

**WHAT WILL BE THE IMPACT OF PUBLIC EXPECTATIONS ON LAW
ENFORCEMENT'S USE OF LESS LETHAL WEAPONS IN THE YEAR
2002?**

JOURNAL ARTICLE

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This Command College Independent Study Project is a FUTURES study of a particular emerging issue in law enforcement. Its purpose is NOT to predict the future but rather to project a number of possible scenarios for strategic planning consideration.

Defining the future differs from analyzing the past because the future has not yet happened. In this project, useful alternatives have been formulated systematically so that the planner can respond to a range of possible future environments.

Managing the future means influencing the future--creating it, constraining it, adapting to it. A futures study points the way.

The views and conclusions expressed in the Command College project are those of the author and are not necessarily those of the Commission on Peace Officer Standards and Training (POST).

INTRODUCTION

The police officer from the future exits his specially equipped vehicle in order to confront the distraught man waving a knife and issuing threats of violence to everyone within earshot. The officer pulls a weapon from his belt and fires at the man. The man instantly drops the knife and collapses to the ground. The man is handcuffed and taken into custody without further incident.

The difference in this case versus an encounter in 1996 is that the man is not dead or injured. He is only incapacitated, and will recover fully in a short period of time. The officer of the future has used a high technology weapon to effectively deal with the situation. Use of such a weapon could eliminate the need for deadly force in certain situations. The devices of the future that could produce such an outcome might come from any one of a number of different weapons. Examples include electromagnetic waves, high intensity lights, concentrated sound waves, laser beams, and focused microwaves.

This is a critical area of study, as it is literally a matter of life or death for both officers and citizens. Two recent events point out some of the immense ramifications of the use of deadly force and the need for law enforcement to find alternative means to the traditional methods of force.

In the first event, a 14 year old boy was shot and killed by officers in East Los Angeles in July of 1995. Police reported the youth pointed an automatic weapon at them, but some community members who claimed to be witnesses stated the boy was unarmed.¹ In the aftermath of the shooting rioting ensued for almost two days. Community unrest after a high profile use of force incident is a

great cause of concern for law enforcement. Trust and respect with the community built up over many years can evaporate within the blink of an eye.

The second event occurred in August of 1995, when a civil jury awarded 15.9 million dollars for excessive force by Los Angeles County Sheriff's deputies. The award came about as a result of a loud party call that turned into a near riot. Physical force and impact weapons were used to break up the party. The jury obviously felt that these techniques were inappropriate and excessive in this particular case. This phenomenally large award is the biggest in the history of Los Angeles County.²

These incidents may be indicative of a larger pattern of societal response to police use of force. Several ongoing polls taken in the United States help to shed some light on the current feelings and expectations of the public.

For example, in a 1994 national poll taken by the Gallup organization, 26% of the people polled felt that police overreaction to crime was a "very serious threat" to Americans rights and freedoms. About 40% said that police overreaction was a "moderate threat".³ These numbers indicate that two-thirds of the American population has at least a moderate concern about police overreaction.

An ongoing national poll by the Harris Organization asked the following question: "Are there any situations you can imagine in which you would approve of a police officer striking an adult male citizen?" In 1973, 73% said yes and 25% said no. In 1984, 69% said yes and 28% said no. In 1994, 71% said yes and 26% said no.⁴

A similar question was then asked of the same respondents, this time specifying a particular scenario. In the first scenario, the police officer was attacked with fists. In 1973, 97% said they would approve of a police officer striking back in such a situation, and 3% said they would not. In 1984, 92% approved and 6% did not. In 1994, 93% approved and 6% did not.⁵

A similar question was then asked, but this time the question was whether a police officer would be justified in striking an individual who had spoken an obscenity to a police officer. In 1973, 22% said yes and 76% said no. In 1984, 12% said yes and 86% said no. In 1994, 9% said yes and 90% said no.⁶

In total, the data appears to indicate the public has remained supportive over the last 20 years in cases where law enforcement uses force to repel an attack. However, support over the last 20 years has eroded for police officers using force in response to verbal attacks. This feeling may extend also to cases wherein the threat to police officers is more subtle than simply a direct physical attack.

The public is unlikely to become any less demanding of law enforcement in the future with regard to use of force issues. Therefore, law enforcement must explore avenues that will allow aggressive enforcement tactics that can be employed using lesser levels of force. The adaptation of advanced technology for less lethal weapons may provide some solutions to this most vexing problem.

An example of one department's recent success with a less lethal weapon has occurred in the Covina Police Department. Covina Police Department has used Oleoresin Capsicum(O.C) since January of 1993. This is a pepper spray

that affects the mucous membranes of humans and animals. A review of Oleoresin Capsicum usage through August of 1995 showed some interesting results. Oleoresin Capsicum was deployed 64 times. Of those applications, it achieved an effective and immediate result in 55 of the deployments, for a success rate of 86%. Perhaps most significantly, no officers or subjects have sustained any notable injuries in cases where Oleoresin Capsicum was deployed, nor have any excessive use of force complaints been filed.

This article is based on a Command College paper relating generally to the use of less lethal weaponry in law enforcement. This article will focus in on one of the sub-issues of the study, specifically: **What will be the impact of public expectations on the use of less lethal weapons in law enforcement in the year 2002?**

HISTORICAL PERSPECTIVE

In 1858, a New York City police officer used his personal weapon to shoot a fleeing suspect. The case was presented to the grand jury, but no indictment was issued. Subsequently, other New York officers began arming themselves.⁷ The practice spread, and by the early 1900's firearms were commonly issued to law enforcement officers.⁸

Officers in those times had few use of force options. In basic terms these options consisted of physical force, nightsticks, and firearms. These options were selected in haphazard fashion depending on the individual officer. Officers

did not have the luxury of advanced weaponry, so they were left to handle situations with very rudimentary tools of force.

From the early 1900's through 1959, only one significant weapon of a less lethal nature was added to the police arsenal: tear gas. This substance was used by officers with mixed effectiveness; mostly in crowd control situations.

Alternatives to lead bullets were first attempted in Hong Kong in 1967.⁹ This first attempt consisted of wooden rounds fired from a signal pistol. Rubber bullets were developed and issued to British troops and police later in 1967.¹⁰ In 1968 British police experimented with the use of water cannons for crowd control, however this technique proved troublesome due to the indiscriminate nature of the water blasts.

In the 1970's, the search for less lethal weaponry continued. Included in this time frame were beanbag guns, visual strobe lights, and adhesive substances that when sprayed on people could make them literally stick together.

In 1974 the TASER came into prominence. The TASER is an electrical device designed to shoot two fishhook type darts into a person. The darts are connected by wires back to the hand held unit which can deliver a 50,000 volt shock. The TASER has proved to be a reasonably effective weapon, and is in use in all states except Alaska.¹¹ The stun gun was also introduced in the mid-1970's. Like the TASER, it delivers a 50,000 volt charge but with low amperage.

Moving through the 1980's and into the 1990's, the search for less lethal weapons has continued. Influence from martial arts has brought about such items as the side handled baton and nunchakus for use by patrol officers.

Capture nets and rubber bullets have been employed by some police departments. Stingball grenades have also become a part of the police arsenal. Hand launched, the device has a 3-second mechanical fuse. When it explodes, it sends small rubber pellets for up to 50 feet, and is quite effective in terms of crowd control.

The previously referred to Oleoresin Capsicum(O.C.) has come into favor in the 1990's as an additional chemical weapon. It is designed to incapacitate without causing any serious injury. The use of this weapon is one way in which law enforcement could use less lethal weaponry to meet the public's expectations regarding the use of force.

THE 1990'S AND BEYOND

Technology is advancing at a very rapid rate and may directly impact on law enforcement's ability to adapt and implement new technology relating to less lethal weaponry. One of the key ingredients in this area is a recent agreement made in 1994 between the U.S. Department of Justice and the Department of Defense that will, for the first time, allow almost immediate sharing with law enforcement some of the high tech wizardry once employed solely by the military.¹²

From 1992 to 1994 the number of justifiable homicides by law enforcement has risen every year. In 1992, the number was 418. In 1993, it was 455. In 1994 it was 462. In 1995, however, there was a substantial drop to 383.¹³ Although this one year reduction is not enough to draw any firm conclusions, the

prevalence of less lethal weaponry like O.C. may have had some impact in this area.

ANALYSIS OF THE ISSUE

To analyze the issue of less lethal weaponry and the public's expectations of police use of force, a Nominal Group Technique(NGT) was conducted in January of 1996 at the Covina Police Department. The NGT panel consisted of law enforcement professionals, weaponry consultants, educators, and a representative from the American Civil Liberties Union. The goal of the panel was to develop and forecast various trends and events impacting upon the use of less than lethal weaponry in the year 2002. The panel identified 33 trends and 29 events. The top ten most significant trends and events are listed below:

TRENDS

- Increased civil liability sensitizes law enforcement to use of force
- Increased violent confrontations between officers and the public
- Training needs increase costs to agencies
- Increased community pressure to use less lethal weaponry
- Officers increasingly reluctant to use deadly force
- Public impatience with violent crime in society
- Misuse and nonuse of less lethal weapons results in lawsuits
- Officers acceptance of less lethal weaponry
- Lawsuits result in changes in department policy
- Lack of standardization of less lethal weapons

EVENTS

- Officer killed while using less lethal weaponry
- Benchmark technological innovation in less lethal weapons
- Major failure in use of less lethal weapon causing death
- Another Rodney King-like incident
- Public outcry over the non-use of a less lethal weapon in a given case
- Highly publicized less lethal weapon incident
- Court mandated use of less lethal weaponry
- Huge lawsuit causing less lethal weapons producers to cease production
- Statewide civilian review board for all use of force incidents
- Large scale urban riot occurs

TREND FORECASTING

After the panel members identified the top ten trends through a voting process, they forecast the selected trends to the year 2002. This was accomplished using a trend evaluation form. During this procedure, each panel member evaluated each trend as it appeared six years ago. The panel members then forecast the trend six years into the future. Two of the top ten trends were directly relevant to the issue of the impact of the public's expectations on law enforcement with regard to less lethal force. Those two trends will be discussed below in further depth.

TREND: COMMUNITY PRESSURE FOR USE OF LESS LETHAL WEAPONS

This trend involves the impact of community feelings on the implementation and usage of less lethal weaponry. The panel's median forecast showed a large upswing in community pressure over the last six years, and an even larger upswing is predicted for the next six years. Specifically, the median forecast showed today as a magnitude of 100. In 1990 the magnitude was rated at 60, and in 2002 it is projected as 190.

The panel's forecast indicates that the public pressure to use less lethal weaponry will more than likely continue to increase substantially. Law enforcement will no doubt have to factor this trend into any future analysis relating to the implementation and use of less lethal weaponry.

TREND: PUBLIC IMPATIENCE WITH VIOLENT CRIME IN SOCIETY

This trend represents the public demand for law enforcement to impact violent crime in society. The group median shows a gradual rise over the last six years, and a projected steady increase over the next six years. Specifically, the panel's forecast showed a magnitude rating today of 100. The median forecast for 1990 showed a 60 rating and 2002 was forecast as 150. The public will become increasingly impatient with violent crime in society, and group discussion revealed this to be the case even if crime itself does not increase in the same time period. This trend collides with another top ten trend relating to the increase of civil liability.

If the public's expectations are for the police to be tough on crime and criminals, and yet do it with a minimum of force, this will indeed be difficult to

accomplish. Another top ten trend relates to an increasing reluctance on the part of officers to use high levels of force. If the police are afraid to use force where necessary, certainly the public's high expectations will not be met.

EVENT FORECASTING

In this stage of the research the NGT panel forecast the top ten events likely to happen within six years. Each panel member completed a form requesting information on the top ten events. Members were asked to forecast the probability of the event occurring by the year 2002 on a scale of 0-100. Two events in particular relate to the public's expectations of law enforcement's use of less lethal weaponry. These two events will be discussed in greater detail below.

EVENT: PUBLIC OUTCRY OVER THE NON-USE OF A LESS LETHAL WEAPON

This event relates to the notion of a specific incident that is heavily publicized and causes a public furor over the use of less lethal weapons. The panel's mean score showed a 50% probability of this occurring by the year 2002. The public seems to be demanding more restraint in the use of force. Law enforcement must be attuned to the rising public expectations.

The public's demand for reduction in use of force levels could possibly be met by use of certain less lethal weapons. It would seem the public will demand that law enforcement avail itself of any and all tools that will help in this area. Less lethal weapons may be the only answer to the public's conflicting desire to have aggressive law enforcement coupled with reduced levels of force.

EVENT: HIGHLY PUBLICIZED INCIDENT IN WHICH DEATH OCCURS FROM THE USE OF A LESS LETHAL WEAPON

This event revolves around the possibility of a death by less lethal weaponry. This death would result to an “average” person, but would gain the attention of the media and become highly publicized. The panel’s mean score rated this as a 76% probability by the year 2002. An event of this nature would have an impact on law enforcement’s ability to implement and deploy less lethal weapons.

ALTERNATIVE STRATEGIES

In response to the trends, events, and policy implications that have been discussed, three alternative strategies are offered for consideration. These strategies were developed by a group of law enforcement professionals using the modified delphi process. The group consisted primarily of managers from the Covina Police Department, who generated and rated possible alternative strategies according to the following criteria:

- Short term desirability
- Feasibility
- Cost
- Long term desirability
- Stakeholder support—Stakeholders include:

Chief of Police

Police Officers

City Council Members

Media

Community Members

Military

Private Sector Manufacturers

ACLU

Police Unions

Minority Groups

Alternative Strategy One—Active involvement in the development of less lethal weaponry

This strategy involves the idea that law enforcement does not have the luxury of sitting back and waiting for the perfect less than lethal weapon to come their way. Police must become active in the development stage, both to encourage the development, and to lend expertise in its creation. The panel perceived this as a very favorable and positive approach that would allow law enforcement to be in on the ground floor of such research. There are drawbacks however, as it would require both a commitment of human and financial resources to participate in such an endeavor. In these times of fiscal retrenchment, commitments toward long range projects are becoming more and more difficult to “sell” to the public and politicians.

Stakeholder perception of this strategy is generally thought to be positive. Police Chiefs would be interested in the ability to positively impact the future, and would benefit from the networking and prestige that comes with being associated with leading edge ideas. Police officers would be supportive if involved in the process. City Councils would no doubt have some reservations, as they would not necessarily be in office when the payoffs for this commitment of resources comes to fruition. Community members could be supportive if involved in the effort. The media would be interested, but only from the standpoint of getting behind the scenes information about what weaponry police will be using in the future. The military already has a partnership of sorts with civilian law enforcement in this area and would be supportive as long as law enforcement efforts did not interfere with their primary missions. Private sector companies could be interested if it was shown there was money to be made. The intangible benefits of working closely with law enforcement might also be attractive to some companies in enhancing their corporate profile. ACLU-type groups would probably be quite skeptical of such efforts, and would probably not buy into such development right away, if ever. The police union would be supportive if they were involved, and if they were assured that such weaponry would be used at the officer's discretion. Mandatory selection of any weapon in a given case make police unions very uneasy. Minority groups would probably be reticent about such efforts. It would be critical to involve minority leaders when involving the community as a whole.

Implementation of this strategy could take several forms. Each department could address the issue individually based upon their commitment to the concept. Perhaps more effectively though, a regional or statewide approach could be taken wherein there is overall coordination of this strategy. For example, if the State Department of Justice(DOJ) were to take on implementation of this strategy, several positive impacts would result.

DOJ could act as a central clearinghouse for all less lethal incidents. Bulletins could be issued statewide on important issues, thereby ensuring that all agencies had benefit from the information. Less lethal applications throughout the state could be documented and forwarded to DOJ so that points of learning from each situation could be passed on to officers throughout the state.

In addition, DOJ could act as the state liaison to the federal government to ensure military technology is adapted for law enforcement use as soon as possible. This would be much more effective than each agency trying to keep on top of military technology transfers.

Alternative Strategy Two—Implement education and training

This strategy involves education and training of personnel in all the different aspects of less lethal weaponry. This includes availability, deployment, pros and cons, and policies and procedures relating to the use of such weapons. All levels of law enforcement personnel should receive some portion of this type of training so that everyone has a baseline of knowledge on the subject matter.

A master training plan could be developed, possibly at the state level, which could be used as a basic lesson plan for local agencies to follow. Costs for this would have to be identified and accounted for. Policies and procedures would have to be developed so that standards for deployment and usage are relatively uniform.

Although the panel viewed this in positive terms, there are some drawbacks. First and foremost is cost. The cost of obtaining, maintaining, and continually training with such weapons could be very high. Weapons of this nature are also prone to improper usage, and this would have to be very carefully monitored and addressed as necessary.

Stakeholders would view this as mostly positive. The Chief of Police and police officers are almost always interested in proper training. The City Councils could be supportive, but it may be necessary to structure the training in such a way to ensure they receive some measure of credit. Community members and the media would probably be supportive, as long as they got to be involved in some phase of the process. The military and the private sector would not be in opposition, and in fact might actually be persuaded to present some of the training. The ACLU and minority groups would have a built in skepticism that would have to be overcome through openness and involvement. In any case the skepticism would probably remain, but could at least be reduced.

Alternative Strategy Three—Educate the public and the media

The panel was generally in favor of this strategy. How the media portrays law enforcement's use of less lethal weaponry is critical to the public's perceptions. In turn, it is the public's perceptions that will ultimately make or break any less lethal weaponry application.

The disadvantages to this approach are few. Cost as always is a factor, but the costs in this strategy appear to be relatively minor. With regard to the media, it is always possible that they will turn a positively intended story into an "expose" in which they portray how law enforcement will be using futuristic weapons to abuse and torture citizens.

Stakeholder perspective is generally good. The Chief of Police, line officers, and City Councils will all be generally favorable toward a public awareness and education program. Specific community members and the media will be appreciative of being brought in at the beginning of a new venture rather than after a particular incident has caused a problem. The military and private sector companies will generally be supportive, but will have concerns about too much classified or technical information being publicized. The ACLU and minority groups will have continuing concerns about abuse, but will be supportive of the policy of openness on the part of the police. The police union may have some concerns about disclosing too much tactical information on usage and deployment.

POLICY IMPLICATIONS FOR LAW ENFORCEMENT

This article has examined a number of emerging trends and possible future events which could affect law enforcement's destiny in a variety of ways.

Although the impact of these trends and events can only be estimated, it will be important for law enforcement to prepare for the potential futures these trends and events represent. Based on these forecasts, it is recommended that the following policy implications be considered.

- 1. Strive to adapt and implement all forms of technology that allow lesser levels of force to be used while maintaining aggressive enforcement tactics**

The public will continue to demand lesser levels of force be used. Departments must strive to stay on the cutting edge of technology in the area of less lethal weapons. Although it may seem expensive to do so, it is not nearly as expensive as the loss of millions of dollars that even one adverse civil suit could cost. In addition, if the public is aware through the media of various technologies that are available, and law enforcement does not use them, the Chief of Police will be answering some very tough questions about why he is not more progressive. This is especially true in lethal force cases where departments will be second guessed by the media, the family of the deceased, the public at large, and the criminal and civil courts.

- 2. Training must be a priority in the area of less lethal weaponry**

In order to implement the high tech weapons of the future, police will need to train to very high levels of competence. Training must be done prior to the initial

implementation of the weapon, and it must be done on a regular basis to ensure continued proficiency. A department must also be able to prove they trained.

Therefore, an accurate record keeping system is critical, and will be most valuable should there be a lawsuit resulting from the use of less lethal weaponry.

3. Law enforcement must work more effectively to transfer emerging technology and adapt it to law enforcement usage

The rate of technology advancement in the next six years will no doubt be staggering. Law enforcement needs to take steps to ensure that it has the capability to assimilate new technologies. One way to possibly accomplish this is to begin recruiting a percentage of overall hires from the fields of high technology. These individuals can help individual agencies adapt the emerging technologies for actual law enforcement usage.

4. Law enforcement must become more adept at dealing with the media

Media relations is important under even routine conditions, but when negative events occur, the media will always be there asking tough questions. The current adversarial relationship many agencies have with the media needs to give way to one that is more open and cordial. Law enforcement needs to consider ways to become better at marketing itself by ensuring that many positive events are publicized. This will help to create some balance when the inevitable negative incident does arise. In the instance of a less lethal weaponry deployment that goes wrong, the agency involved needs to be as forthcoming as possible. If there was a mistake made it should be admitted, and the public should be informed about what corrective measures will be taken.

5. Law enforcement must remain close to the community

When less lethal weaponry is in the police arsenal, the community should know about it. This familiarity with such devices will allow community members to effectively defend the police department should an incident be called into question. If leading community members first hear about the existence of a less lethal weapon when an incident has resulted in a fatality, they will be much less able to help a department explain the usage of such a weapon. Toward this end, having less lethal weaponry demonstrated during citizen academy type gatherings might go a long way in getting community buy in and support for the deployment of such a weapon. If such support is developed early on, damage control will be much easier should an incident turn to disaster.

CONCLUSION

This article has discussed the rising levels of public expectations of law enforcement's use of force. The public opinion polls and the results of the NGT panel seem to indicate the need for law enforcement to explore less lethal weaponry as one way to meet the public's expectations. The trends and events developed by the NGT panel do not appear to bode well for law enforcement. The level of negative impact these and other trends have on law enforcement may rest mainly on how well law enforcement continues to prepare itself for such apparent eventualities.

Careful examination and planning can help to shape the future positively in these areas. The acceleration of technology transfer, training, and education of

the public and the media can all act as positive influences in this area.

Implementation of less lethal technology is not the only response to the identified trends and events of the future. However, the use of such technology can be part of an overall strategy that helps law enforcement to deal with the complex issues it will have to cope with in the years leading up to 2002 and beyond.

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