage people that what you do can save your life or improve your actions (case 20.1)
- More training and more specific, in firearms and fighting: there are no rules (case 20.5)
- Design an experiential programme. That you live it. That you are more aware of your feelings (case 3.1)
- Create awareness that this happens and you must fire (case 12.2)
- Stop people thinking "Nothing ever happens!" (case 13.2)
- The problem is that some officers think that nothing ever happens (case 17.2)
- We go out fearlessly and we don't know who we are dealing with (case 7.2)
- It is important to transmit to people the risk they may come across (case 7.2)

### SPECIFIC POLICE PROCEDURES

- Familiarise yourself well with the firearm, make it feel your own (case 2)
- If you see a firearm you must unholster yours and you must do it quickly (case 3.1)
- Throw someone on the ground: take the plunge (case 3.1)
- Above all, watch suspects' hands and one's own safety (case 3.2)
- Train to be able to subdue a person who resists (case 3.2)
- American police practice falling on their back with the firearm, so they can fire (case 4.1)
- Firing while moving and silhouettes that move. It raises the adrenaline, that you have to take shelter. Attackers move, they don't stay still (case 4.2)
- Practise having to take shelter (case 4.2)
- Fire while moving (case 4.2)
- Stopping vehicles (case 10.1)
- More firearm handling (case 10.1)
- Firing with gloves on (case 11.1)
- The firing you are taught is hardly useful, the Weaver stance with a static silhouette has nothing to do with the dynamic reality (case 11.2)
- They should raise the heart rate more, as causing stress is difficult. Movement, fatigue, etc. (case 17.1) • Firing with gloves on (I tried it once and with double action I couldn't do it, as they were too tight) (case 17.1)
- More firearm practice (case 18)

- More practice at unholstering and aiming (case 18)
- More firing should be done (case 19.1)
- Subduing, handcuffing (case 19.1)
- Carry work tools in the same place and the same way (case 20.1)
- More contact with the firearm. Firearm handling to know how to make it work well (case 20.2)
- Practice sessions under stress (case 20.2)
- Loading the firearm quickly (case 20.3)
- It should be dynamic firing. Increase the frequency of firing sessions. In movement, with blank or non-lethal ammunition (case 20.5)
- Training should be as real as possible. At the firing range, do practice sessions like those officers may find. For example, from a chair or a car (case 23)
- More ammunition and practice (case 23)
- Make the firing instinct automatic. Continue training in self-defence, as a lot must be done with very few tools (case 27.1)
- There should be more continued training (case 27.1)
- Subduing aggressive individuals (case 27.1)
- I have done martial arts for many years. All internalisation requires constant repetition. It is difficult to use the baton to prevent knife attacks (case 28.1)
- With the firearm, it is necessary to focus on the psychological factor, more than the operational one (case 28.1)
- Avoiding tunnel vision would have given me peace of mind (case 28.1)
- Be able to aim at legs. Do this type of exercises. Nobody from Public Security is qualified to do it (case 28.4)
- Coordination of how to act. What jobs the various officers do, what the shift supervisor does, how they coordinate it, etc. Teach what should be done in a case like this: how to approach it, I didn't know how to act (case 28.6)

## DYNAMIC PRACTICAL TRAINING

- Pose real cases and they must solve them. They should know and practice them. That officers who have experienced these cases can explain them to the others (case 1)
- They should put officers in stressful situations more often so they can act in these cases. Both of us were mature and we had experience of serious cases (I know how to act with maximum adrenaline as I worked in traffic and medical emergencies for many years) (case 2)
- Exercises where decisions must be taken with rapid heartbeats and adrenaline. Train with these sensations (case 2)
- Know the specific cases that have happened with firearms and practice them or view them (case 6)
- Movements to flats and heartrates go up; it is the nearest thing to what happened to me. They must be situations that suddenly change. They must be put into stressful situations, even though it is complicated. Movements and unforeseen things (case 7.2)
- More dynamic shooting sessions that cause stress. It is necessary to be more agitated. There should be ARRO-type training every month. During reinforcement hours, training should be done. We are lacking a lot of training (case 11.2)
- Do more active, not static, practice sessions, with elements that simulate an urban setting. Be very clear on the movements you must do. The stabbing movement doesn't work if you don't move (case 13.2)
- Do killer type practice sessions or entries that raise your blood pressure. Work on



tunnel vision. Generate working mechanisms. Everything that is around the situation prior to the shooting and afterwards. Comment how little awareness you may have after being injured (case 14.1)

- Firing practice must be more operational and train diverse situations. More training on how to react and get rid of tunnel vision. For officials, training on how to prepare police operations (case 15.2)
- Working under stress, American-style, things in movement, Boulevard-type, with children, more in the open air, firing more (case 16.1)
- Everything was very much "haphazard". I don't know if practice sessions like this case should be done, it is very complex, with minimal safety (case 16.2)
- More dynamic, realistic and continued training sessions. More practice must be done so it becomes instinctive (case 17.1)
- There is no other firearms training except for firing. Cases need to be made more real, even if with plastic guns. Practising cases that have surprises (case 17.2)
- The closest thing to entering residences that we have done (case 19.2)
- I had the procedure well internalised due to an ARRO course I had done (case 19.2)
- Practice different situations. Twice a year. The firing that gives you the most advantage is the one that you get in situations (case 20.1)
- More contact with the firearm. Handling the firearm so you know how to make it work properly. Practice sessions under stress (case 20.2)
- More frequent firing. Sessions that put you in a situation, know how to load the firearm, that you don't drop it on the ground, etc. (case 20.3)
- Reactions to be prepared. Taking shelter is instinctive (case 20.3)
- Pin-ball dynamic sessions could be done so you are activated. I have done some pinball type exercises and you make a connection with the group and you are activated. Do dynamic practice sessions in groups (case 20.4)
- Cases with fake fire should be done, to feel the sensation that you are trapped, that you are not calm (case 20.4)
- Dynamic firing sessions should be done, circuits. The firing we do is static, normally when you fire you are moving (case 21.1)
- Work in stressful situations so you can see how you react with tunnel vision and that at these moments you do not think about your colleague (case 22.2)
- Practice sessions should be in movement. We could fire less bullets but do so more dynamically (case 22.4)
- Use shelters and movements, mobile targets, routes (case 23)
- Situations with stress. Do twenty or thirty sit-ups before each shot (case 24)
- More dynamic firing (case 24)
- Exercises should be done in movement. Type airsoft, ISPC. Has done firing practice as dynamic exercises with airsoft or simunition weapons. Stress management. Know how to react with the increase in adrenaline. More intense exercises (case 28.3)
- Training to respond to possible situations: airsoft firearms, aimed at street cases, practical cases. It does not have to be with the firearm. Do team exercises, as we are not trained in teams with firearms (case 28.4)

## OTHER

- The Taser gun would also be a good option for cases like these (case 11.1 and 25)
- Between the baton and the firearm, we should have a Taser gun or similar tool available: defence spray (to respond, for example, to a knife attack) (case 14.2)
- Every fortnight, do two or three hours training within working hours (case 17.1)

## APPENDIX 4. LIST OF COURT RULINGS

### 1. Girona Provincial Court Ruling, appeal 49/2003, of 18.10.14

A Public Security patrol located a vehicle that was travelling erratically. Upon stopping the vehicle, the officer verified that the driver showed signs of being under the influence of alcohol. The driver began a fight with one of the officers and tried to grab one of the officer's firearms. Finally, 10 shots were heard (the firearm was carried in double action). One of the shots killed the vehicle driver. The officer was acquitted of the crime of negligent homicide as he had not even unholstered the firearm.

### 2. Supreme Court Ruling, 351/2003, of 06.03.03, FJ3

Two officers received an order to identify the occupants of a vehicle. Once the vehicle was located, one officer got out of the patrol car to identify them and observed how the vehicle moved at great speed towards him. The officer could not get out of the way and unholstered his firearm; he fired several shots, one of which hit one of the occupants and severely injured him. The officer was acquitted of the crime of assault and of the measures that had to be taken out against him.

### 3. Supreme Court Ruling, 955/2007, of 20.11.07

Several officers carried out a residence entry for drug trafficking. Upon entry, one officer who was holding his firearm saw how one of the flat tenants jumped on top of him. In the middle of the fight between the two people, the firearm fired and killed the tenant to a shot in the head. The officer was acquitted as it could not be determined who pulled the trigger.

### 4. Supreme Court Ruling, 1089/2009, of 27.10.09

A police unit located a small boat trying to enter Spanish territory. Upon arriving on firm land, the small boat occupants dispersed and the officers pursued. One officer fired a warning shot and one of the immigrants stopped next to a steep area. When the officer reached him, he slipped and the firearm he was holding fired, which killed the immigrant. The officer was sentenced for negligent homicide, with one year and six months of prison, with special disqualification from running for public office and prohibition of carrying firearms during the prison term.

### 5. Supreme Court Ruling, 901/2009, of 24.09.09

Due to an investigation and wire taps in a drug trafficking case, it was decided to arrest various people, for which reason the officers positioned themselves at a motorway toll. Arriving at that point, the driver did not stop at the barriers and tried to run over the officers, due to which one officer fired at the tyres to stop the vehicle. The officers intercepted the vehicle further on. The offender was sentenced to four years in prison for a public health offence and one year for a criminal attempt offence.

**6. Supreme Court Ruling, 1265/2009, of 09.12.09**

Due to an investigation, a stake out was done outside a residence and when the officers saw the person they were waiting for arrive, two police officers tried to arrest him, at which point a fight broke out between this person and an officer. This officer unholstered his firearm because he could see that the person they wanted to arrest put his hand inside his clothes. This person jumped on top of the police officer, at that moment the firearm fired. The person died two months after the operation. The police officer was acquitted of reckless homicide.

**7. Supreme Court Ruling, 582/2006, of 29.05.06, FJ3**

A patrol located a van that could have been stolen and a pursuit ensued because the van ignored the officers' indications, until finally, they intercepted the vehicle. The officers loaded their firearms, made the vehicle occupants get out and got them to lie face down on the ground. The firearm of one of the officers, who was holding it, fired and killed one of the occupants. This officer was sentenced to one year in prison for negligent homicide, special disqualification from running for public office for one year and suspension from duty for three years.

**8. Supreme Court Ruling, 181/2009, of 23.02.09**

A patrol was informed of an armed robbery. When they arrived, they located a vehicle in a supermarket car park and, when they approached, the vehicle tried to leave. One officer got out of the patrol car holding his firearm without the safety on. This officer got the occupants out of the vehicle and while searching one of them, without putting down his firearm, a fight broke out; the firearm fired and killed the driver immediately. The officer was sentenced to one year in prison for reckless and professional homicide, disqualified from running for public office for one year and suspension from duty for three years.

**9. Supreme Court Ruling, 1622/1990, of 01.07.91**

A police officer was called by his son because the latter was arguing with two boys who had broken his car window. The police officer went to the place to help his son and started a fight. The police officer unholstered his service gun, which fired and instantly killed the 18-year old boy. The police officer was sentenced to one year and six months in prison and the Town Council as vicariously liable.

**10. Supreme Court Ruling, 712/2009, of 19.06.09**

An off-duty officer received a call from his ex-partner, who stated that their son (a minor) had been attacked by a boy. The officer went to look for him at his residence. A woman opened the door and he asked for the boy at the same time as showing his service firearm; the woman told him she knew nothing. When the officer went out onto the street, he found the boy, put his hand around his neck and the firearm to his head and asked him if he knew anything about the attack; receiving a negative response. The officer was sentenced for two offences of duress, special suspension from duty and disqualification from running for public office during the term of the sentence, as well as ordered not to approach the victims for five years.

**11. Supreme Court Ruling, 2986/1992, of 21.12.93**

An off-duty officer met up with a friend for a drink. His friend had an argument at the club and the officer unholstered his firearm and loaded it to deter the fight; when the club manager arrived, this officer identified himself as a police officer. The manager invited the officer and his friend to go to an office inside the club. The officer with the firearm holstered but loaded made a movement, the firearm fired and instantly killed his friend. The officer was sentenced to four years in prison for an offence of extreme recklessness resulting in death, disqualification from running for public office and from duty during the term of the sentence, sentencing the State to compensation of 20 million pesetas.

**12. Supreme Court Ruling, 463/2007, of 31.05.07**

Three officers on duty were travelling behind a vehicle that could have committed various robberies in the area. When they tried to stop it, the vehicle tried to ram the patrol car. One officer tried to get out of the vehicle holding his firearm when he felt the vehicle get hit, which made him fire his firearm and instantly kill one of the occupants of that vehicle. The police officer was acquitted of an offence of reckless homicide, as were the Town Council and the insurance company.

**13. Supreme Court Ruling, 1984/2004, of 23.11.05**

A patrol tried to arrest a gang of robbers when cross-fire broke out in which one of the officers was hit in the leg. At that moment, the injured officer began to fire at will and a shot hit the bodyguard of a dignitary who was in the area, instantly killing him. The officer was acquitted of a reckless homicide offence.

**14. Supreme Court Sentence, 1053/2002, of 05.06.02**

A patrol was sent to a residence for a domestic violence situation, in which a mother had been attacked by her son and had had to leave the home. The son was locked in on his own in the flat and the police officers called on the residence, identifying themselves as such; the boy came out of the residence holding a knife telling them, "I'm going to kill you". One of the police officers fired at the youth's non-vital parts and caused injuries of varying degrees. The police officer was acquitted of an assault offence because it was deemed lawful defence.

**15. Supreme Court Ruling, 1172/2009, of 22.10.09**

A patrol was called to a residence where there was a very agitated person. Upon arriving at the residence, the patrol found a man armed with a rifle who began to fire at the officers. The Officers fired several shots that hit and killed the man. The Provincial Court declared a stay of proceedings but the Supreme Court declared that an appeal for reversal was not permitted, with an award of all costs for the appellants.

**16. Summary Ruling 15/2008, Barcelona Provincial Court, of 25.05.09 and  
17. Supreme Court Ruling, 386/2010, of 25.02.10**

A patrol was called to a dog pound as there was a person who had attacked the owner. Upon arriving, the officers saw a very agitated person holding a spade, who, when he saw them, moved towards them to attack them. One officer received a blow to the head with the spade which made him fall to the ground unconscious. The other officer, seeing he was also going to be attacked, unholstered his firearm and fired two shots. The assailant suffered severe injuries. Both the officer and the assailant with the spade were acquitted, one for a criminal attempt offence as he was in a psychotic state, and the officer because it was lawful defence. The appeal for reversal was dismissed as it was not admitted.

**18. Supreme Court Ruling, 721/2005, of 19.05.05**

A police unit was called to an armed robbery of a business. Upon arriving, they saw a man escaping who was allegedly armed. One officer pursued him firing warning shots until the robber hid behind a vehicle. The police officer thought he was armed and began to fire up to seventeen shots. Two shots hit the man's body, causing serious injuries. The police officer was sentenced to one year and three months in prison for attempted homicide, with special disqualification from running for public office during the sentence, plus costs.

**19. Supreme Court Ruling, 1668/1999, of 29.11.99**

A police unit was called out to a chemist as it had just been robbed with a rifle. Two officers searched for and located a person with the description provided by witnesses. This person, when he saw the police, began to escape until he stopped and aimed at the officer, who at the same time aimed at him, until the officer who fired a warning shot arrived. At that moment, there was great confusion and the second officer shot and killed the robber. The police officer was acquitted of homicide and the costs were borne by the State.

**20. Appeal Judgement 9/09, Barcelona Provincial Court, of 03.05.10**

A patrol was called to a house as there was a person with a psychotic illness abusing their family. When the patrol arrived, they found a boy who faced them with a pickaxe. While approaching one of the police officers with the pickaxe in his hand and with the intention of hitting him with it, the officer unholstered his firearm, aimed and fired and caused instant death. The officer was acquitted of homicide and the costs were borne by the State.

**21. Supreme Court Ruling, 17/2003, of 15.01.03**

A patrol saw a vehicle jumping a red light and when they tried to identify the vehicle, as it would not stop, a pursuit began. One officer seemed to see one of the occupants with a rifle. For this reason, the officer unholstered his firearm and fired, hitting the vehicle passenger, which caused serious injuries that did not heal for a long time. The police officer was sentenced to one year and two months in prison for an offence of

causing injuries with a firearm, with special disqualification from running for public office during the sentence.

#### **22. Supreme Court Ruling, 463/2010, of 19.05.10**

A patrol saw two boys trying to steal a vehicle in a street. When they approached to try to arrest them, they ran off each holding a screwdriver, so the police officers began their pursuit holding their firearms. At one point, a fight broke out between one of the boys and a police officer who was holding his firearm. During the fight an accidental shot was fired, injuring the boy. The police officer was acquitted and the boy was sentenced to eight months in prison for a criminal attempt offence and unlawful use of motor vehicles.

#### **23. Supreme Court Ruling, 33/2002, of 23.01.02**

Two officers located a vehicle trying to cross the border with Andorra with contraband tobacco. A pursuit began and one officer fired four shots with his personal firearm. The man was injured and went to hospital. The officer hid the action from his superiors, hid his personal firearm and denied the facts throughout. Finally, the officer was sentenced to three months' imprisonment for attempted homicide, suspension from all public office and suspension from duty during the sentence.

#### **24. Supreme Court Ruling, 1113/2006, of 22.11.06**

A patrol received a call that a robbery was occurring. Upon arriving at the scene, they saw the metal blind of a business was broken but nobody inside. But outside, eight metres away, they located a moving vehicle with two occupants. One officer, holding his firearm and a torch, shouted at the vehicle to stop but was ignored and the officer fired two shots, one of which killed an occupant almost instantly. The police officer was sentenced to one year in prison for negligent homicide, disqualification from running for public office during the sentence and suspension from duty for three years.

#### **25. Supreme Court Ruling, 1401/2002, of 25.07.02**

An officer on duty at a prison prepared to clean his firearm in the locker room. The firearm had five bullets in the magazine and one in the chamber. At that moment, a colleague entered the room asking for another officer. He immediately went out into the corridor holding the firearm, it suddenly fired and injured the colleague, causing pulmonary contusion. The officer was sentenced to four months' detention for recklessness and suspension from duty and loss of the right to run for public office during the sentence.

#### **26. Supreme Court Ruling, 80/2007, of 09.02.07**

A patrol travelling along a road saw two vehicles stopped on the verge and one of the drivers slapping the other. One officer ran out of the car holding his firearm saying, "Halt! Police!". At that moment, the assailant moved away, the officer grabbed him from behind and took him to the back of the vehicle, where the assailant moved

and the officer fired his firearm without realising. The shot went straight into the victim's head, who died instantly. The officer was sentenced to two years in prison for a homicide offence caused by extreme and professional recklessness with a firearm, as well as loss of the right to bear arms and special suspension from duty for four years.

### **27. Supreme Court Ruling, 419/2007, of 21.05.07**

A patrol was called to a possible theft at a glass shop. Upon arriving, they saw a person escaping from the scene, at which point an on-foot pursuit began to a nearby worksite. Suddenly, the individual came out and one officer fired a warning shot whilst saying, "Halt! Police!". Due to "insufficiently clarified" circumstances, another shot was heard that killed the suspect. The police officer was sentenced to two years in prison for a reckless homicide offence and special disqualification from running for public office during the sentence, as well as an award of costs.

### **28. Supreme Court Ruling, 39/2003, of 10.04.03**

A plain-clothes police officer was near a street where a terrorist attack had occurred. The police officer saw a boy walking in the area and went to identify him, but as he was not carrying any documentation and he informed the boy he would have to accompany him to the police station, the boy ran off. During the escape, the police officer was holding his firearm; whilst running he tripped, the firearm fired and killed the boy from behind. The police officer was acquitted of a negligent homicide offence and the costs were borne by the State.

### **29. Supreme Court Ruling, 26/2010, of 25.01.10**

While a patrol was carrying out Public Security tasks, they saw some people trying to steal goods from a lorry. The patrol tried to block their path when they fled with a van, but it did not stop and one of the police officers fired two shots at the tyres, but one of the shots entered the vehicle cabin and hit the front passenger, who died an hour later. The police officer was acquitted of a negligent homicide offence, but was sentenced to a one month fine of 6 euros per day for a negligent homicide minor offence, with personal liability of one day's imprisonment for every two unpaid dues.

### **30. Supreme Court Ruling, 307/2006, of 13.03.06**

An officer was on door duty when he heard a bank robbery was taking place, due to which he went to provide backup for the other officers. Upon arriving at the scene, there was cross-fire because one police officer opened fire without realising that his colleague was in the middle. The result was he killed his colleague with a shot to the head. The police officer was sentenced to one year and six months in prison for an extreme reckless homicide offence, special disqualification from running for public office and loss of the right to own and bear arms during the sentence, as well as paying costs to the private plaintiff.

**31. Supreme Court Ruling, 665/2004, of 30.06.04**

A police officer on Public Security patrol saw a repeat offender manipulating a vehicle with scissors. The officer tried to arrest him but was cut by the scissors. The police officer unholstered his firearm and hit the suspect on the head with the butt, at which point the firearm fired and killed him instantly. The police officer was sentenced to one year in prison for extreme recklessness resulting in death, loss of the right to bear arms for two years, as well as unpaid suspension from duty for one year.

**32. Supreme Court Ruling, 60/2007, of 06.02.07**

An on-foot patrol located a vehicle that had been stolen a few days before in the area. The patrol shouted at it to stop but the driver ignored them and tried to run the police officers over. One officer fired a shot that entered the back of the vehicle. The vehicle managed to escape but a few hours later the vehicle was located with the engine running and a corpse a few metres away under a tree. The police officer was sentenced to a two-month fine of 10 euros per day and 120,000 euros for an extreme recklessness misdemeanour resulting in death.

**33. Supreme Court Ruling, 494/2012, of 14.06.12**

A patrol was informed that a car with three occupants had shown a firearm to a port worker. The officers located the vehicle and began a pursuit during which the suspicious vehicle tried to run over the officers. One officer fired several shots and one of them entered the back of the vehicle, hitting and killing the driver. The officer was acquitted and the costs were borne by the State.

**34. Supreme Court Ruling, 251/2014, of 18.03.14**

An off-duty police officer entered a brothel of which he was a regular client. The officer wanted to talk with one of the women but she was with company. The companion got in the middle and got out a knife. Immediately, the police officer left the establishment, got his firearm, returned and fired a shot in his leg, resulting in the amputation of the right leg. The police from the area arrested the off-duty officer. The officer was sentenced to one year in prison for a serious injury offence with loss of a major limb, and special disqualification from running for public office during the sentence and compensation to the victim of 15,450 euros and 150,000 for after-effects.

**35. Supreme Court Ruling, 828/2013, of 06.11.13**

A patrol located a stolen vehicle and shouted for it to stop but was ignored and the vehicle tried to run over an officer by reversing. One of the officers unholstered his firearm and fired several shots, one of which hit the suspect's thorax and caused severe injuries. The police officer was sentenced to six months in prison for causing injury by negligence, with special disqualification from running for public office during the sentence and compensation to the victim of 25,516.64 euros.



**36. Supreme Court Interlocutory ruling, 124/2015, of 05.02.15**

A patrol was called out to a couple who stated they had been insulted by a drunk man and who, at that moment, had escaped in his vehicle. The officers followed the man, who they knew, to his house. This person got out of the car and from his house grabbed a spade with which he attacked one officer in the chest. Immediately, the other officer fired six shots, five of which hit him resulting in death. The officer was sentenced to five years in prison for homicide and special disqualification from running for public office, with compensation to the victim's family of 45,000 euros, the State being vicariously liable.

**37. Barcelona Provincial Court Ruling, 657/2012, appeal 52/12, of 09.10.12**

A specialist unit organised an operation to arrest a dangerous person. It was decided to intercept the vehicle he was travelling in as it would be safer than entering the suspect's house. When storming the vehicle, one of the group members launched a stun grenade inside the vehicle, which exploded on the suspect's genitals and caused severe injuries. The officer was sentenced to one year in prison for an offence of causing injuries and disqualification from public office during the one year sentence, as well as compensation for the victim's injuries of 5,263.13 euros and 162,476.93 euros for after-effects, with the Department of the Interior liable for the payment.

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Police officers' actions in which they have had to use firearms have significant implications, both professionally and personally, as well as an important social impact.

The Institute for Public Security of Catalonia, together with the Catalan Government Police-Mossos d'Esquadra (PG-ME) and the Ministry of Home Affairs has carried out a study on firearm use by analysing real life-threatening cases voluntarily told by the police officers involved.

The fourth edition of the "Segments de Seguretat" collection shows the results of this study, completed in June 2015, from the different perspectives: psycho-physical, police and judicial intervention, and aims to transmit current lines of action and proposals for future training and research into this matter.

**Institut de  
Seguretat Pública  
de Catalunya**



Ctra. C17 Barcelona - Ripoll, km 13.5  
08100 Mollet del Valles (Valles Oriental)  
Tel. 93 567 50 00  
Fax 93 567 50 30



**Generalitat de Catalunya**  
Government of Catalonia  
Ministry of Home Affairs