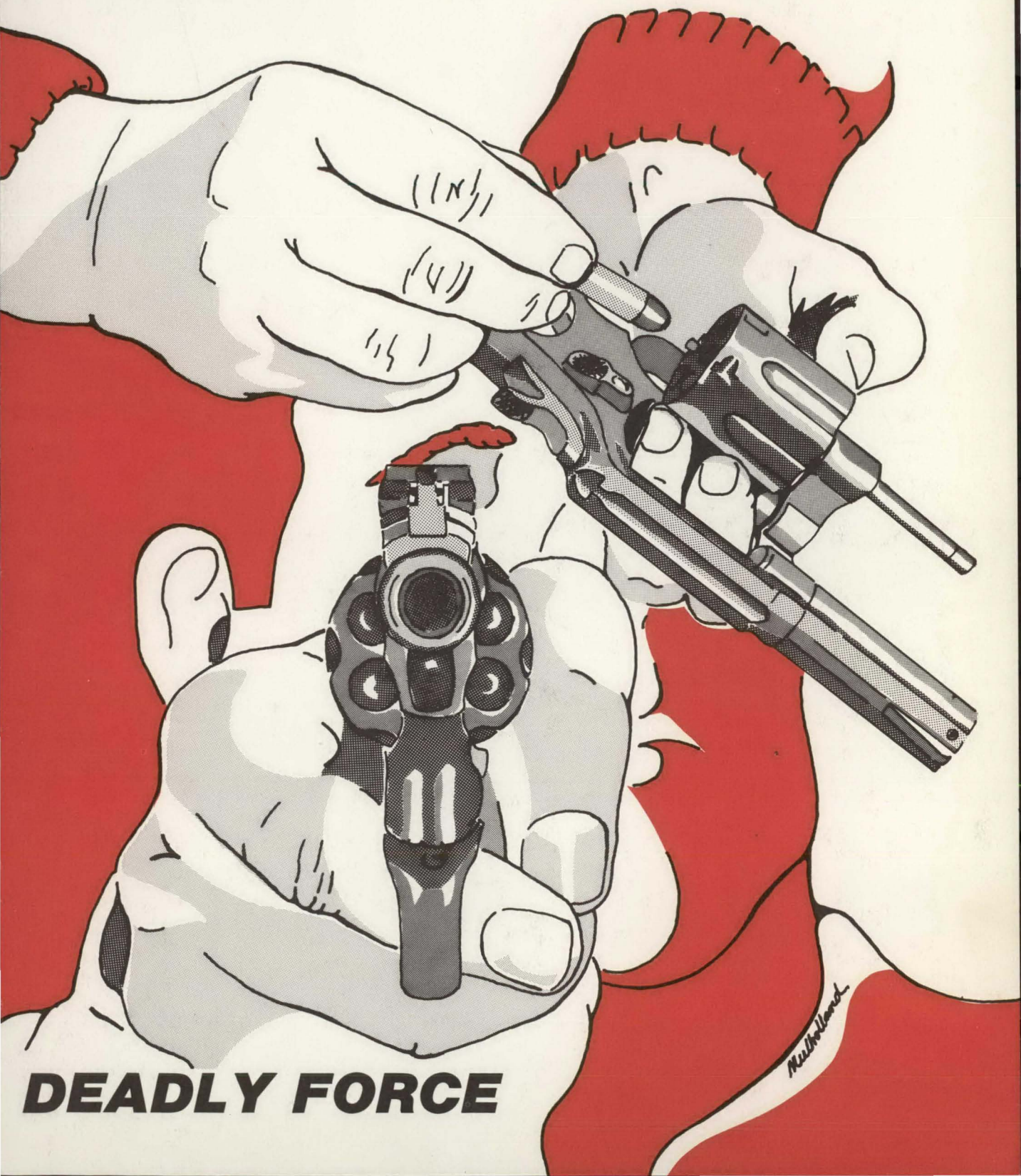
FBI LAW ENFORCEMENT BULLETIN

APRIL 1984



DEADLY FORCE

FBI LAW ENFORCEMENT BULLETIN

APRIL 1984, VOLUME 53, NUMBER 4

Contents

The Cover:
The use of deadly force is one of the most important issues facing the law enforcement profession today.

Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

Published by the Office of Congressional and Public Affairs,
William M. Baker, *Assistant Director*

Editor—Thomas J. Deakin
Assistant Editor—Kathryn E. Sulewski
Art Director—Kevin J. Mulholland
Writer/Editor—Karen McCarron
Production Manager—Jeffrey L. Summers
Reprints—Marlethia S. Black

ISSN 0014-5688 USPS 383-310

Director's Message

Perhaps no subject in the world of law enforcement is more charged with emotion than is the use of deadly force. No police officer authorized to carry a side arm wants to use it against another human being. The hard reality is that under some circumstances the use of deadly force is necessary and is a part of a law enforcement officer's responsibility. Drawing that difficult line successfully is a combination of clearly defined policy, training, and discipline.

This issue of the FBI Law Enforcement Bulletin is devoted to this single subject, deadly force. It is, ultimately, the most important issue facing the profession, for no court can correct a deadly mistake once it has been made.

The current status of the law on deadly force and how it developed from the English common law are considered in the Legal Digest. This area of law is in a state of flux, as the courts consider various issues, including the adequacy of firearms training and the supervision of their use.

An article by Professor Shenkman of the University of Florida explains how one Florida department approached this issue and the author makes several cogent points. He notes that a "department's policy concerning the use of deadly force" must be clearly understood by all and personnel must be provided with the skill to carry out the department's policy.

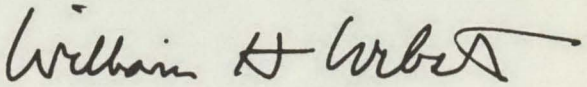
Professor Shenkman, like the Federal Bureau of Investigation, argues for police firearms advanced training with service ammunition. Wadcutters should be restricted to beginning firearms training. In author Shenkman's words, "We should not allow officers with marginal firearms ability to have the power of life or death."

The Firearms Training Unit at the FBI Academy has outlined the current FBI firearms training program in an article in this issue. Adoption of the Weaver stance in 1981, additional judgmental/reactive shooting training, and adoption of the double tap (two quick shots) to increase the stopping power of the service round without the added recoil of the magnum are recent changes in FBI training. These could be, or have been, adopted by police departments with the assistance of the more than 900 FBI firearms instructors around the country.

An article from Alaska shows that a pistol competition by the State troopers with the Royal Canadian Mounted Police was inspired by the RCMP to foster informal liaison at the working level of both organizations, a side benefit of this increased firearms training. A Champaign, Ill., police sergeant suggests some guidelines for the selection of countersnipers within special weapons and tactics units.

Ideas for improving firearms training, for the protection of your citizens and officers, are readily available from a myriad of competent authorities—the police administrator needs to consider the department's policies and practices and then choose, but choose he must.

I think it is regrettable that as this issue goes to press, there is still no nonlethal alternative weapon available to police officers on the street which will permit them to stop a fleeing suspect without running the risk of causing his death in less than life-threatening situations. Surely a Nation that can put a man on the moon can provide this additional weaponry to police officers. Our citizens are entitled to this alternative choice and so are we.



William H. Webster
Director
April 1, 1984


POLICE
POLICE

Selection of a Police Countersniper

By
SGT. JOHN M. GNAGEY
Commander
Civil Emergency Response Team
Police Department
Champaign, Ill.

It is a common occurrence today to read in a newspaper, hear a news report on the radio, or actually see on television dramatic live coverage of a hostage or armed-barricaded individual situation. These types of situations have always been a special problem for police officers and they have handled these high-risk situations to the best of their ability.

In the late 1960's, police administrators began to reevaluate the average police officer's training and the methods that were being used to handle a hostage or armed-barricaded individual situation. They found that the methods being used were no longer sufficient in handling these particular high-risk situations.

The handling of these situations by the news media also became a major factor in the police administrators' minds. The news media began giving extensive live coverage to hostage and armed-barricaded individual situations. There were four specific incidents that were given much notoriety by the news media. On August 1, 1966, people across the Nation heard or read about Charles Whitman, the man who killed 12 people and wounded 31 others from the clock tower at the University of Texas at Austin. On January 7 and 8, 1973, millions of people watched on television while Mark Essex killed 7 people and wounded 15 others during a 36-hour seige at a New Orleans motel. On January 19, 1975, 4 gunmen held 12 people hostage for 47 hours during the seige of a sporting goods store in Brooklyn, N.Y., and on May 17, 1974, millions of people watched live television coverage of the deadly shootout between the Symbionese Liberation Army and the Los Angeles, Calif., Police Department.

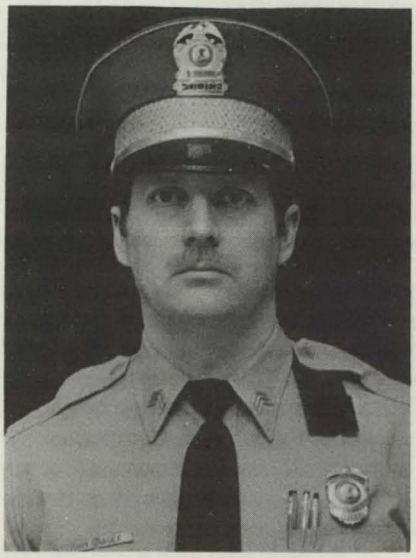
What these four incidents illustrated was that conventional methods used by law enforcement officers were ineffective in these types of situations. The coverage by the news media also revealed to the public, possibly for the first time, that the law enforcement community was not sufficiently trained to handle these special high-risk situations. Police departments all over the world have since created or are now forming special units to handle these unique high-risk problems. These special teams have a variety of names, including special weapons and tactics (SWAT), civil emergency response team (CERT), emergency services unit (ESU), tactical operations unit (TOU), special tactics and rescue (STAR), and hostage rescue team (HRT).

Organization

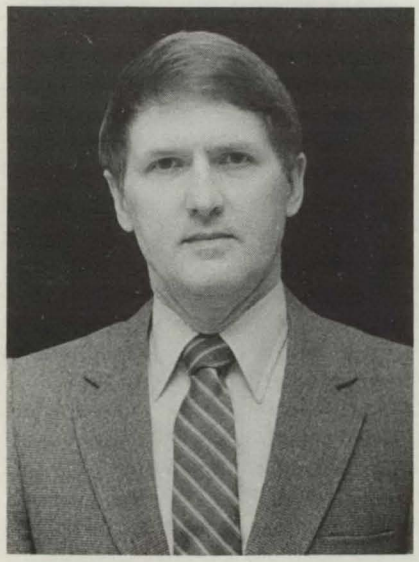
The size of a SWAT team depends on both the size and the needs of the police department. A small department may need only one team, while a large metropolitan department may need several. A team usually consists of five members—a team leader, countersniper, observer, scout, and rear guard, all of whom come under the direct control of the team commander.

Duties

Each team member has specific duties and responsibilities. The team commander provides a direct link between the deputy chief of the Uniform Division and the specialist officers. He establishes the command post, directs and coordinates the problem, orders tactical intervention, and approves the use of tear gas, explosives and/or the use of deadly force. The team leader is responsible for planning, organizing, and carrying out the specific tactics used in each situation.



Sergeant Gnagey



Chief Donald G. Hanna

He controls, directs, and leads the team, conveying all intelligence information to the team commander, and makes sure that the team completes its specific assignment. The team scout is responsible for scouting ingress and egress routes, leading the team to and from its objective, and providing security and close-range defense for the team. The rear guard provides security for the team as well as close-range defense and firepower against barricaded suspects. The observer acts as a spotter for the countersniper, provides close and intermediate range defense, and functions as the radioman. The countersniper provides long range and intermediate range defense, antisniper control, and defensive base support fire at all ranges.

Justifications

Much has been written about the need for SWAT teams, what type of training should be given, the type of weapons that should be used, and how each team officer's duties should be handled. One area, however, that has not been thoroughly addressed is how a police administrator should select police countersniper officers. This selection is extremely important since the police countersniper's final duty is to use deadly force to defend another life when all else fails.

The Police Countersniper

What is a police countersniper, and what does he do? He is a police officer who has been carefully selected and expertly trained in the use of a high-powered rifle with telescopic sights. The police countersniper has two functions in a hostage or armed-barricaded individual incident. His first function is to provide factual, up-to-date information on both the hostage(s) and/or armed individual(s) to personnel in the command post. His second function is to use selective, precision shots in the defense of a person's life.

It is the belief of some that the role of the police countersniper has been considerably diminished. Special Agent Donald A. Bassett of the FBI's Special Operations and Research Unit stresses that the role of the police countersniper has not been diminished but is, in fact, being expanded. He further stated that "the police countersniper in the past few years has become extremely valuable in the position of a well-trained observer and intelligence gatherer. Police departments and military agencies all over the world are becoming increasingly reliant upon countersnipers/observers as primary intelligence sources when deployed around a crisis site. Larger organizations, in fact, have the luxury of manpower to deploy as many as three or four teams of countersnipers/observers. These teams then completely surround a suspect(s) position and provide timely reports to the command post on any movements of hostages or suspects. These teams, because they completely surround the suspect(s), may be in the best position to employ selective force, when necessary and authorized, to preserve life, and when authorized, fire that one shot to end the high-risk situation. Larger police departments are using the police countersniper not only with tactical units but also during surveillance with detectives on undercover cases because of their expertise in concealment and observation."

Suggested Guidelines

A review of literature has revealed that there are no written guidelines or formal tests specifically designed to select police countersnipers. What criteria should a police administrator use to enable him to select the proper person? FBI Special Agent Robert Yates of the Institutional Research Center at the FBI Academy suggests that each department decide which methods best fit their organizational needs and then design their own guidelines. There are, however, certain psychological tests that can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be used. Each police administrator must decide what positive or negative traits he wishes to have identified before a psychologist can select an appropriate test. There are five basic traits to consider when selecting a countersniper, including:

1) Marksmanship ability with the rifle;
2) Top physical condition;
3) Good vision without glasses;
4) Emotional stability; and
5) Good judgment, including excellent decisionmaking abilities.

Physical Condition

Physical conditioning has a direct link to mental conditioning. Physical conditioning develops balance, muscle coordination, and endurance which ultimately leads to increased self-discipline. Physical conditioning can govern one's emotional state. "Proper exercise affects the endocrine glands, and the glands are closely tied up with the emotions.[1] The emotional or mental self-discipline of a police officer plays a large role in the countersniper position. Often the police countersniper will be called upon to lie motionless in one position for extended periods of time under varying weather conditions or in various positions looking through either a pair of field glasses or a sniper's scope. This is not only extremely fatiguing but becomes very monotonous. During these long periods of inactivity, the countersniper must remain mentally alert for any details that may change, and when given permission to shoot, he must be able to make a rational decision on when to pull the trigger.

Whether an officer wears eyeglasses should also be taken into consideration when he is being considered for the countersniper position. Countersnipers work under all types of weather conditions and are under a tremendous amount of stress. If they wear glasses, this negative stress could increase by having the eyeglasses fog over, become dirty or wet, or perhaps even break. If his glasses should get broken, the countersniper may not be able to complete his assignment.

Countersnipers should not smoke. Research has shown that "of all the substances known to be present in tobacco smoke, nicotine alone can produce the drug dependence associated with habitual smoking. When a smoker's nicotine level declines twenty or thirty minutes after using a cigarette, he begins to feel subtle withdrawal symptoms that cause him to smoke another cigarette." [2] If the police officer chosen to be a countersniper smokes and reaches this level of withdrawal, his mind will be on his desire for a cigarette rather than on his mission. Nicotine also constricts the blood vessels which raises the blood pressure, causing the heartbeat rate to rise. The countersniper, when deployed, is already under a great deal of stress. His heart beats a little faster than normal, and the added increase in his heartbeat makes it more difficult for him to keep his rifle and scope steady for that one precision shot.

"The selection process for the position of police countersniper should not be taken lightly."

The police administrator should review each police officer's personnel file, including past and present evaluations, and should talk individually with his immediate supervisor and watch commander. Reviewing the file will allow the administrator to gain some insight into the officer's character, what disciplinary actions he has received, whether he has any particular weaknesses, where his strengths lie, what his personal work goals are, what work goals have been made for him, his use of sick time, and his dependability.

The individual interviews with the perspective countersniper's immediate supervisor and watch commander will reinforce the information in his file and provide an opportunity for more clarification. The supervisor will also be able to give insight into the officer's ability to follow orders, his decisionmaking abilities, and how his peers view him. This will also give them the opportunity to express their personal opinions about his ability to be a countersniper, and most importantly, whether he possesses the good judgment and emotional stability necessary to perform the duties of a countersniper officer under stress. The final step is an interview with the officer. This interview could be either very formal or merely involve casual conversation. All the administrator hopes to gain from this interview are his own personal impressions which, when added to all of the information he has accumulated, will be basis for his decision.

Conclusion

The selection process for the position of police countersniper should not be taken lightly. It is a very serious position which, if not held by a qualified person, could result in many grave ramifications. In the event the countersniper must use deadly force, the department will in all probability be called upon to justify the selection of this officer, as well as the guidelines used for that selection. Select this officer carefully! **FBI**

Footnotes

[1] Thomas Kirk Cureton, Jr., *Physical Fitness and Dynamic Health* (N.Y.: Press, 1975), pp. 32–33.

[2] Shainberg Jones Byer. *Drugs: Substance Abuse* (San Francisco: Harper and Row, Publishers, Inc., 1975), p. 79.

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Police Handgun Training and Qualification

A Question of Validity

"Skilled use of firearms can be an insurance policy for the individual officer, as well as a deterrent to claims against the department he represents."

By
FREDERICK A. SHENKMAN, Ph.D.

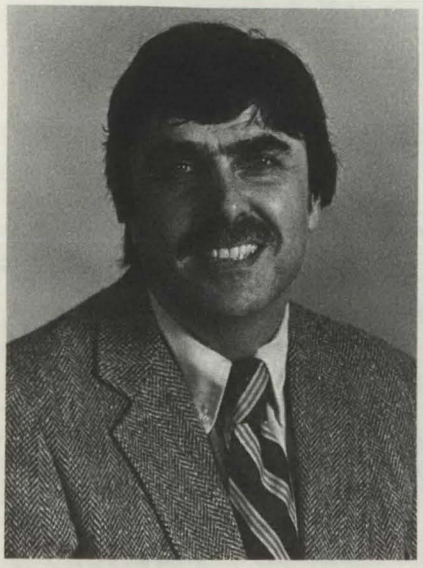
Assistant Professor
Criminal Justice Program
University of Florida
Gainesville, Fla.

In the fall of 1981, this writer contracted with a southeastern police department to conduct an empirical study on the use of deadly force by its sworn personnel during the 4 preceding years. At the time of the study, the department had 160 sworn officers. While the study differed mainly in scope from other similar studies that had been done or were being conducted in larger police agencies, the motivation for having this study was somewhat ironic.

Most police departments that have incurred problems with their policies on the use of deadly force have believed that their officers did not exercise proper restraint and shot at suspects much too frequently. Oftentimes, police shooting incidents are followed by citizen protests, resulting in the department reexamining its firearms policy.

This was not the case with this particular police agency. In December 1980, the police department changed its shooting policy to what is generally considered to be a "defense of life policy." The policy states that an officer may discharge his firearm at a regular range for practice or training purposes; to kill a seriously wounded or dangerous animal when other disposition is impractical, but only on authorization from a superior officer, if time permits; or to defend himself or another person from death or serious bodily injury when other means have failed.

The police department serves a city that has a rather high crime rate. The new policy, which severely restricted the circumstances under which an officer could use deadly force, received strong criticism from a small but vocal minority. It was perceived by its detractors as being soft on crime in a city that could ill afford this approach. The situation was somewhat exacerbated by the fact that the promulgator of the new shooting policy was a newly appointed black police chief. Racial overtones were seen by both professional and nonprofessional observers as being at least partially responsible for the heated controversy.



Mr. Shenkman

The Study

An attempt was made to establish some baseline data for the 4-year period to be considered. (See fig. 1.) The first step was to determine as accurately as possible the conditions involved in each shooting incident; the second step was to discuss what training implications, if any, could be extracted from the raw data. All available information pertaining to each shooting incident was carefully analyzed. If additional information was necessary, individuals who had relevant knowledge of each situation were contacted.

The single finding that appeared to attract the most attention and controversy was the officers' poor level of accuracy. It was determined that it was far more valid and realistic to count every shot that the officer fired as the basic component of any calculus on the use of deadly force. This is a more stringent standard than is used in other comparable studies, and the end result is a lower measure of relative accuracy.

The reaction to this information by command staff was first one of denial, then chagrin. Finally, after a number of meetings, there was a resolve to discover some reasons for the problem and to find some solutions.

Any consideration of the level of proficiency of the police use of deadly force must necessarily involve several basic components, including statutory law, departmental policy, training, qualification requirements, and the weapon and ammunition to be used.

After this department instituted the "defense of life policy," the number of shooting incidents declined considerably. The other areas of consideration were not nearly so progressive. Firearms training in the department was sporadic at best. In addition, virtually all the training was conducted with reloaded .38-caliber wadcutter ammunition. Very little training time was devoted to judgment, weapon retention, moving and multiple targets, etc.

Firearms qualification was held twice a year. Reloaded .38-caliber wadcutter ammunition was again used. No attempt was made to determine the officer's ability to distinguish between "shoot-don't shoot" situations or his ability to hit multiple or moving targets. There was also no attempt to simulate lighting conditions, to make the officer seek some kind of cover, or to create artificial pressure.

The most obvious omission on the part of this department was the failure to test or qualify its officers with the correct combination of weapons and ammunition. The standard issue sidearm and ammunition of the department were a Smith and Wesson Model 19 or Model 66, both with 4-inch barrels, and Remington .357 magnum 125 gr. H.P. ammunition.

Perhaps the most important and difficult decision a police officer must make is whether to invoke the use of deadly force. It is therefore incumbent upon the police agency to do everything within its power to insure that each officer is properly trained in carrying out this responsibility. This training must include exercises in the decisionmaking process itself, as well as the technical proficiency needed to carry it through, should the need arise.

Figure 1

SYNOPTIC OVERVIEW OF SHOOTING INCIDENTS INVOLVING POLICE DEPARTMENT SWORN PERSONNEL DURING THE PERIOD BETWEEN JULY 31, 1977, AND SEPTEMBER 4, 1981

I. General

A. Number of Distinct Incidents=32
B. Number of Individual Shootings=39
C. Total Number of Different Officers Involved=31
D. Number of incidents per year:
1977—9
1978—7
1979—10
1980—4
1981—2

II. Characteristics of Officers Involved

A. Males=38
Females=1
B. White=35
Black=4
C. Average Age=30.8 years
D. Length of Service with Department=5.12 years
E. Rank
Patrol Officers=33
Investigators=3
Airport Security=1
Sergeant=1
Lieutenant=1
F. Special Assignment
Assigned to Special Operations Unit=8
G. Duty Status
On Duty=37
Off Duty=2

III. Characteristics of Incident

A. Day of Week
Sunday=3
Monday=3
Tuesday=5
Wednesday=7
Thursday=10
Friday=0
Saturday=4
B. Time of Day
0001-0400=13
0401-0800=1
0801-1200=3
1201-1600=4
1601-2000=3
2001-2400=8
C. How Incident was Initiated
On View=16
Dispatched=13
Citizen=3
D. Type of Dispatched Incident
Burglary=7
Robbery=4
Disturbance=3
Alarm=2
Suspicious Conditions=2
Attempted Rape=1
Prostitution=1
Theft=1
Warrant Arrest=1
E. Verified Incident
Assault on Officer=16
Burglary=8
Robbery=5
Accidental Discharge=3
Narcotics Violation=2
Attempted Rape=1
Mentally Ill Suspect=1
Suspicious Conditions=1
Suspicious Person=1
Warrant Arrest=1

IV. Conditions of Shooting

A. Time of Day
Day=8
Night=24 (18 in poor light)
B. Reason for Firing Weapon
Prevent Escape=18
Protect Self or Citizen=15
Other=6
C. Average Distance Between Officer and Suspect=43 feet
D. Type of Weapon Used for Each Shot Fired
Handgun=88
Shotgun=12
E. Accuracy of Fire
Misses=90
Hits=10

It is extremely important to have confidence in the fact that the officer both thinks straight and shoots straight. It would be impossible to determine which facet of the process is more vital—they are inextricably related to each other. However, for the purposes of analysis, it is the actual shooting skills that the officer should possess that will be addressed.

Any form of testing or evaluation process is inexact and artificial. The problems related to establishing the validity of a procedure to measure skills with a handgun under combat conditions are especially difficult. Great strides have been made in recent years in creating a more authentic atmosphere that reflects situations. Changes in qualifying courses, such as shooting distances, moving targets, and shoot-don't shoot scenarios, are but a few of the advancements that have been made. Nevertheless, artificial situations can never duplicate the real-life encounter when human life is at stake.

For some time it had been the policy of the department to have officers qualify with the weapon they actually carried on duty. This makes infinite sense. For instance, if a person carried a Smith and Wesson 2″ Model 36 on duty, it would be totally invalid to allow that person to qualify with a 6″ target-sighted Smith and Wesson Model 19, since the relative difficulty of shooting a revolver with a sight radius that is three times shorter and weighs less than half as much is considerably greater. Nevertheless, if this is the weapon that one would actually be called upon to use in a life-threatening situation, this is the weapon with which one should have to demonstrate a high level of proficiency.

"The most obvious omission . . . was . . . [the] failure to test or qualify . . . officers with the correct combination of weapon and ammunition."

While a sound policy has been adopted regarding the *weapon* used to qualify, the same is not true regarding *ammunition.*

The standard issue handgun ammunition for this police department is Remington .357 magnum 125 JHP. However, the ammunition that is used at qualification is a .38 Special 148 grain wadcutter. The difference between firing these two types of ammunition in the same weapon is easily demonstrated. (See fig. 2.)

Figure 2

Cartridge	Bullet	Muzzle Velocity (F.P.S.)	Muzzle energy (ft. lbs.)
.22 long rifle	40	1060	100
.38 Special	148	710	166
.357 magnum	125	1450	583

The single most important ballistic figure is the muzzle energy each round produces. For instance, the issue ammunition produces 3.5 times more muzzle energy than the qualifying ammunition. By comparison, the .38-caliber Special wadcutter produces only 1.5 times the amount of kinetic energy produced by a .22 LR cartridge. The ammunition used to qualify is much more similar to shooting a .22 caliber than it is to approximating a .357 magnum.

The ballistics produced by a .357 magnum produce significantly higher levels of felt recoil, muzzle blast, and muzzle flash than those produced by the .38 Special qualifying round. All of these components seriously add to the difficulty of producing high levels of accuracy and controllability with magnum ammunition. This is especially true when fired in a medium frame, 4-inch revolver which is what the majority of officers carry on duty. Therefore, it makes about as much sense to measure shooting ability by using .38 wadcutter ammunition when .357 magnum ammunition is used in the field as it would be to test officers' driving skills in a four-cylinder car when the officers actually drive V–8 powered cruisers.

Skilled use of firearms can be an insurance policy for the individual officer, as well as a deterrent to claims against the department he represents. Certainly, firearms training is no remedy for the many problems faced by the contemporary police officer, but if firearms proficiency bolsters the self-confidence of the individual officer or saves the life of one innocent person, it is worth the price.

It is within this context that the following proposal was made. As soon as it was reasonably possible, it was recommended that a pilot study be instituted to examine the effects of using .357 magnum ammunition for the purposes of qualification. Considering the restraints of manpower and economics, it was recommended that a random sample of 15 percent of all sworn personnel be chosen to participate in the project. The training officer in charge of firearms qualification should lead the project with the full cooperation of each bureau commander in order to facilitate maximum efficiency of personnel.

Methodology

A random sample of 27 sworn personnel was chosen from all ranks in the department. Standard procedures for the semiannual firearms qualification were followed, with the exception that officers who normally worked at night qualified under simulated night fire conditions. No advance notice was given to those officers who had been selected to participate in the experimental group. The course of fire for firearms qualification is a modified version of the New York Police Department (NYPD) Practical Revolver Course. Participants in both the experimental group and the control group were given a basic orientation regarding shooting techniques and range safety procedures. After the orientation, the experimental group was exposed to a single variable differentiating them from the control group. That single variable was the ammunition with which they were expected to qualify.

The experimental group was given 50 rounds of Remington .357 magnum, 125 gr., jacketed hollow point ammunition. This is the exact ammunition that all officers are expected to use while on duty. The control group was issued 50 rounds of reloaded .38 Special, 148 gr., wadcutter ammunition, which is used by the department for training and qualification purposes only.

Findings

The experimental group (N=27) first fired the qualification course with Remington .357 magnum ammunition. Using this ammunition, the group averaged 81-percent accuracy with a

range of 45 to 95 percent. The experimental group then fired the same course, using reloaded .38 Special wadcutter ammunition. Using this ammunition, the group averaged 93.4 percent accuracy, with a range of 80 to 100 percent.

The control group fired the course using only .38 Special wadcutter ammunition. This group averaged 94.3 percent accuracy, with a range of 81 to 100 percent.

It also was determined that the members of the experimental group averaged 93.7 percent in the fall of 1981, using only .38 Special wadcutter. This attests to the relatively high level of reliability of the course of fire.

Shooting .357 magnum ammunition was significantly more difficult than the .38 Special wadcutter, which was traditionally used. Scores with magnum ammunition were 13 percent lower than scores shot by the same group of individuals using .38 Special reloads. Additionally, 22 percent of those firing .357 magnum ammunition failed to make a passing score of 80 percent, which is the department's minimum standard for qualification. A failure rate of 22 percent corresponds to an absolute number of 39 officers who might not have qualified if they had used .357 magnum ammunition. This is based on a department total of 178 sworn personnel.

There appeared to be no significant difference between scores fired during daylight hours and those fired at night. However, attempts to simulate night firing conditions were far from satisfactory. The firing range was illuminated by floodlights. While the night firing lighting conditions were far from optimum, they were far better than are usually present in a nighttime altercation.

Two of the weapons used by officers using magnum ammunition failed to function; another revolver functioned with serious impairment. This is a combined failure and malfunction rate of 11 percent. This rate of failure or malfunction translates into the possibility of 19 officers having weapons that could not be depended upon with magnum ammunition.

The findings concerning weapons malfunction should be viewed from several perspectives. First, the absolute number of failures does not lend itself to a generalization that would have a high level of statistical reliability. Second, because the weapons were not examined by the department armorer prior to the experiment, it is impossible to determine whether the revolvers in question were impaired prior to the testing. There were no malfunctions with the weapons fired by the control group using reloaded wadcutter ammunition.

Because of the greatly increased heat produced by the more powerful ammunition, officers experienced considerable discomfort when opening the revolver's cylinder. Difficulty in holstering was also experienced by officers who normally wore shoulder holsters or other types of off-duty holsters.

Policy Implications and Recommendations

The purpose of firearms qualification is to determine the level of ability an individual officer possesses in the use of his weapon. On a nationwide basis, police officers are only accurate between 10 to 25 percent of the time. The average officer in this department scored a 95.5 percent over the past year. This makes the average officer a master-level shooter. The semiannual firearms qualification scores achieved by this department would indicate that the department members, taken as a whole, were highly proficient in the use of their sidearms.

The firearms qualification does not go nearly far enough in differentiating officers with wide ranges of ability in the use of their revolver. Perhaps among the most obvious and simplest changes that could be suggested would be a transition from the use of "target-type" ammunition to that of "full-service" loads for purposes of qualification.

While it is extremely difficult to simulate combat conditions totally, the officer should, at the very least, be expected to perform with the same equipment he carries while on duty. With a defense of life policy for the use of deadly force, it becomes even more important that an officer be able to exercise his most awesome of responsibilities both efficiently and accurately.

We should not allow officers with marginal firearms ability to have the power of life or death. The cost differential between having officers qualify with .38 Special wadcutter reloads and .357 magnum reloads is almost negligible. It is estimated that on a yearly basis, the additional cost incurred by a department of this size would be less than $1,000. The .38 Special round that has traditionally been used may be appropriate for elementary

"We should not allow officers with marginal firearms ability to have the power of life or death."

training purposes but is not valid when certifying that an officer is qualified with his duty weapon. As a department, we are culpable if we do not do everything reasonably within our power to ascertain the level of proficiency that each individual officer possesses in judgment and technical proficiency in the use of deadly force.

A department should evaluate its firearms training and evaluation procedures on a regular basis. Its firearms training program must adequately prepare its people to perform at a level that is acceptable to the agency and the community it serves. A police department cannot make a better investment of its time, energy, and resources.

Conclusion

The merits of a shooting policy that allows the officer to fire his weapon only in defense of himself or another has been much debated. However, the issue of the relative ineffectiveness of the police officer in carrying out his duty has been ignored far too long. The degree of apathy that exists regarding this issue is inexcusable. The police cannot be held accountable for most of the causation factors proffered by criminologists, such as poverty, unemployment, racism, etc. Nor is it in the purview of the police to have much of an impact on other facets of a criminal justice system that does not convict often enough, does not require long enough sentences, and which so often allows obviously unrehabilitated felons back on the street. The police, however, are responsible and should be responsible for the implementation of their own policies and the carrying out of those policies. Budgetary and manpower limitations notwithstanding, it is incumbent upon the police to be as efficient and effective as possible concerning those matters in the criminal justice system that are within their purview. Included among these elements certainly should be training and supervision of their personnel. Any policy is only as good as the individuals who are charged with the implementation and the enforcement of that policy. A police department's policy concerning the use of deadly force must be among its highest priorities. The policy should be clearly written and well understood by all involved personnel. Personnel must not only understand the policy but must also be provided with the necessary knowledge, skill, and insight to enable them to carry out that policy effectively. Nationally, police departments have been woefully lacking insofar as providing the quality and quantity of training necessary to carry out the dictates of use of deadly force policies.

For instance, the vast majority of police agencies do not require night firing as part of their training programs. Only a very small percentage of departments use electronic or similar targets to provide a program of shoot-don't-shoot multiple selection of targets and moving targets.

In addition, a majority of departments require firearms qualification only twice a year. Worse yet, only 20 percent of police departments train with service-type ammunition and 25 percent fire their qualification courses with regular service-type ammunition.[1]

These are not issues that can be taken lightly when one considers that police officers miss their intended target between 75 and 90 percent of the time, not only failing to accomplish their basic intention of stopping the attacking felon but also placing innocent bystanders in grave jeopardy. It is simply a question of whether a community is willing to accept this level of performance on a matter of such great consequence. If there is a genuine commitment in the direction of improving the effectiveness and safety of the use of firearms by police departments, there are procedures and training processes which could greatly aid in the accomplishment of this goal. **FBI**

Footnote

Charles R. Skillen and Mason Williams, *American Police Handgun Training* (Springfield, Ill.: Charles C. Thomas, 1977), pp. 108–127.

An Update on FBI FIREARMS TRAINING

By
WILLIAM F. VANDERPOOL
Special Agent
Firearms Training Unit
FBI Academy
Quantico, Va.

Instructors demonstrate obstacle stamina course.

The FBI has made many contributions to law enforcement in the firearms training field. In order to assist the entire law enforcement profession, the Firearms Training Unit (FTU) at the FBI Academy recognizes the need to update and improve its training programs continually. This article describes some of the changes and innovations in techniques and equipment recently incorporated into the FBI firearms training program.

". . . the Weaver [position] was found to be much more accurate in first and subsequent shots and allowed extremely fast shooting, even with full-service ammunition."

Weaver Stance

For many years, the FBI taught such shooting positions as the 7-yard hip, natural point, and point shoulder. In 1980, instructors of the FTU began taking a closer look at the classic 7-yard hip shooting position. This position was designed for use on an adversary at close range when circumstances did not allow time for the Agent or officer to bring his gun to eye level for a proper sight picture for deliberate, accurate shots. The instructors noted the position was neither as quick nor as accurate as originally believed. For the position to be effective, the target needed to be on approximately the same level as the shooter and at a distance not exceeding 7 yards. Both Agents and police officers firing from this position tended to be very deliberate on the first shot to ensure a hit. Even so, a high rate of first and second round misses was noted, particularly if the shooter had not fired the position in some time. Many shooters simply brought the gun to eye level when accuracy was paramount.

In mid-1980, the FTU was approached by a former FBI Agent who is a leading competitive shooter in the International Practical Shooters Confederation (IPSC) matches. These matches are a form of competition involving the practical aspects of survival shooting, including realistic times and fast reloading, using full-power handguns and less formalized shooting positions than the FBI had been using. FTU staff members noticed many aspects of IPSC shooting had direct application to law enforcement firearms training and spent considerable time learning from the former Agent IPSC techniques applicable to FBI training.

One technique demonstrated was the Weaver position, which requires the shooter to use two hands and bring the weapon to eye level. Unlike the isosceles triangle position of the old FBI point shoulder shooting, the Weaver technique requires the shooter to drop his strong foot and shoulder back, allowing the gun hand and arm to remain in a straight line. Together with a reinforced hand position and unlocked elbow to control recoil, this allows the shooter to fire a first shot at least as fast and usually faster than the old hip shooting position. More important, the Weaver was found to be much more accurate in first and subsequent shots and allowed extremely fast shooting, even with full-service ammunition.

An indepth study was conducted by FTU staff members who fired both the traditional and the radically new (at least to the FBI) Weaver positions against an electric stopwatch. The staff found they could fire faster and more accurately in almost every instance when using the Weaver position. The Weaver stance was then introduced to FBI Agents attending in-service classes at the Academy. The Agents were shown the technique, allowed some initial practice, and then required to fire using that position in place of the 7-yard hip shooting, natural point, and point shoulder positions. No appreciable change was made in barricade shooting, as the Bureau's position was virtually identical to the Weaver. A vast majority of experienced Agents introduced to the Weaver preferred it over the more traditional positions.

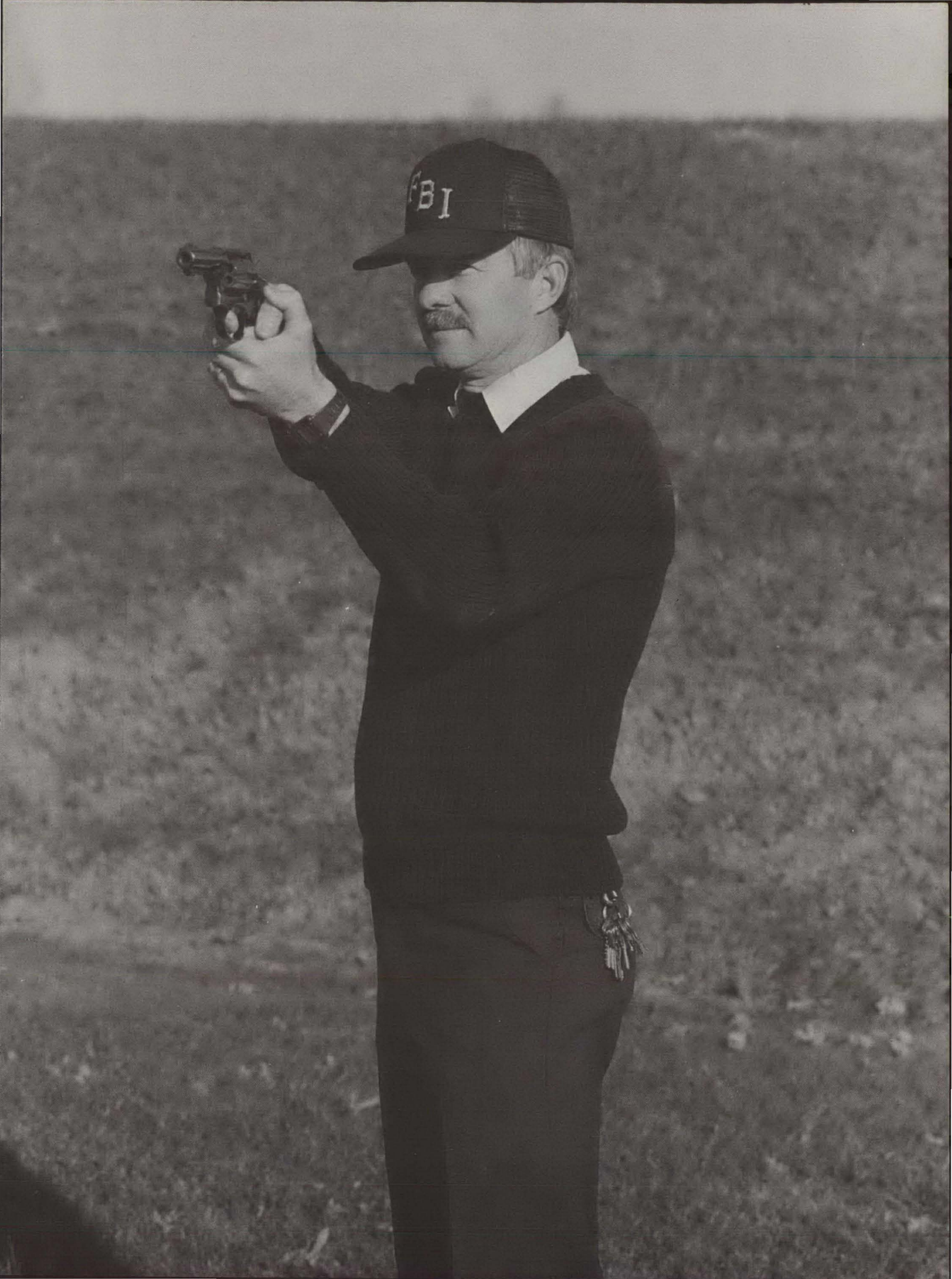
New Agent trainees were then instructed in the Weaver stance after they had passed qualification under the old techniques. The consensus of New Agent trainees was, "Why didn't you show this to us earlier?" The technique of dropping the strong foot back was reinforced by defensive tactics techniques taught by the Physical Training Unit. The defensive or interview stance used in the gym requires the strong foot and shoulder back, as in the Weaver.

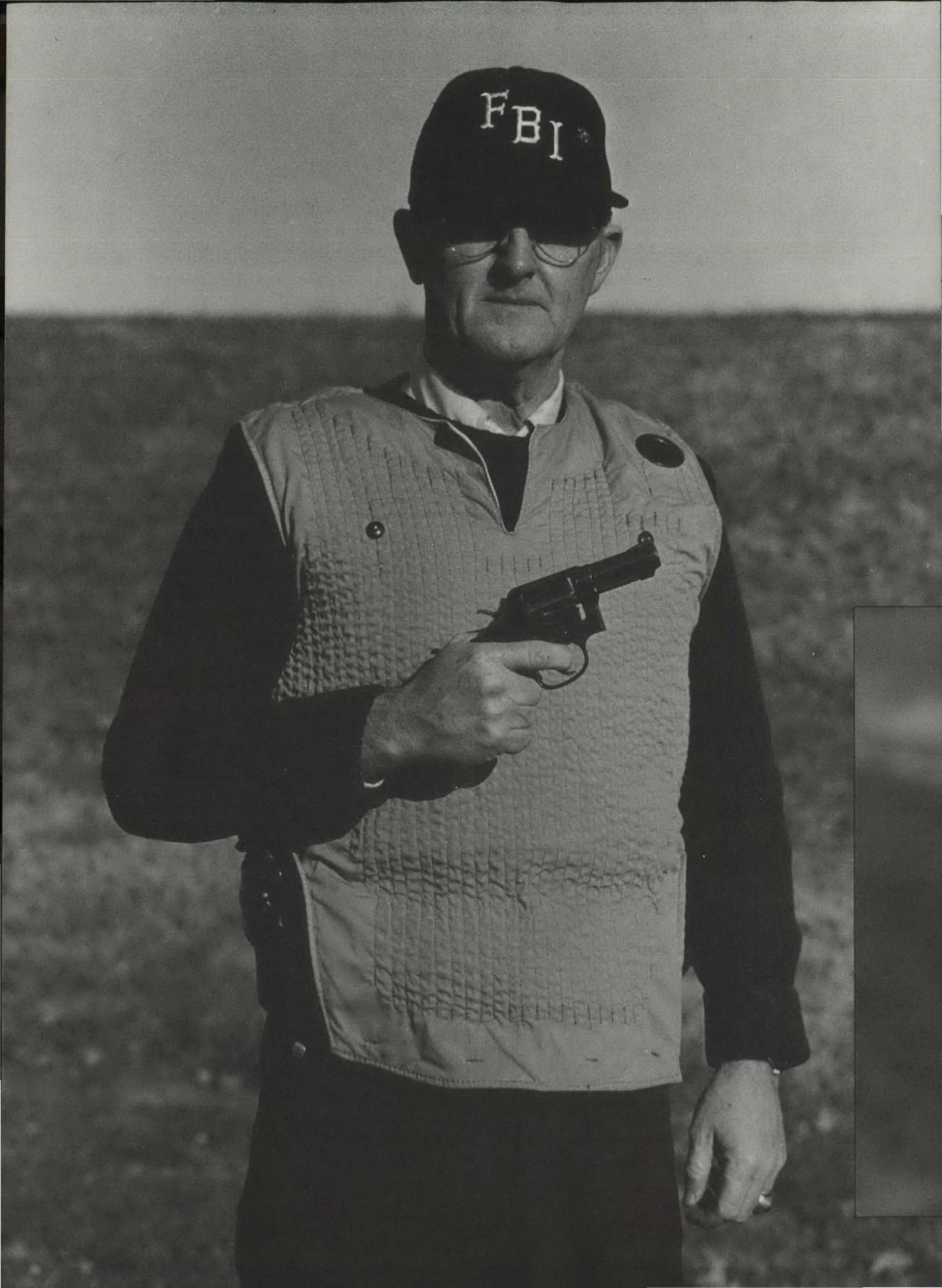
In mid-1981, the FBI officially adopted the Weaver position to replace the 7-yard hip shooting, natural point, and point shoulder positions. In order to incorporate this style throughout the Bureau, principal firearms instructors representing all 59 FBI field offices attended a 1-week retraining session at the FBI Academy. In addition, the Instructional Technology Services Unit, together with the FTU staff, produced a video tape called "Keys to Survival," which described and demonstrated the Weaver method. Copies of this tape were sent to each field office for Agent training and local police schools.

Other New Positions

The firearms staff recognized the continued need for one-handed shooting in arrest and combat situations, but realized its application was critical at much closer distances than the 7 yards previously used. FBI statistics indicate the largest single group of

The author demonstrates the Weaver position.


FBI


FBI

police officers killed in the United States is at a distance of 0–5 feet from the subject, with the vast majority of officer killings occurring at less than 7 yards distance between subject and officer.[1] Therefore, the distances at which a subject is being interviewed or arrested are critical with regard to officer safety.

The FTU staff researched various techniques, and the combat hip shooting position adopted was similar to the shooting technique used and demonstrated by a retired U.S. Border Patrol officer well known in shooting circles. This technique involves drawing the weapon, and as the barrel clears the holster, pivoting the weapon and firing with the gun wrist at or very close to the hip. This allows for fast shooting and weapon retention, as the gun is out of the opponent's reach.

Since the previously mentioned statistics of shootings were so overwhelming at close ranges, a 50-round training course was developed, using the new hip shooting position at distances from 1–3 yards.

The FTU staff also took a closer look at the traditional prone position, where the shooter would lie down in a straight line facing the target. The shooter was thus exposed to ricocheted fire from pavements and other surfaces and given little cover. In addition, lying in this position forced the shooter to raise his head at an uncomfortable angle to view the target, causing constriction in the neck area, limiting blood flow to the head, and blurring the shooter's vision. The shooter had to lower his head periodically to relax his neck and clear his vision. Therefore, the rollover prone position used by many IPSC shooters has been adopted by the FBI. In this position, the shooter rolls to his strong side with his body diagonal to the target, allowing more opportunity to take cover during firing.

Far left: Instructor with laser vest and revolver. Laser-equipped revolver is identical to issued sidearm.

Innovative Techniques, Facilities, and Equipment

The FTU recognizes several precepts in firearms training:

1) An officer, in the stress of a fire fight, reacts as trained on the range.
2) The training afforded the officer must reflect what is most likely to be encountered on the streets. To this end, a careful review of statistical data concerning gunfights is mandatory. One excellent example often analyzed is the New York City Police Department study covering 10 years and more than 6,000 firearms incidents.[2]
3) A firearms program is limited less by budget than by imagination.

A close study of shooting reports by FBI Agents and other law enforcement officers revealed weaknesses in training that needed to be corrected. Following are some methods the FTU has employed to make these corrections.

Hot Line Concept

One critical requirement in a fire fight is the need to keep track of rounds fired and then to reload automatically. And yet, in past training, all reloading on the line was done under command. The FBI has adopted the hot line concept for many of its courses and training to correct this situation. This concept requires an initial command to load, and all subsequent loading is done by the shooter without command. When the shooter fires a given number of rounds and still has rounds remaining in his weapon, he will go to a "combat ready" position, dropping the weapon just below eye level, while covering the target for a

count of three before reholstering. When the shooter's weapon is empty, reloading must be immediate and without command. Occasional commands to "top off" are given so that the student has the opportunity to learn to reload a partially empty weapon.

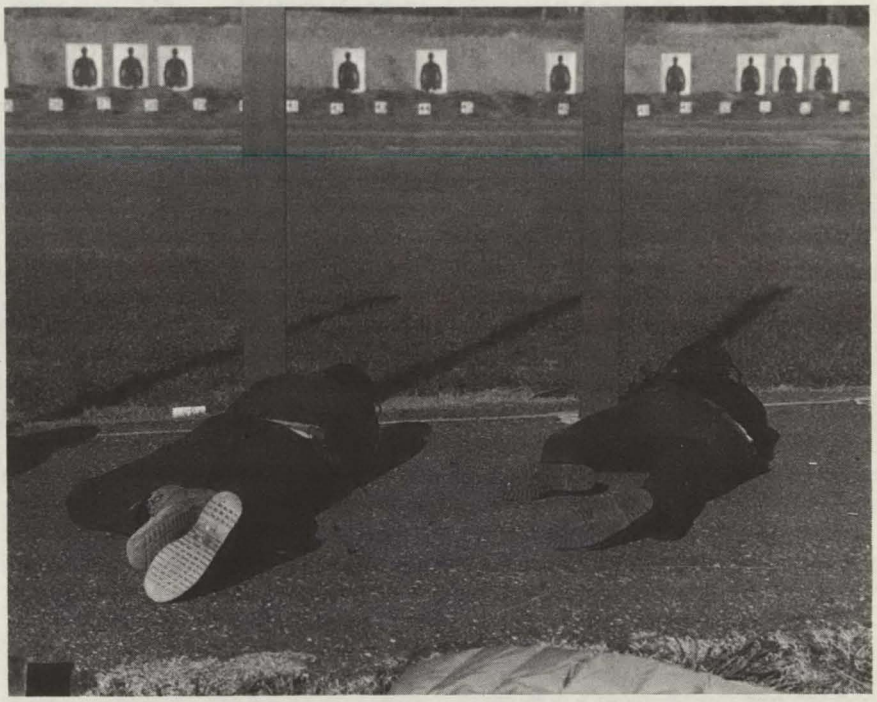
Judgmental/Reactive Shooting

Judgmental and reactive shooting are strongly emphasized in Agent training, particularly after initial qualification. The use of "good guy/bad guy" target faces, shorter shooting time limits, and reloading under stress have been increased.

During 1984, the FTU will begin implementation of a video computer-controlled judgmental shooting system. In this system, a scenario is displayed on a video screen, requiring the trainee to react both verbally and physically. Student performance is recorded on video tape for playback and evaluation. The computer printout reflects time of the trainee's reactions and compares that time with all other students who have previously faced that particular judgmental problem.

Double Tap

A law enforcement officer should be trained to shoot until the target goes down. There have been instances where an officer or Agent has fired at a subject and started to reholster before realizing the opponent was not incapacitated and was still a threat. This reflected previous range training where the shooter rushed to reholster in anticipation of the next firing signal. The hot line concept of remaining at combat ready position while watching the target helps correct this situation. In addition, an increased use of double tap (two quick shots) has been incorporated into many of the FBI training courses. This double tap effectively increased the so-called stopping power of the service round without the added recoil, penetration, and recovery time of the magnum.



Rollover prone position allows for concealment and easier sight acquisition.

Increased Use of Service Ammunition

Most initial training is accomplished using .38 wadcutter ammunition. In order to simulate street situations more closely, once they have qualified, new Agent trainees are now shooting more rounds of service ammunition. This affords them experience with the added recoil and muzzle blast of the ammunition.

Pepper Poppers

Another technique adopted from IPSC competition is the use of metal reactive targets for some advanced courses. These include steel headplates and "pepper popper" targets so the shooter actually sees his target fall.

The pepper popper, a miniature man-shaped target, can be adjusted ballistically to the service ammunition used. This adjustment can be made to require a double tap, or simulating an opponent wearing body armor, a head shot to knock it over.

Left: Agent trainees demonstrate hip, natural point, point shoulder, and Weaver positions.

Additional safety requirements are necessary for these targets, including a minimum 10-yard standoff and use of eye protection.

Obstacle Stamina Course

Pepper poppers and headplate targets are portable and can be moved to vary shooting courses to keep training challenging. New targets have been added to the Bureau's obstacle stamina course, requiring the shooter to drop his target(s) before proceeding to the next station. This course, located on the rifle deck at the FBI Academy, combines an obstacle course with firing situations. Obstacles include doors, windows, rooftops, hurdles, and a 7-foot wall. Each two-man team of shooters is required to coordinate its firing, reloading, and movements for concealment and safety. The various obstacles also are a good test of the officer's equipment, particularly holsters and bullet pouches, as the physical activity will reveal any weaknesses in equipment.

Laser Equipment

To make advanced training as realistic as possible, the Bureau has adopted a laser-equipped revolver firing blanks. The "targets" are instructors or other Agents wearing laser-sensitive vests. The laser system provides an opportunity for training not available in conventional target systems. Scenarios can be changed readily so students are not forewarned of situations. The use of blanks provides the noise and reloading requirements necessary for realism.

Weaver position allows some latitude for personal preference.

"In order to accomplish its mission of training FBI Agents and local law enforcement officers in the firearms field . . . the FTU attempts to keep abreast of the latest equipment and techniques that might help the FBI and the law enforcement community it serves."

Hogan's Alley

Some scenarios are enacted on Hogan's Alley, a three-dimensional complex used for door entry, room clearing, and arrest techniques. Under continuing development, this city street of storefronts, rooms, and an alley will eventually be equipped with furniture, lighting, and appropriate sound effects for realism and added stress.

Other arrest problems have been moved off the range complex to more functional areas of the Academy. Support employees assigned to the garage or power plant have become accustomed to performing their duties in the midst of arrests or gunfights and cheerfully act as sources of information or unwitting bystanders in the exercises.

New Ranges

Two ranges have been added at Quantico recently to increase the training potential. The combat shooting house is constructed of tires stacked to represent the exterior and interior walls of a building. These tires are filled with sand and will absorb most service rounds, allowing live fire against popup targets. This facility is used only for advanced inservice training and by the FBI SWAT teams. In addition, the 1,000-yard unknown distance rifle range is in the final stage of completion for use by our SWAT snipers.

To support the new training methods, changes in equipment have also been made. The Bureau's hip holster has been modified by slotting the front and covering the trigger guard to allow a faster and safer draw in close combat situations.

The Bureau previously issued a dump pouch to all Agents. It was noticed that under stressful situations, the Agent would often drop the rounds on the ground during reloading, even after considerable practice with it. New Agents now receive a loading pouch holding six rounds in pairs. They are taught to load their revolver two rounds at a time, which has cut loading time by approximately 40 percent. After initial qualification, the New Agents are also issued a speed loader and holder to complement, not replace, the bullet pouch. All loading in the advanced courses is required to be from the pouch or speed loader so the Agent will instinctively go to those sources under stress.

Conclusion

In order to accomplish its mission of training FBI Agents and local law enforcement officers in the firearms field, the FTU staff continues to attend firearms-related trade shows and shooting events and visit other law enforcement firearms training facilities. While formal research is limited due to heavy training schedules, the FTU attempts to keep abreast of the latest equipment and techniques that might help the FBI and the law enforcement community it serves.

FBI

Footnotes

[1] U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports, *Law Enforcement Officers Killed,* 1981.

[2] *New York City Police Department Analysis of Police Combat Situations,* N.Y.C.P.D., 1980.

Annual Pistol Competition on Target

". . . the annual pistol competition between the Alaska State Troopers . . . and the Royal Canadian Mounted Police . . . bridges an international boundary and establishes ties that bind the members into a close, working partnership. . . ."

By
PAUL EDSCORN
Vision Information Specialist
Community Services Bureau
Alaska State Troopers
Anchorage, Alaska

Pistol competition is standard fare among law enforcement organizations. Competition encourages marksmanship, a necessary professional skill, and provides a means to hone that skill.

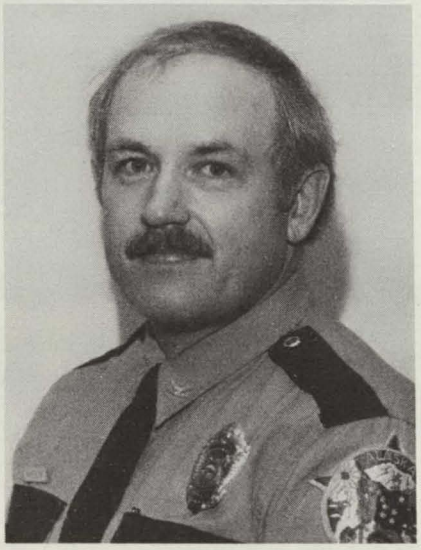
However, the annual pistol competition between the Alaska State Troopers (AST) and the Royal Canadian Mounted Police (RCMP) in the Yukon Territory of Canada has another dimension. It bridges an international boundary and establishes ties that bind the members of the two departments into a close, working partnership, an important factor in the development and growth of the two departments during the past 20 years.

The competition provides virtually the only opportunity for members of the AST and RCMP to meet on a regular basis. As a result, the members of the two departments have developed a degree of cooperation not often found among law enforcement agencies separated by short city blocks or a few miles.

The competition began in 1960. At that time, the Alaska State Troopers had existed as an organization for less than a year, although its ancestry could be traced to the formation of the Alaska Highway Patrol in 1941. By 1960, with a force of 60 troopers, the AST had total police responsibility for a State sprawling across 586,000 square miles.

The Royal Canadian Mounted Police has had a tradition of illustrious service dating back to 1873 and a reputation for maintaining law and order during Canada's westward expansion, a condition which did not exist during the American march west. While Soapy Smith, a well-known businessman of questionable character who enforced his own brand of law, ruled the American side of the

Mr. Edscorn



Colonel Kolivosky
Alaska State Troopers

border in a reign of terror and banditry, the rule of law maintained by the Mounties stood in marked contrast. As described at the time in one journal, "The whole demeanor of the people changed the moment they crossed the summit. The pistol was packed in the valise and not used. The desperado, if there, changed his ways. No one feared him."[1] It was a rule of law and order much admired and long sought for Alaska's vast wilderness and energetic people.

A mounted constabulary similar to the RCMP was recommended for Alaska by military authorities before the turn of the century and was proposed by President Theodore Roosevelt in 1904. When the Alaska Territorial Police was formed out of the highway patrol and given full police responsibility for the territory in 1953, the superintendent declared he would pattern the department after the Mounties in Canada. Thus, by 1960, the troopers, as successors to the territorial police, were eager to learn from their counterparts across the border.

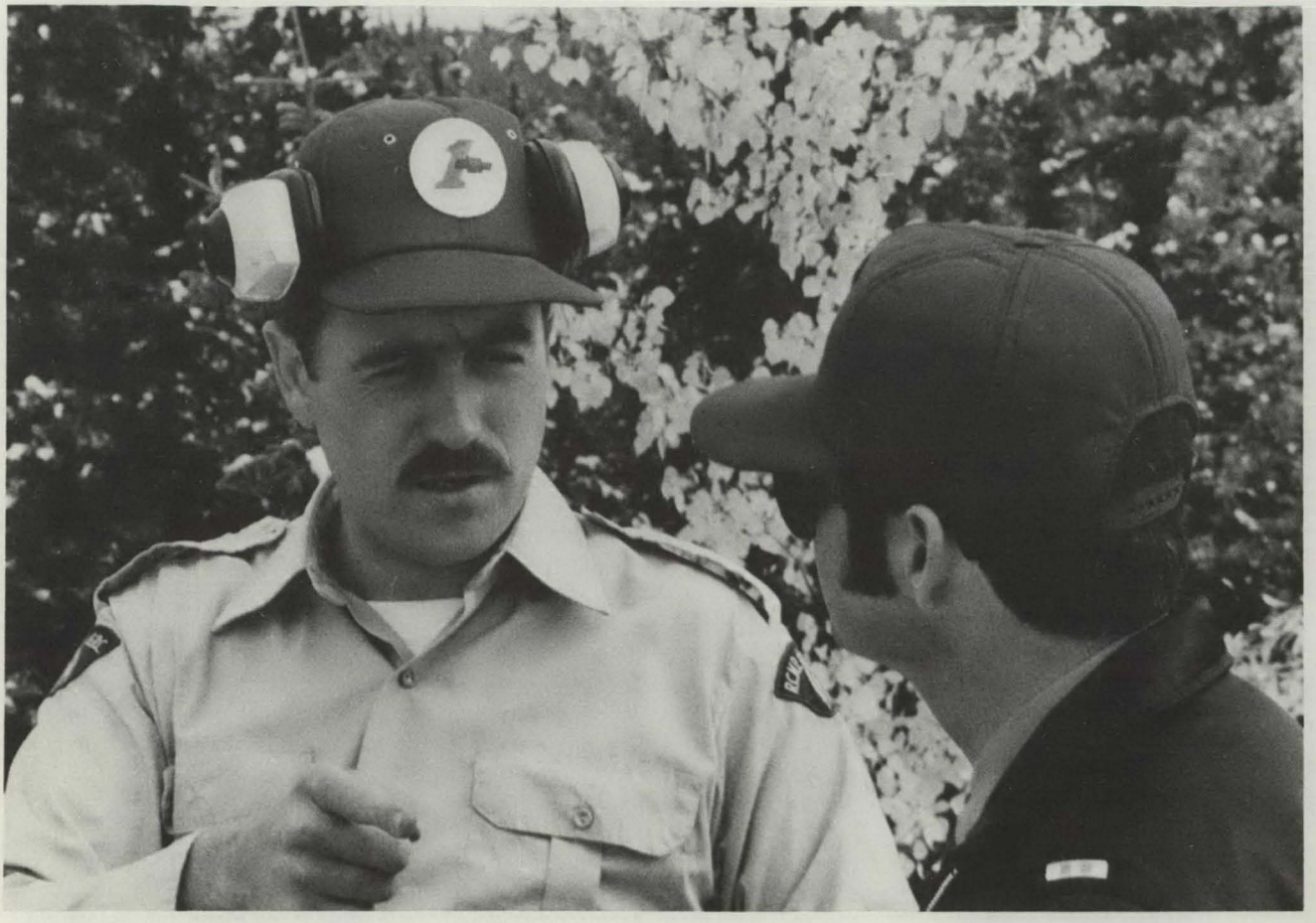
In 1960, the inspector of the Yukon subdivision of the RCMP believed it was time to establish closer ties with the growing Alaska State Trooper organization. However, what he wanted was not formal contact between the upper echelons of the two departments, but a close working relationship between the members. As he explained later, "We were two organizations divided by an international boundary. The proper way for us to make any request of the Americans was to contact our national capital in Ottawa, which would contact Washington, which would forward the request to our friends in Alaska. This is not the way to do police business."

"Nor was it enough to establish ties with my counterpart in the Alaska State Troopers," he continued. "If he or I receive a request from the other, we give it to a subordinate who passes it on through proper channels, ending on the bottom of the pile of other assignments. It does get done, eventually. But, if someone receives a request from a friend, he will do it immediately. That is the kind of ties I wanted to establish."

The inspector and his staff discussed several ways of bringing about this kind of working relationship between the members of the two departments—ties of friendship between individual members, not ceremonial ties between departmental chiefs.

A pistol competition provided the way. Firearms proficiency was important to both organizations, and competition would encourage this. Competition would also provide an opportunity for members of both departments to meet on a regular basis and in a situation conducive to developing friendships.

The first team of four troopers who drove to Whitehorse in the Yukon Territory of Canada in October 1960, quickly established a circle of friends among the Mounties which continues to the present day. Over the years, this circle has expanded as different team members competed in the annual event. Since the first meet, the sites for the competition have alternated between Whitehorse and Anchorage, Fairbanks, and Juneau.



Conference on the range leads to cooperation off the range.

Cooperation—A Two-way Street

Telephone calls made to the department across the border have become legends of wanted felons who quickly came to realize that national boundaries and distance were no protection. One story still told is that of a suspect who was arrested at a filling station in Whitehorse while a trooper 700 miles away was still on the telephone.

Information across the border, however, did not flow one way.

In 1962, the RCMP in Whitehorse had a particularly difficult case, the disappearance of a young French hitchhiker. A suspect was found, but little evidence linked him positively to the disappearance and assumed death.

Through members of their pistol team, the RCMP learned that a sergeant in the Alaska State Troopers was a certified polygraph operator, possibly the only one in the Pacific Northwest at that time. With his assistance, the Mounties were able to determine they had the right man and the general area where the body could be found. Although it entailed the longest dog-team search in history, covering 100 miles of the Alaska highway on both sides, the body was recovered.

More important, however, the annual competition provides the opportunity for the two organizations to learn from each other. In 1960, the Alaska State Troopers had much to learn from the Mounties, e.g., how to police vast areas of wilderness, how to serve native populations, how to provide contract police service for small towns and cities. The Mounties had 87 years of experience in these areas.

With lessons learned from the Mounties, the troopers established their own training program for village police officers. This has developed into the Village Public Safety Officer Program in which troopers have the responsibility for training village officers in emergency medical treatment, fire fighting and fire prevention, law enforcement, boating and water safety, search and rescue, and even development of village ordinances. It is a program that has been particularly successful in the remote parts of the State and is now being developed by the Federated States of Micronesia with the assistance of the Alaska State Troopers. But, it all began with lessons learned from the Mounties.

In 1976, the Alaska State Troopers started a Safety Bear Program with the assistance of Walt Disney Studios.[2] This has been an effective, highly regarded school safety program

which was introduced to the Mounties in 1978. Since then, the RCMP has adopted the "Safety Bear" and now operates bear programs in the Yukon Territory and the Northwest Territories.

Through their contacts in the Alaska State Troopers, members of the RCMP in the Yukon Territory have been able to attend several conferences and training sessions on law enforcement, forensic pathology, and other programs in Alaska they would not have been able to attend in Canada because of time and distance involved.

Today, five-man teams represent the two departments, and each year the visiting team is accompanied by fellow officers. They closet themselves with counterparts in the other department, whether it be patrol, criminal investigation, narcotics, white-collar crime, or administration, and compare notes, discuss common problems, and pursue similar or related cases. Each seeks to help the other with specific problems or operations in any way possible.

Conclusion

What is being accomplished is the purpose for which the competition was intended over 20 years ago. Professional bonds and ties of friendship have been developed over the years between the two organizations from the patrol level to the highest echelon. It is this network that has strengthened and enhanced the role of each organization in serving its separate jurisdiction. **FBI**

Footnotes

[1] Supt. Samuel Benfield Steele, as quoted in "The Force," a publication of the RCMP.

[2] S. Sgt. Bill Farber, "A Bear on Safety," *FBI Law Enforcement Bulletin,* vol. 47, No. 3, March 1978, pp. 16–19.

Warning: Potential Explosion Hazard in Automatic Ammunition Reloading Machines

Firearms and explosives licensees and law enforcement agencies are advised of a potential explosion hazard relating to a malfunctioning of automatic reloading equipment.

In 1982, the Bureau of Alcohol, Tobacco and Firearms (ATF) assisted in the investigation of an explosion at a commercial reloading plant which resulted in the deaths of 2 individuals and injuries to 10 others. Investigation of this industrial accident revealed that the explosion was initated by the ignition of a primer during its seating in a cartridge primer pocket. This ignition source from a nonaligned primer started a chain reaction resulting in an explosion of the machine's smokeless powder feeder canister.

The manufacturing process of many automatic reloading machines includes both a bulk powder feeder and a primer seating operation in close proximity to one another. Interviews with reloaders reveal that small explosions of nonaligned primers are fairly common in occurrence. The incident of the exploding bulk powder canister is an uncommon situation but it is not without precedent; other similar explosive incidents have been noted in the past several years.

The Explosives Control Act of 1970 in part provides that "the Secretary (Department of Treasury) is authorized to inspect the sites of explosions or fires, in which there is reason to believe that explosive materials were involved, in order that if any such incident has been brought about by accidental means, precautions may be taken to prevent similar accidents from occurring."

It has now become apparent that the close proximity of the primer seating operation to the bulk powder canister could be responsible for some of these incidents. In the interest of public safety, ATF therefore suggests that you review housekeeping and safety procedures relative to your automatic reloading production process and take *every* precaution to prevent other similar incidents from occurring.

Deadly Force
The Common Law and the Constitution

"In the absence of a clearly defined constitutional standard, the rules governing the use of deadly force by police have been determined by the State themselves, either by statute or by State court decision."

By
JOHN C. HALL
Special Agent
FBI Academy
Legal Counsel Division
Federal Bureau of Investigation
Quantico, Va.

Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

The past 2 decades have witnessed a veritable revolution in State and local law enforcement in the United States, brought about largely by successful challenges to law enforcement activities in Federal courts alleging violations of the Federal Constitution. Undoubtedly, the two most significant factors in this revolution—indeed, the two factors without which it would not have occurred—have been the U.S. Supreme Court decisions in *Mapp* v. *Ohio* [1] and *Monroe* v. *Pape*,[2] both decided in 1961. Both cases fashioned remedies to violations of constitutional rights by State and local police: The first by requiring suppression of unconstitutionally seized evidence at State criminal trials; the second by easing the way for civil suits under a Federal statute, Title 42 U.S. § 1983, against State and local officials for violations of Federal rights.

The result has been the development of a large and sometimes complex body of case law governing virtually every aspect of law enforcement activity. Ironically, the one aspect of police power which has been the least affected by these developments is the use of deadly force to effect an arrest. But this is changing. This article will examine some recent developments in the law of deadly force.

The Prevailing Rule—The Common Law

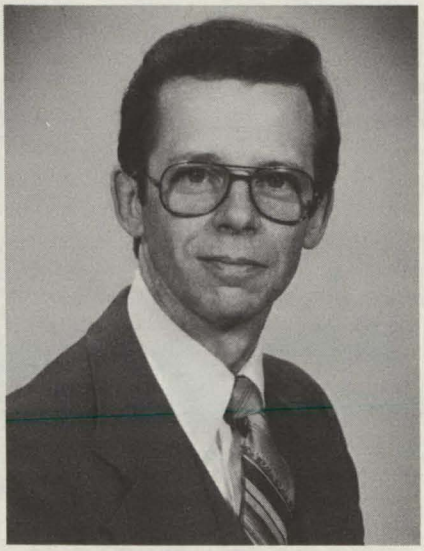
In the absence of a clearly defined constitutional standard, the rules governing the use of deadly force by police have been determined by the States themselves, either by statute or by State court decision. Accordingly, most of the States have continued to follow the English common law [3] rule which existed at the time of this country's founding.

The famous 18th century English jurist, William Blackstone, whose Commentaries on the English Common Law had a profound impact on the early development of law in America, defined the authority for the use of deadly force to effect an arrest as follows:

"1. Where an officer, in the execution of his office, either in a civil or criminal case, kills a person that assaults and resists him.
2. If an officer, or any private person, attempts to take a man charged with felony, and is resisted; and, in the endeavor to take him, kills him." [4]

Under the common law rule, the officer must believe in the *necessity* for the use of deadly force. Blackstone emphasized:

". . . in all these cases, there must be an apparent necessity on the officer's side, viz, that the party could not be arrested . . . unless such homicide were committed:



Special Agent Hall

otherwise, without such absolute necessity, it is not justifiable." [5]

Thus an officer, under the common law rule, could use deadly force when he reasonably believed that he was justified in arresting an individual for a felony, any felony, so long as the officer also reasonably believed that such force was necessary to protect himself or prevent escape. Because of the absence of distinction as to the nature of the felony involved, this rule is generally referred to as the "fleeing felon" rule.

The rationale behind the fleeing felon rule was relatively simple: Inasmuch as felonies in 18th century England were capital crimes—i.e., punishable by death—and organized police forces necessary to locate and apprehend criminals did not exist, the killing of a fleeing felon—whose life was already forfeit under the law—was considered not only justified, but necessary.

Those who challenge the common law rule today are quick to point out that the rationale for the rule is gone; that while all felonies were capital crimes in the 18th century, relatively few are in the 20th. Moreover, a criminal who evades capture today may be sought and captured another day by modern, organized police forces.

Although these arguments have been stated often, and even though some States have adopted modifications of, or alternatives to, the fleeing felon rule, there has been little success in challenging the rule in the remaining jurisdictions. To understand why, it is necessary to review briefly the procedures by which such challenges ordinarily are made.

The Federal Constitutional Challenge—Suits Against the Officer

Prior to the Supreme Court's 1961 decision in *Monroe* v. *Pape,*[6] challenges to a police officer's use of deadly force were generally limited to criminal or civil actions in State court. Moreover, in such instances, the inquiry was limited to the reasonableness of the officer's actions under the circumstances of the case, as measured by State law. Two questions were appropriate: (1) Was the officer reasonable in believing that the individual to be apprehended was a felon? and (2) was the officer reasonable in concluding that deadly force was necessary to effect the apprehension? No effective means existed to challenge the validity of the State law itself. Although a Federal civil rights statute, Title 42 U.S.C. § 1983, provided since 1871 that suits could be filed against every person who, acting under color of law, deprived another person of federally protected rights,[7] this statute was construed to require that an injured party first exhaust State remedies prior to seeking Federal relief.

In *Monroe* v. *Pape,* the Supreme Court held that the Federal remedy was available totally independent of any State remedy,[8] thus broadening the scope for challenges in Federal court to State and local police practices. However, three factors diminished § 1983 as a vehicle by which a State's deadly force law could be challenged. First, the 11th amendment to the U.S. Constitution bars suit against a State without that State's consent.[9] Second, in its decision of *Monroe* v. *Pape,* the Supreme Court

"Whatever departmental policies are developed, reasonable care should be taken to provide adequate training and supervision to assure proper implementation."

held that the term "person" as used in § 1983 was not intended to encompass a municipal corporation,[10] thus limiting the scope of § 1983 to suits against individual government officials. And third, the Court held in a subsequent case, *Pierson* v. *Ray,*[11] that a police officer sued under § 1983 enjoys a qualified immunity from such suits if it can be established that the officer was acting in "good faith" with a reasonable belief in the lawfulness of his actions.

Taken together, these three factors meant that neither the State which enacted a fleeing felon statute nor the municipality which hired and trained the police officer who applied it could be sued under § 1983, and as long as the officer was acting within the parameters of the State law, he was effectively shielded by the good faith defense from liability. Efforts to reach the merits of the fleeing felon rule were thus thwarted.

A case in point is *Mattis* v. *Schnarr,*[12] in which a Missouri police officer shot and killed an 18-year-old fleeing burglary suspect pursuant to a State statute tracking the common law rule. The deceased's father filed a suit in Federal court under § 1983 alleging violations of the 4th amendment protection against unreasonable searches and seizures, the 8th amendment guarantee against cruel and unusual punishment, and the 14th amendment due process and equal protection clauses. The trial court initially dismissed the suit on the grounds that the plaintiff did not have standing to sue, and further, that the officers involved enjoyed the defenses of good faith and probable cause. The Federal appellate court reversed and remanded the case for further consideration, holding that the plaintiff had standing, but agreeing with the lower court that the officers had available to them the defenses of good faith and probable cause.[13]

On remand, the trial court again dismissed the case and upheld the constitutionality of the Missouri statute.[14] On the second appeal to the appellate court, it was held that the State statute violated the "fundamental right to life" as set forth in the 14th amendment due process clause of the Constitution.[15]

However, the U.S. Supreme Court set aside the appellate court's decision on the procedural ground that because the officers (defendants) were not liable due to the good faith defense, there was no "case or controversy" as required by the Constitution before a judgment can issue.[16] The effect of the decision was to suggest that as long as the only viable defendant (the officer) is shielded by the good faith defense, the chances of Federal courts reaching the merits, i.e., constitutionality, of the fleeing felon rule were remote. Two subsequent Supreme Court decisions, however, changed the picture dramatically.

The New Constitutional Challenge—Suits Against Municipalities

In 1978 the Supreme Court decided *Monell* v. *Department of Social Services,*[17] which reversed the holding of *Monroe* v. *Pape* and held that municipalities could be sued in appropriate circumstances under § 1983. The Court emphasized that municipal liability cannot rest on the doctrine of *respondent superior,* in other words, simply because the municipality employs a wrongdoer. The Court stated:

> ". . . a local government may not be sued under § 1983 for an injury inflicted solely by its employees or agents. Instead, it is when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983." [18]

In 1980, in *Owen* v. *City of Independence,*[19] the Court held that government entities sued under § 1983 could not assert a good faith defense. These two decisions paved the way for a constitutional challenge to the fleeing felon rule.

In *Garner* v. *Memphis Police Department,*[20] the U.S. Circuit Court of Appeals for the Sixth Circuit again considered the constitutionality of a fleeing felon statute. On the night of October 3, 1974, a 15-year-old was shot and killed by a Memphis, Tenn., police officer who was attempting to apprehend him for burglary. The officer acted in accordance with Tennessee's fleeing felon statute, as well as departmental training. In 1976, the decedent's father filed suit under 42 U.S.C. § 1983 against the city of Memphis, as well as the officer who fired the shot and his superiors, alleging violations of the 4th, 8th, and 14th amendments to the Constitution. In accordance with *Monroe* v. *Pape*—which at that time had not been overruled—the district court dismissed the

action against the city on the grounds that a municipality is not a "person" under § 1983. The court further held that the officer and his superiors acted in good faith reliance on the Tennessee fleeing felon statute. Before the first appeal was taken to the Federal appellate court, the Supreme Court had decided *Monell,* holding that municipalities could be sued under § 1983. Accordingly, the appellate court reversed and remanded the case, instructing the district court to consider (1) whether a municipality was entitled to a good faith defense when sued under § 1983; (2) whether the municipality's use of the Tennessee fleeing felon law was constitutionally permissible under the 4th, 6th, 8th, and 14th amendments; (3) whether the municipality's use of hollow point bullets was constitutionally permissible; and (4) if the municipality's conduct in any of these respects was unconstitutional, did it flow from a "policy or custom" for which the city was liable under *Monell.*

On remand, the district court concluded that the State statute was not unconstitutional on its face, nor as applied in this case. Because the court concluded that the statute was not unconstitutional, it left open the question of whether the municipality could claim a good faith defense. With respect to that question, the court suggested that while the then recently decided case of *Owen* v. *City of Independence* prevented the city from claiming immunity based on the good faith of its agent, the city might yet claim immunity on the basis of good faith reliance on the Tennessee law as interpreted by the Federal and State courts.

As to the latter point, the district court was undoubtedly relying, in part, on the sixth circuit's 1977 decision in *Wiley* v. *Memphis Police Department,*[21] which had praised the same Tennessee statute. In the *Wiley* case, the appellate court criticized the original decision of the eighth circuit in *Mattis* v. *Schnarr,*[22] which had declared an identical Missouri statute unconstitutional. The court stated:

> "The Eighth Circuit is the only Court to our knowledge which has ever held that such a statute, which is so necessary even to elementary law enforcement, is unconstitutional. It extends to the felon unwarranted protection, at the expense of the unprotected public."[23]

Nonetheless, in the second appeal of the *Garner* case in June 1983, the sixth circuit held that the Tennessee fleeing felon rule violated the fourth amendment to the U.S. Constitution by authorizing the use of excessive force by police officers to effect the arrest of a nondangerous felony suspect fleeing from a nonviolent crime. After tracing the history and rationale of the common law rule, the court stated:

> "A state statute or rule that makes no distinction based on the type of offense or the risk of danger to the community is inherently suspect because it permits an unnecessarily severe and excessive police response that is out of proportion to the danger to the community."[24]

In addition to the 4th amendment violation, the court further concluded that the statute violated the due process clause of the 14th amendment which prohibits any State from depriving "any person of life, liberty, or property, without due process of law." In this context the court held:

> "The right to life, expressly protected by the Constitution, has been recognized repeatedly by the Supreme Court as fundamental in the due process and equal protection contexts. . . . When a fundamental right is involved, due process requires a state to justify any action affecting that right by demonstrating a compelling state interest. . . .
>
> Where, as here, human life is the right at stake, a statute that sweeps as broadly as this one violates due process of law and must be struck down."[25]

The court distinguished its earlier decisions which had sustained the constitutionality of the statute[26] by pointing out that earlier challenges to the statute had been brought under the "cruel and unusual punishment" clause of the 8th amendment or under the 14th amendment as a matter of substantive due process, and not—as in *Garner*—under the 4th amendment.

Having ruled the statute unconstitutional, the court went on to reject the district court's application of the good faith defense and held that pursuant to the Supreme Court's decision in *Owen,* there is no good faith immunity for municipalities when sued under § 1983.[27] The court explained:

> "A rule imposing liability despite good faith reliance insures that if governmental officials err, they will do so on the side of protecting constitutional rights. It also serves

". . . the use of deadly force by the police against fleeing suspects will continue to be a highly sensitive and closely scrutinized issue."

the desirable goal of spreading the cost of unconstitutional governmental conduct among the taxpayers who are ultimately responsible for it." [28]

The significance of the *Garner* decision is difficult to measure. It is of interest to note that as of the time of this writing, the *Garner* decision has been appealed to the U.S. Supreme Court, pursuant to Title 28 U.S.C. § 1254(2) which authorizes an appeal of any decision by a Federal court which declares a State statute unconstitutional.

Alternatives to the Common Law Rule

Without attempting to speculate as to what the Supreme Court will do, it may be useful to consider some of the alternatives to the common law fleeing felon rule.

There are basically two different statutory approaches taken by those States which have rejected the common law rule. One, which has been adopted by 12 States,[29] is best described as the "modified" common law rule. Essentially, this rule would abandon the "any felony" aspect of the common law and restrict the use of deadly force to those felonies defined within the respective State statutes as "dangerous" or "forcible" felonies or to situations where there is some threat to the officer or other if the apprehension is not made promptly.

Presumably these modified statutes would meet the constitutional test established by *Garner* only if the felonies defined as forcible or dangerous are "violent" or if the officers attempting to arrest a suspect "have probable cause to believe that he is armed or that he will endanger the physical safety of others if not captured." [30]

A second alternative, and the one favored by the court in *Garner,* is found in the Model Penal Code as formulated by the American Law Institute in 1962.[31] This rule would permit the use of deadly force against fleeing felons under the following conditions: (1) The arrest is for a felony; *and* (2) the person effecting the arrest is a peace officer or is assisting a peace officer; *and* (3) the actor believes such force creates no substantial risk of injury to innocent persons; *and* (4) the actor believes that the felony included the use or threatened use of deadly force or there is a substantial risk that the suspect will cause death or serious bodily harm if apprehension is delayed. To date, seven States have adopted the Model Penal Code standard.[32]

Apart from statutory modification of deadly force rules, consideration may also be given by police administrators to adoption of departmental policies which are more restrictive and provide more specific guidance to officers than the common law standard.

Although there is limited case law—specifically in California—which holds that a more restrictive departmental policy can be used in a lawsuit as a measure of an officer's conduct,[33] there are also decisions to the contrary.[34] Clearly, the better rule is to allow—indeed, to encourage—police administrators to manage their departments by developing and enforcing reasonable rules of conduct for their employees. To allow the use of such internal policies to heighten the risk of liability in a civil suit will have the effect of penalizing, and thus discouraging, such initiatives.

The dilemma for the police administrator is that on the one hand, reliance upon a State statute may not provide a shield for a municipality in a § 1983 suit.[35] On the other hand, crafting a policy which is more restrictive than the State statute may create the additional risk described above. Furthermore, there is, as yet, little guidance from the courts as to which standard—other than the common law rule—is most likely to withstand constitutional scrutiny. As one Federal appellate court noted, ". . . the area in which we are treading is one still characterized by shifting sands and obscured pathways." [36] Whatever departmental policies are developed, it is certain that reasonable care should be taken to provide adequate training and supervision to assure proper implementation.

Training and Supervision—A Word of Caution

One of the frequently recurring issues in recent § 1983 suits growing out of the use of deadly force is the allegation that the officer's improper use of deadly force was the result of inadequate training and/or supervision.[37] In order to establish a cause of action against a supervisor for injuries caused by a subordinate, the courts have held that there must be "a direct causal link between the acts of individual officers and the [supervisor] . . . . The courts look for some proof that a defendant has a culpable state of mind—that the action or failure to act was to some degree deliberate rather than inadvertent." [38] Thus, to establish the liability

of a supervisor in a § 1983 lawsuit, the plaintiff must show more than mere negligence. Various terms used by the courts to describe the necessary level of culpability range from "gross negligence" to "recklessness" to an apparent requirement of intent.[39] A suit against the supervisor under § 1983 would, of course, have to overcome the good faith defense generally available to the individual defendant.

Similarly, to prevail against a municipality under § 1983, the plaintiff must show that the alleged failure to adequately train and/or supervise was so pervasive as to be a policy or custom of the municipality. As one court described the standard, "a mere failure by the county to supervise its employees would not be sufficient to hold it liable under § 1983. . . . However, the county could be held liable if the failure to supervise or the lack of a proper training program was so severe as to reach the level of 'gross negligence' or 'deliberate indifference' to the deprivation of plaintiff's constitutional rights." [40]

Conclusion

The high premium placed on human life by our society ensures that the use of deadly force by the police against fleeing suspects will continue to be a highly sensitive and closely scrutinized issue. The recent developments in the law discussed in this article clearly indicate two points: First, it is now a question of constitutional importance, subject to challenge in Federal courts; and second, the focus on the challenge has shifted from the officer on the street to the upper echelons of local government and police administration. These developments are most likely to compel change in an area of the law which has remained remarkably intact for a long time. **FBI**

Footnotes

[1] 367 U.S. 643 (1961).

[2] 365 U.S. 167 (1961).

[3] According to Matulia, *A Balance of Forces,* International Association of Chiefs of Police (1981), the States with the statutory rule are: Alaska, Stat. § 11.15.090 (1970); Arizona, Rev. Stat. § 13.461 (1972); California, Penal Code § 196 (1970); Colorado, Rev. Stat. 18-1-707(2)(b) (1973); Connecticut, Gen. Stat. § 53a-22(c)(2) (1975); Florida, Stat. Ann. § 776.05 (1975); Idaho, Code § 19-610 (1979); Indiana, Code § 35-1-19-3 (1975); Iowa, Code § 755.8 (1971); Kansas, Stat. § 21-3215(1) (1974); Minnesota, Stat. § 609.065(3) (1974); Mississippi, Code Ann. § 97-3-15 (1972); Missouri, Ann. Stat. 563.046(3)(2) (1979); Montana, Rev. Code Ann. § 94-2512 (1973); Nevada, Rev. Stat. § 200.140(3)(b) (1973); New Hampshire, Rev. Stat. Ann. § 627:5(11)(B)(1) (1973); New Mexico, Stat. Ann. § 30-2-6(c) (1978); Oklahoma, Stat. Ann. Tit. 21 § 732 (1958); Rhode Island, Gen. Laws § 12-7-9 (1969); South Dakota, Codified Laws Ann. § 22-16-32 (1967); Tennessee, Code Ann. § 40-808 (1956); Washington, Rev. Code Ann. § 9.48.160 (1961), and § 9A.16.040(3) (1975); Wisconsin, Stat. § 939.45(4) (1973). Other jurisdictions have adopted the common law rule through court decisions. For example, *Berry* v. *Hamman,* 125 S.E. 2d 85 (Va. 1962); *Bumgarner* v. *Sims,* 79 S.E. 2d 277 (W. Va., 1953); *Union Indemnity Co.* v. *Webster,* 118 So. 794 (Ala., 1928); *Baltimore and Ohio R. Co.* v. *Strube,* 73 A. 697 (Md. 1909).

[4] 4 W. Blackstone, Commentaries 203 (Beacon Press, 1962).

[5] *Id.* at 203-204.

[6] *Supra* note 2.

[7] Title 42 U.S.C. § 1983 provides:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress."

[8] 365 U.S. at 183.

[9] *See, e.g., Edelman* v. *Jordan,* 415 U.S. 651 (1974).

[10] 365 U.S. at 191.

[11] *Pierson* v. *Ray,* 386 U.S. 547 (1967).

[12] 547 F.2d 1007 (8th Cir. 1976).

[13] *Mattis* v. *Schnarr,* 502 F.2d 588 (8th Cir. 1974).

[14] *Mattis* v. *Schnarr,* 404 F.Supp. 643 (E.D. Mo. 1975).

[15] *Supra* note 12, at 1017.

[16] *Ashcroft* v. *Mattis,* 431 U.S. 171 (1977). It should be noted that the Supreme Court decision did not reach the merits of the appellate court's ruling on the fleeing felon rule. In a subsequent case, the appellate court took a second opportunity to express its view on the fleeing felon rule by suggesting that the 4th, 5th, 6th, 8th, and 14th amendments "could be plausibly construed to forbid the use of deadly force on a fleeing felon who has not used violence in the commission of a felony and who poses no threat to anyone." *Landrum* v. *Moats,* 576 F.2d 1320, at 1324 (8th Cir. 1978).

[17] 436 U.S. 658 (1978).

[18] *Id.* at 694.

[19] 445 U.S. 622 (1980).

[20] 710 F.2d 240 (6th Cir. 1983).

[21] *Wiley* v. *Memphis Police Department,* 548 F.2d 1247 (6th Cir. 1977), *cert. denied,* 434 U.S. 822 (1977).

[22] *Supra* note 12.

[23] *Supra* note 21, at 1252.

[24] *Supra* note 20, at 244.

[25] *Id.* at 246 and 247.

[26] *Wiley* v. *Memphis Police Department, supra* note 21; *Beech* v. *Melancon,* 465 F.2d 425 (6th Cir. 1972).

[27] *Supra* note 20, at 248.

[28] *Id.*

[29] Arkansas, Stat. Ann § 41-510(2)(a) (1977); Georgia, Code § 26-902 (1972); Illinois, Rev. Stat. Ch. 38 § 7-5(a)(2) (1973); New Jersey, Stat. Ann. § 2C:3-7(b)(2)(c)-(d) (1979); New York, Penal Law § 35.30(1)(a)(ii) (1975); North Dakota, Cent. Code § 12.1-05-07(2)(d) (1975); Oregon, Rev. Stat. § 161.239 (1973); Pennsylvania, Stat. Tit. 18 § 508(a)(1)(ii) (1973); Utah, Code Ann. § 76-2-404(2)(b) (1977); Louisiana, Rev. Stat. § 14.20 (1950); South Carolina, Code § 17-252 (1962); and Vermont, Stat. Ann. Tit. 13 § 2305 (1974).

[30] *Supra* note 20, at 246. *See also Haislah* v. *Walton,* 676 F.2d 208 (6th Cir. 1982) in which the court stated:

"Police employment of gunfire to effect the capture of a citizen who is fleeing from the law can, of course, be justified . . . to prevent escape of a person known to the officer to have committed or be in the process of committing a felony involving violence. It is justifiable, also, on self-defense grounds. . . ." (at 215)

[31] *See* Model Penal Code § 3.07(2)(b) (Proposed Official Draft, 1962).

[32] Delaware, Code Tit. 11 § 467(c) (1974); Hawaii, Rev. Stat. Tit. 37 § 703-307(3) (1967); Kentucky, Rev. Stat. § 503.090(2) (1975); Maine, Rev. Stat. Tit. 17A § 107-2(B) (1975); Nebraska, Rev. Stat. § 28839(3) (1975); North Carolina, Gen. Stat. § 15A-401(d)(2)(b) (1975); Texas, Penal Code Ann. Tit. 2 § 9.51(c) (1974).

[33] *See Guyton* v. *Phillips,* 532 F.Supp. 1154 (N.D. Cal. 1981); *Peterson* v. *City of Long Beach,* 594 P.2d 477 (Cal. 1977).

[34] *See City of St. Petersburg* v. *Reed,* 330 So.2d 256 (Fla. Dist. Ct. App. 1976).

[35] *See, e.g., Garner* v. *Memphis Police Department, supra* note 20 (in which the State statute was declared unconstitutional); *see also Jacobs* v. *City of Wichita,* 531 F.Supp. 129 (D. Kan. 1982) (in which the court did not declare the State statute unconstitutional, but effectively reached same result by declining to rely upon the State statute as a standard of conduct in a § 1983 action).

[36] *Jones* v. *Marshall,* 528 F.2d 132, 141 (2d Cir. 1975).

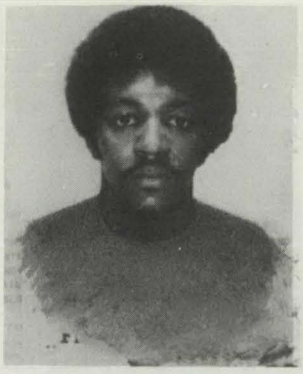
[37] *See, e.g., Hays* v. *Jefferson County, Ky.,* 668 F.2d 869 (6th Cir. 1982); *Owens* v. *Haas,* 601 F.2d 1242 (2d Cir. 1979); *Sager* v. *City of Woodland Park,* 543 F.Supp 282 (D. Col. 1982); *Leite* v. *City of Providence,* 463 F.Supp. 585 (D. R.I. 1978).

[38] *Hays* v. *Jefferson County, Ky., supra* note 37, at 872-873.

[39] *Id.*

[40] *Owens* v. *Haas,* 601 F.2d 1242 (2d Cir. 1979); *see also Leite* v. *City of Providence,* 463 F.Supp. 585 (D. R.I. 1978); *Popow* v. *City of Margate,* 476 F.Supp. 1237 (D. N.J. 1978). For an illustration of the extent to which liability for training may be extended, *see Sager* v. *City of Woodland Park,* 543 F.Supp. 282 (D. Col. 1982).

WANTED BY THE FBI



Photograph taken 1975

Photograph taken 1983

Samuel Marks Humphrey

Samuel Marks Humphrey, also known as Eddie Joe Alston, Leon Archie, Michael Gordy, Michael Jerald Gordy, Kenneth Gregory, Sam Humphrey, Kenneth Smith, Kenneth Gregory Smith, Henry D. Seyferth, Henry Delmar Seyferth, and others

Wanted For:

Bank Robbery; Interstate Transportation of Stolen Property; Interstate Flight—Murder

The Crime

Humphrey is being sought by the FBI for armed bank robbery wherein a customer was taken hostage. He is also being sought for interstate transportation of stolen property and for a murder in which the victim was shot to death.

Federal warrants were issued on March 8, 1983, in Atlanta, Ga., and March 18, 1983, in Rochester, N.Y., charging him with bank robbery. A Federal warrant was also issued on March 24, 1983, in San Diego, Calif., charging him with interstate transportation of stolen property, and on April 23, 1983, in Detroit, Mich., charging him with unlawful interstate flight to avoid prosecution for the crime of murder.

Description

Age	34, born August 19, 1949, Detroit, Mich.
Height	6′2″ to 6′3″.
Weight	160 to 185 pounds.
Build	Average.
Hair	Black.
Eyes	Brown.
Complexion	Medium.
Race	Black.
Nationality	American.
Social Security Nos. Used	383-52-4640 229-54-6641 293-44-2353 383-52-4647 321-40-9345.
Occupation	Meatcutter.
Remarks	Reportedly uses rental and leased automobiles.
FBI No.	287 888 L5.

Caution

Humphrey, a reported drug user known to possess multiple weapons in the past, may be accompanied by Luvenia Marie Carter. Consider the subjects armed and extremely dangerous.

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data:

NCIC Classification:
12AA0710140501061312

Fingerprint Classification:
12 M 1 A II 14 Ref: A/T
S 1 U III

I.O. 4932

Right middle fingerprint

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FBI LAW ENFORCEMENT BULLETIN

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, D.C. 20535

Name

Title

Address

City State Zip

Unusual Pattern

This pattern has the general appearance of a loop. The delta above the pattern, which is revealed upon close examination, makes this pattern unusual. Consequently, this impression is classified as an accidental-type whorl with an inner tracing because the pattern conforms to none of the definitions.

U.S. Department of Justice
Federal Bureau of Investigation

Official Business
Penalty for Private Use $300
Address Correction Requested

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Federal Bureau of Investigation
JUS–432

Second Class

Washington, D.C. 20535

The Bulletin Notes that on October 18, 1983, Officer Ronald M. Hay of the Herndon, Va., Police Department responded to a call and found a 12-month-old child not breathing. Officer Hay administered artificial respiration and was credited by doctors at a local hospital with saving the child's life and preventing brain damage. The Bulletin joins Officer Hay's superiors in recognizing his fine emergency actions.