

Scaling Force

*dynamic decision-making
under threat of violence*

How to stop violence before it happens

How to choose the right response level

How to avoid going to jail for defending yourself



Rory Miller and Lawrence A. Kane

Authors of Meditations on Violence and Little Black Book of Violence

Use *too much* force and you are going to jail. Use *too little* force and you're in for a world of hurt.

"This has to be the most thorough presentation of true self-protection out there. The information is what anyone serious about staying safe needs to know."

—**Iain Abernethy**, 6th dan, British Combat Association Hall of Fame member

"Miller and Kane have hundreds of hands-on violent encounters under their belts. The information they share will help keep you from going to jail for defending yourself."

—**Marc MacYoung**

"One of the best books I've read. The authors give you their lessons without requiring you to pay in blood. Priceless!"

—**M. Guthrie**, Federal Air Marshal

"An incredible book... undoubtedly will save lives and much anguish."

—**Ron Breines**, Kyoshi, certified firearms/self defense tactical instructor

"If you are serious about learning how the application of force works, I recommend this book highly!"

—**Lieutenant Jon Lupo**, New York State Police

"Examines motivation, decisions, and consequences. There are always consequences!"

—**Julie Van Dielen**, Law Enforcement Training Resources

Conflict and violence cover a broad range of behaviors, from intimidation to murder, and they require an equally broad range of responses. A kind word will not resolve all situations, nor will wristlocks, punches, or even a gun.

In *Scaling Force*, the authors introduce you to the full range of options, from skillfully doing nothing to applying deadly force. They *realistically* guide you through understanding the limits of each type of force, when specific levels may be appropriate, the circumstances under which you may have to apply them, and the potential cost, legally and personally, of your decision.

Level 1: Presence. Staving off violence using body language alone.

Level 2: Voice. Verbally de-escalating conflict before physical methods become necessary.

Level 3: Touch. Defusing an impending threat or gaining compliance via touch.

Level 4: Empty-Hand Restraint. Controlling a threat through pain or forcing compliance through leverage.

Level 5: Less-Lethal Force. Incapacitating a threat while minimizing the likelihood of fatality or permanent injury.

Level 6: Lethal Force. Stopping a threat with techniques or implements likely to cause death or grievous bodily harm.

It is vital to enter this scale at the right level, and to articulate why what you did was appropriate. If you do not know how to succeed at all six levels there are situations in which you will have no appropriate options. More often than not, that will end badly.



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INTRODUCTION TO SCALING FORCE

All conflicts are not created equal. Sometimes your life is on the line, while other times it's just your ego. You might be able to choose whether or not to get involved, or you may find yourself with no option but to fight. The perfect response to one situation could easily prove disastrous in another. Win or lose, however, when things get physical, there will be consequences. Those consequences can be life-altering.

Some violence can be staved off simply by presence, that is, looking and acting like you're more trouble than you're worth. Bad guys don't want to fight; they want to win. And they rarely mess with alert, prepared targets. You can use words to defuse many situations, or apply calming or directive touch to reach resolution without injury. But not always. Sometimes empty-hand restraint is required, particularly if you need to control a situation without seriously hurting anyone; bouncers, security guards, and law enforcement officers routinely use such techniques. Other times, less-lethal or even lethal force is necessary to save your life or that of a loved one.

These choices form a continuum, a set of options that may be drawn upon to resolve any situation you encounter:

1. **Presence**—use of techniques designed to stave off violence via posture or body language that warns adversaries of your readiness and ability to act or that poses no threat to another's ego.
2. **Voice**—use of techniques designed to verbally de-escalate conflict before physical methods become necessary.
3. **Touch**—use of techniques designed to defuse impending violence or gain compliance via calming or directive touch.
4. **Empty-hand restraint**—use of techniques designed to control an aggressor through pain, or force compliance through leverage.

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5. **Less-lethal force**—use of techniques or implements designed to incapacitate an aggressor while minimizing the likelihood of fatality or permanent injury.
6. **Lethal force**—use of techniques or implements likely to cause death or permanent injury.

It's very important to enter this force scale at the right level. If you use too much or too little force, you are in for a world of hurt. Consequently, it is vital to understand the various options, knowing how and when to apply them judiciously.

It was May of 2004 when 29-year-old Jose de Jesus brought an eight-inch butcher knife to Herald Square in Manhattan, a popular tourist spot. A guy with a long history of severe mental problems, he had violently assaulted others, including relatives, before. Nearly killed one. And he planned to do so again.

Without warning, he pulled out the knife, randomly attacked 21-year-old Dmitri Malaeyeva, stabbing him in the chest. As his first victim fell, trying desperately to stem the bleeding while drawing a tortured breath through his punctured lung, de Jesus turned on another passerby and plunged the knife into his flesh.

Screaming in terror, most bystanders began running from the scene. Some dialed 911 on their cell phones. But George Robbins, a 34-year-old graphic artist, could not stand by watching the mayhem and do nothing. So he ran toward the madman, hoping to thwart his attack. Weaponless, his heroic attempt failed, and he became de Jesus' next victim.

As Robbins fell to the ground hemorrhaging, Harold Getter rushed in and tried to disarm de Jesus. The 49-year-old security guard was unarmed and his martial skills were no match for the maniac and his knife. In moments Getter also became a victim.

And then an NYPD officer arrived.

Working with a squad assigned to thwart shoplifters in Herald Square, Officer Mary Beth Diaz was in the area, heard the screams, and rushed toward the scene. She was 23-years-old, just five months out of the Academy.

“Police!” she screamed.

De Jesus turned to face her and began stalking forward brandishing his knife.

Officer Diaz drew her duty weapon, a 9MM handgun. “Drop the knife,” she shouted. When he kept coming she repeated it again. “Drop the knife! Drop the knife!”

He was only ten feet away when she opened fire. Her single shot entered de Jesus’ lower abdomen and smashed into his hip, shattering the bone. He screamed, doubled over, and collapsed to the ground. He continued to writhe and shriek as she disarmed and handcuffed him, ending the carnage.

De Jesus and his four victims were rushed to Bellevue Hospital, where miraculously, no one died, not even the perpetrator. Malaeyeva, who had the most grievous injuries, was listed in fair condition by his doctors later that evening. De Jesus was also listed in fair condition after surgery. He told detectives that he had wanted to die and was hoping to goad a police officer into killing him by randomly stabbing and slashing people.

Officer Diaz was consoled by other officers and treated for trauma at the hospital. Afterward she told a reporter, “Thank God the guy is alive. Thank God I stopped him before he hurt someone else.”

If you try to use Level 4 in a Level 5 situation, you will get hurt. Perhaps badly. If you try to use Level 5 in a Level 4 situation, on the other hand, you will likely wind up in jail. Or be sued. Or both. We are not just talking legalities here; you have to be able to live with yourself afterward too.

Martial artists learn dangerous, even deadly techniques. Classical systems were developed long before the advent of modern medicine. In those days, any injury sustained from a fight could be catastrophic. A busted jaw, or even a few lost teeth, might mean you’d starve to death. In the days before social services, a broken arm or leg boded poorly for your long-term chances of survival when you could no longer work for your living. Internal bleeding, a ruptured organ, or a severe concussion; forget about it—you almost certainly would not have survived.

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Knowing that the shorter the fight, the lower the chance of debilitating injury, the ancient masters built systems designed to stop adversaries as quickly and ruthlessly as possible. The modern rule-of-law concept and associated legal repercussions had not been invented yet. This put ‘em down, take ‘em out mentality worked great at the time. If it didn’t work, the styles would not still be around today. Those tactics and techniques worked so well that contemporary systems often have foundations built upon traditional methods.

The challenge is that the very same applications that may have kept you safe in the feudal times have limited utility today. It is not that they don’t work, but rather that they work so well that they can only be used in certain circumstances. The brutal beat-down you deliver on the other guy might well save your life, but in the wrong circumstances, it will also land you in jail. For a really long time. Or it might make your opponent and his lawyers wealthy at your expense. Conversely, if you take the beat-down yourself, you could be seriously injured, permanently disabled, or killed.

That is why scaling force is so important. It is holistic and style-agnostic. Most importantly, it works in any situation to ensure that you will choose the right level of force when you need to use what you have learned in the *dojo* to defend yourself on the street.

For years, police agencies have used different versions of a force continuum to teach rookies how to judiciously choose an appropriate level of force, as well as to educate citizens and juries in what constitutes an appropriate force decision. Recently, there has been a movement away from teaching in this manner. The most commonly quoted reason is that officers and juries will see the continuum as a game of “connect the dots” where each level must be tried before escalating to the next. It has never been taught this way and we know of no case where an officer or a jury explained a bad decision in this manner.

The more compelling reason for many agencies abandoning an official force continuum is that the courts do not use it to adjudicate cases. Since *Graham v. Connor* 490 U.S. 386 (1989), it has been recognized that “the calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second

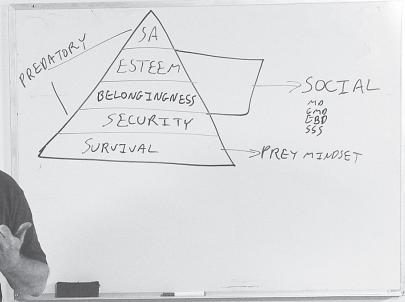
INTRODUCTION TO SCALING FORCE

judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” To many, it appears that this is exactly what codifying a force continuum is attempting to do.

Remember this: You do not work under a departmental use of force policy. You may, however, need to act in self-defense and you must act within the law. The levels of force described in this book are not prescriptive. We will not tell you, “If you are facing X, then response level Y is appropriate.” That is, and will always be, the call of the person on the ground.

In *Graham v. Connor*, the Supreme Court stated: “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. Not every push or shove, even if it may later seem unnecessary in the peace of a judge’s chambers, violates the Fourth Amendment.” This logic can be applied to civilian cases and criminal prosecutions as well.

There are six levels of force described in this book. While you may never need to use all of them, what we will say to you, and what we expressly believe, is that if your training does not cover the full range of skills presented here, there are situations in which you will have no appropriate options. More often than not, that will end badly.



PREREQUISITES

Even if you have never completed a woodworking project, you probably know that you *could* pound nails with a drill. You also know that it's not a horribly effective method of doing it. And it is really tough on the drill. If you want to drive nails, then a hammer is a much better choice. Clearly, knowing your tools makes any woodworking project go more smoothly.

Similarly, a scale of force options gives you a set of tools for managing violence. It also provides a basis for selecting the appropriate application to use in any given situation. The first three levels—presence, voice, and touch—can help stave off violence before it begins, precluding the need to fight. The last three levels—empty-hand restraint/physical control, less-lethal force, and lethal force—are applied once the confrontation becomes physical. Choosing the right level of force lets you control a bad situation in an appropriate and effective way, increasing your chances of surviving without serious injury while simultaneously reducing the likelihood of adverse consequences from overreacting or under-reacting, such as jail time, debilitating injury, or death.

Before you can choose the proper tool, however, it is important to understand the environment in which you will use it. That's what this section is about. If you have read our other books, much of this material will be familiar to you. Yet it bears repeating because the sections lay out important fundamentals that you need to keep in mind. Our intent is not to go in-depth, but rather to present an overview that places the various force options into the proper context.

Introduction to Violence

I'd thrown...ahem...escorted more than twenty people out of the stadium that day, but I recognized him anyway. Sometime during the third quarter, he'd taunted a Coug fan one too many times and

gotten a nice shiner on his left eye for it. But the cops assigned to help us manage the end zone were busy dealing with another altercation, so I gave him the option of leaving of his own volition. When I explained what he faced in terms of minor in possession, drunk in public, disorderly conduct, and assault, he made the wise choice and voluntarily missed the rest of the game. I confiscated his ticket, marched him out the gate, and summarily forgot about him.

But he hadn't forgotten about me.

Nearly two hours later after the contest had finished and we'd gotten the stadium cleared, I spotted him in the parking lot. Not the public lot where tailgaters were still partying, but the credentialed employee parking lot where he did not belong. Unfortunately he recognized me too.

"You're the SOB who threw me out," he spat. Well it was a bit more colorful than that, but you get the idea...

Then he lunged.

Holy fuck, there's a knife in his hand! I'm still in uniform, but totally alone. No backup, no radio. My mind is spinning, but my body reacts without conscious thought. I'd been practicing saifa kata for the last few months, so that's my instinctive response.

I set a fence with my left arm, pivoting to the side. He's still drunk. And slow. Nevertheless, the knife looks like a freaking sword as it flashes by. Checking his knife-hand arm with my shoulder, I smash him in the face with a left palm-heel. His head snaps back, but he starts to retract his hand for another strike. I grab his forearm, place my right elbow on his upper arm, and drop my weight. He loses balance, dropping with me and his head smashes into the back of my fist with a thwack. As his eyes un-focus, I'm able to grab the knife and spin away, wrenching it from his grasp.

Eyes big as saucers, he twists away, stumbles once, nearly falls, then runs off. I look down at the knife in my hand.

Shit, there's blood all over me!

I start shaking so hard it slips from my grip, nearly skewering my foot when it clatters to the pavement. Heartbeat pounding in my ears, I bent over to pick it up. Bile rises, puke splashing atop

the knife and my boot. Ugh, I abandon the mess, race to my car, and grab a water bottle.

I can't entirely wash away the mess, but at least the acrid taste is no longer in my mouth. I scrub my left hand clean, searching for the wound. Nothing. The blood was his.

Most martial artist's "experience" with fighting stems from sparring, tournament competitions, or the occasional schoolyard brawl. For most everyone else, it comes from Hollywood movies, televised sporting events. You may think you understand what you are participating in, or know what you are seeing, yet the realities of violence are not what most people think. In essence, there are two types of violence, social and predatory. In the former, you are fighting over a matter of face or status, while in the latter you may be fighting for your life.

The intent when it comes to blows in a social violence situation is to affect your environment. In other words, you want to establish dominance, to "educate" somebody, to get him out of your territory or something similar. There are virtually always witnesses, because you are seeking status from the outcome, either by beating the other guy down or by making him back off. Predatory violence, on the other hand, is a whole different beast from social disputes. There are usually no witnesses unless the predator has screwed up (or they are his accomplices). While the pickpocket might operate in a crowd, the mugger, serial killer, repeat rapist, arsonist, etc., generally won't.

It is relatively easy to de-escalate impending social violence so that things won't get physical, particularly if you are willing to lose face. Clever words are more important in these encounters. Unfortunately, the very factors that might de-escalate a social situation will almost certainly trigger a predatory attack if they make you appear weak. It's only possible to de-escalate predatory violence by appearing to be too dangerous to attack. If you're alert, aware, prepared, in decent physical condition, and capable of setting a verbal boundary, those are all major warning signs to the predator. Most will subconsciously pick up the fact that you have martial arts training simply by the way you

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stand and breathe during the confrontation. We'll delve into this difference later in more detail.

Social violence can be a big deal, predatory violence even more so; these are situations where you may be forced to defend yourself. Sparring, tournament competitions, and the like are often called “fights” by their promoters, yet these events have virtually nothing to do with fighting. To begin, fighting is illegal. Sure, you may be able to get away with it using a legitimate claim of self-defense, but there are no winners, trophies, or status points in a real fight. Fighting always has consequences.

Fighting versus Sport

The Raiders fan had biceps that could put Hulk Hogan to shame, and a physique that was nothing short of awesome. He stood out in a bar full of average guys, not only because he was ripped, but also because he was the only person cheering for the other team. The only one doing it vociferously anyway. For most of the first quarter and part of the second, Seahawks fans bantered good-naturedly with him, but as the home team struggled, chatter turned to insult that in turn became vitriolic.

I didn't hear what set him off, but suddenly a Seahawks fan stood up and hurled a half-full beer bottle at Raider, who kicked his table aside and charged his assailant. Ducking a wild punch, he scooped Seahawk's legs, planted his shoulder into the other guy's gut, and drove forward. It was a sweet takedown; Raider clearly had some type of martial arts experience. In seconds, they crashed to the ground with Raider on top. Sitting astride his stunned adversary, Raider threw a flurry of blows into the smaller guy's face. He seemed to be enjoying himself, right up to the point where one of Seahawk's friends kicked him in the head. Moments later, he was curled on the ground in a fetal position as half a dozen Seahawk fans put the boots to him.

It was a sports bar with no bouncers and no one to break things up, so the beat-down continued for several minutes before some of us began calling out that Raider had had enough. When they

finally let off, he lay eerily still. Several minutes later, when the paramedics strapped him onto a backboard and wheeled him out to the waiting ambulance, he still hadn't moved.

The cops spent most of the second half of the game taking statements and making arrests.

Every mixed martial arts (MMA) competition or sparring tournament out there pales in comparison to the speed, ferocity, and brutality of a real fight. Sure, competitors train hard, achieve awesome levels of fitness, and become highly skilled at what they do. They risk injury in the ring too, but Olympic events such as judo or taekwondo, and MMA matches such as Ultimate Fighting Championship (UFC) or Pride Fighting are first and foremost sporting events. If they were not, many competitors would not survive the competition. And promoters would wind up in jail. Or get sued out of business.

These contests have rules that either ban techniques outright or change the way they are applied. In judo, for example, you pin an opponent face up so that he has a sporting chance to break your hold. Yet in the *koryu* jujutsu from which it originated, practitioners were taught to pin face down in the same way that modern law enforcement officers do for handcuffing. Done properly, the adversary cannot continue to fight that way unless he is significantly stronger than you or another person intervenes on his behalf. Furthermore, applications that are especially effective on the street, particularly if you are a smaller or weaker combatant, are not allowed because they are far too dangerous in the ring. Take the UFC for example; they outlaw the following:

- Head-butts
- Eye gouges
- Throat strikes
- Grabbing the trachea
- Biting
- Hair pulling
- Groin striking
- Fishhooking
- Putting your finger into any orifice or into any cut or laceration on an opponent

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- Small-joint manipulation
- Striking to the spine
- Striking the back of the head
- Striking downward with the point of your elbow
- Clawing, pinching, or twisting the opponent's flesh
- Grabbing the clavicle
- Kicking the head of a grounded opponent
- Kneeing the head of a grounded opponent
- Stomping a grounded opponent
- Kicking the other guy's kidney with your heel
- Spiking an opponent to the canvas so that he lands on his head or neck
- Throwing an opponent out of the ring
- Holding the shorts or gloves of an opponent
- Spitting at an opponent
- Engaging in an "unsportsmanlike" conduct that causes an injury to an opponent
- Holding the ropes or the fence
- Using abusive language in the ring or fenced area
- Attacking an opponent during a break period
- Attacking an opponent who is under the care of the referee
- Attacking an opponent after the bell has sounded the end of a period
- Disregarding the referee's instructions
- Interference by someone in the competitor's corner

Recognize anything that might be useful in a street fight on that list? If you're assaulted by a larger, stronger adversary, then eye gouges, throat strikes, and the like may be exactly the right techniques to use in order to save your life. But they are too dangerous for the ring. These rules are designed not only to prevent serious injuries but also to give competitors a sporting chance to succeed. In order to keep things moving (and more interesting for the audience), the UFC takes points away from a competitor for "timidity," including avoid-ing contact with an opponent, intentionally or consistently dropping the mouthpiece, or faking an injury. Unlike the bar fight during the Seahawks game, they also require that competitors challenge each other one at a time.

Then there is protective gear. UFC competitors are required to use padded gloves, mouth-guards, and groin protection. In some sports, chest-guards, headgear, and other equipment is required as well.

Sporting competitions have weight classes too. Under UFC rules, competitors are grouped into lightweight (over 145 pounds to 155 pounds), welterweight (over 155 to 170 pounds), middleweight (over 170 to 185 pounds), light heavyweight (over 185 to 205 pounds), and heavyweight (over 205 to 265 pounds) divisions. Because bad guys rarely pick fights they don't expect to win, you are likely to be attacked by someone much larger or stronger on the street than you would be in the ring.

On the street, fights rarely last more than a few seconds, but when they do, there is no stopping until it's done, someone intercedes, or the authorities arrive to break things up. This is very different from sporting competitions where there are set time periods. UFC non-championship bouts run three, five-minute rounds, for example, whereas championship matches last five rounds. There is a one-minute rest period between rounds. If combatants take a break during a street fight, there's something very strange going on.

In the ring, you can win by submission (tap or verbal), knockout, technical knockout, decision, disqualification, or forfeiture. On the street, you "win" by surviving. That is quite a difference. Don't confuse sports with combat or misconstrue entertainment with reality. Fighting is ugly. It has few, if any, rules beyond the laws of physics and many serious repercussions. Sport is entertainment.

Social Violence

"You want to take it out on the ice kid? We can go right now. I'll fuck you up!" This was a 40-something-year-old guy snarling at a couple of 13-year-olds at a hockey game. The Thunderbirds had just scored a goal and the kids were celebrating along with the rest of the home crowd. This guy, a Winterhawks fan, looked like he was about to take a swing at them.

"What's going on," I asked.

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“You’ve got to control your fucking kids. He does that again I’m gonna fucking take him out!”

“What, you’re threatening a little kid. Really?” That was aimed more at his wife than him. She pretended not to notice. Others seated nearby got the message though.

“Damn right I am!”

“What did he do to piss you off man?”

“He was screaming, clapping in my fucking face.”

“Did he touch you?”

“Huh?”

“Did he touch you?” I de-cloaked a little: weight shift, deadeye stare, slight edge to my voice.

“No.” He quickly turned away, pretending to be engrossed in the game.

Sure, the “oh shit I killed him” thing can occur, so all violence needs to be taken seriously, but the intent in a social violence situation is to affect your environment. In other words, you want to establish dominance, to “educate” somebody, or to get him out of your territory. Sometimes that goal can be accomplished verbally, or whereas other times physical actions are necessary. Either way, social violence usually comes with instructions on how to avoid it. For example, if the other guy says, “get the fuck out of my face,” he has told you exactly what will prevent escalation to violence...

One key to social violence is the presence of witnesses, people who the adversary is playing to. He may be trying to establish status, deliver an educational beat-down, or even gang together with his friends to stake out territory. In most cases, however, there is an audience of his same social class to observe his actions. If he is going to win, he will want someone around to see it. Conversely, if he is at risk to lose, the presence of others may give him a way out that won’t adversely impact his reputation.

Social violence can be roughly broken into the following categories:

- The Monkey Dance
- The Group Monkey Dance

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