

THE BILL BLACKWOOD
LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS

Firearms Training in La Porte
The "Hot House" Solution

A Proposed Policy Research Project
Submitted in Partial Fulfillment of the
Requirements for the Professional Designation
Graduate, Management Institute

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April, 1996

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ABSTRACT

RELEVANCY OF SUBJECT TO LA PORTE P.D.

Historically, the La Porte Police Department has placed firearms training at a low priority. Budget constraints on salaries has traditionally kept the department from engaging in extensive training away from the city. The lack of realistic, relevant training has become too much of a liability to ignore any longer.

INTENDED OUTCOME AND PURPOSE OF RESEARCH PROJECT

This research project will examine the history of firearms training of the La Porte P.D. in a historical, legal and ethical perspective. The purpose of this examination is not to place blame for past mistakes or inequities, but to offer solutions that will bring La Porte P.D. to a higher standard of firearms training.

INTENDED AUDIENCE

The police department command staff and city executive staff will be presented with the information gained in this research so that the implementation of the project can be approved.

KINDS OF RESEARCH PERTINENT TO THE FINAL REPORT

Historical, legal and ethical perspectives of law enforcement firearms training is critical to this project. Past inequities and mistakes should be studied as well as attempts to correct those problems. Case history of litigation involving agencies that failed to adequately train their personnel will be examined. An ethical perspective is important since this type of training deals with one of the most emotional aspects of law enforcement, that of employing deadly force against another human being.

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INTRODUCTION

The purpose of this research is to outline the type of firearms training conducted by the La Porte, Texas Police Department in its' recent history. Further, an attempt is made to determine if past and current firearms training practices meet the criteria established for police by the courts. Necessary changes in training policy, procedures and facilities are explored in an attempt to address shortcomings in firearms training policy and procedures of the La Porte Police Department.

A study of cases where police agency liability was an issue was conducted. These type cases often point out glaring deficiencies in training programs. As distasteful as it may seem, it is often advantageous to examine other persons' (ie: police agencies') shortcomings to avoid the problems and pitfalls that plagued those agencies. The research will show that practical, relevant firearms training has been a low priority at the La Porte P.D. due to budgetary, time, and manpower constraints. A way to update firearms training by introducing modified training schedules, manpower allocations and construction of facilities will be explored.

In turn, this information will be presented to the Command Staff for study and consideration of adoption in the policies and

procedures of the department. Finally, the city executive staff will be advised of findings so that implementation of the procedures may be approved.

In this time of continuing and growing litigation against political entities, especially police agencies, it is imperative that every effort be made by the department to explore methods to avoid litigation if possible. Lack of understanding and/or concern must be examined, but not considered a stumbling block in the path of alleviating the problem.

Firearms training, like most law enforcement training, has become too complex, too time consuming, and too much of a liability to be ignored any longer. The La Porte Police Department and the City of La Porte simply must explore methods to train its' police officers in the most effective manner possible.

It must be stated at the onset that the purpose of this research is not to place blame for past mistakes, misjudgments or inequities. Instead, it is to offer research into ways that firearms training might be brought to a higher standard for the officers of the La Porte Police Department. This will benefit not only the officers of that department, but the citizens of La Porte, Texas as well.

HISTORICAL, LEGAL OR THEORETICAL CONTEXT

Over the past 20 years, diversified training for police

officers has increased markedly. The Texas Commission on Law Enforcement Officer Standards and Education came into existence during the early 1970's, and state-mandated training was subsequently taken seriously. The increase in professionalism in patrol techniques, report writing and investigations was phenomenal. However, one aspect of police work, an aspect that gained major importance during those two decades, suffered. That aspect was police firearms training.

The La Porte Police Department has never had it's own firearms training facility (or "range"). All shooting was done at a combination of private ranges and/or neighboring agency's facilities. This, of course, meant that La Porte P.D. personnel had to schedule their range time around the other agencies. Also, firearms "training" was limited to a simple annual qualification. No tactics, techniques or practical exercises were taught "in house."

The 1980's saw major changes concerning police firearms use. The movement toward more realistic training and use of full power ammunition for training gained momentum around the country. The increased use of the semiautomatic pistol by police officers nationwide necessitated a serious reexamination of the firearms training policies and procedures of the La Porte P.D.

By the mid-1990's, La Porte P.D. began to improve training by including practical exercises into annual firearms qualification.

The use of multiple targets, full power ammunition and practical shotgun skills were initiated. However, the department was still handicapped by not having it's own facility. Training hours were still few and far between, and they were expensive. All officers who qualified had to travel out of town and be paid overtime on their off days to attend range sessions.

In 1991, a substantial change in the policy of the La Porte Police Department occurred. An outdoor, 50 yard shooting range was constructed adjacent to a fire department training center inside the city limits. This range provided a facility where officers could be trained and qualified while on duty. Thus, the need to pay overtime every time qualification was scheduled was mostly eliminated.

However, there was still a major problem with the firearms training policy and the design of the range. Due to budget considerations, land use requirements, and lack of foresight, the range was simply a "bullseye" type, straightaway shooting facility. That is, it provided for straight forward shooting at targets exactly in front of the shooter. Very little angular shooting could be undertaken without damage to the facility. Virtually no movement by the shooter was possible without serious safety problems arising. The range was fine for minimum state required qualification, but was severely lacking for tactical exercises or training. The need was apparent for a facility where 360 degree

live fire training could be conducted. A facility where building searches, room clearance drills, SWAT team and other close-quarter-combat training could be carried out in safety is what is needed by the La Porte Police Department.

REVIEW OF LITERATURE OR PRACTICE

The concept of a 360 degree shooting facility or "hot house" is not a new one. As early as the beginning of the 20th century, Captain William E. Fairbairn of the Shanghai (China) Municipal Police advocated and built this type of training facility to train his police officers in realistic conditions (Spaulding, 1992). The concept of a facility where an officer could experience the type of conditions he might face in real life situations has been adopted by agencies more recently as well. Every police firearms instructor is familiar with "Hogan's Alley" of the F.B.I. training center in Quantico, Virginia. The Springfield, Missouri Police Department studied the situation and decided that a "hot house" would offer their agency the best concept of a practical, relevant training facility. (Knowles, 1992).

In each of these aforementioned references, the legal necessity to realistically train police officers was highlighted as the prevailing reason to build the facility they described. This too, should be the primary reason for the La Porte Police

Department to undertake such a project. This legal necessity has arisen out of many incidents and court cases over the recent past involving officers, agencies, and citizens.

The following federal statute is the basis for most actions taken against a city, agency, or officer when wrongful death or injury is alleged because of a "bad shooting":

"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 any 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 action at law, suit in equity, or other proper proceeding for redress..." (42 U.S.C., 1983).

This statute was seldom used until the Supreme Court of the United States decided the following three cases between 1978 and 1980,:

- 1) Local units of government were to be considered as "persons" within the meaning of 42 U.S.C., 1983 (Monell v. Department of Social Services, 436 U.S., 1978).
- 2) Such local units of government had no "good faith" defense (Owen v. City of Independence, 445 U.S., 1980).
- 3) The phrase "and laws" in the statute meant just that, **all laws**, not just civil rights laws (Maine v. Thiboutot, 100 S.Ct., 1980).

In addition, when the Civil Right's Attorneys' Act of 1976 was

enacted by Congress it stated:

"....In any action or proceeding to enforce a provision of Sections 1981, 1982, 1983, 1985, and 1986 of the title...the court, in its discretion may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the cost. (42 U.S.C., 1988).

Perhaps the most famous (or infamous) court case concerning firearms training deals with failure to train and the city's liability for such failure. In this case, a citizen was accidentally shot by a Margate, New Jersey police officer who had received no training other than **state mandated minimum**. The court held that, even though the officer involved had received the minimum training required under state law, additional training was required under the circumstances. Failure to provide additional training was deemed by the court to be a **negligent failure to train** and the city was held financially liable. (Popow v. City of Margate, 476 F.Supp. 1237 (1979)).

DISCUSSION OF RELEVANT ISSUES

It would be convenient to simply dismiss the concerns raised by this project as simply a scare tactic aimed at the city administration in an effort to obtain a "fancy playhouse." This is most assuredly not the case. Liability oriented case history in both the federal and state courts have plainly determined the ramifications of not providing the very best training possible for

law enforcement officers. Lack of funds and good intentions notwithstanding, no political entity that employs peace officers can disregard with a cavalier attitude the need to provide **relevant, and realistic** training.

The City of La Porte has definitely made attempts to upgrade training, that cannot be denied. The construction of the "bullseye" range has been a major step forward in providing a facility where **some** firearms training can be accomplished in a timely, cost effective manner. However, the shortcomings of that facility simply cannot be overlooked. No tactical building entry and search techniques can be practiced because of the danger of damage to the facility and of ricochets. Movement exercises cannot be employed because of the same space and safety constraints. With the ever increasing probability that an officer will have to use his weapon(s), there can be no doubt that his training **must** likewise increase. With the construction of the "hot house", the major obstacle to relevant, realistic training will be overcome. La Porte P.D. firearms instructors will be able to conduct almost any type of training imaginable. Building search and entry scenarios can be run in a myriad of ways. SWAT personnel will have a multi-room facility where room clearance and entry techniques can be practiced day and night in any kind of weather. These and other training opportunities are too numerous to mention. Suffice it to say, that with the "hot house", the only limitation to training is the

imagination of the trainer. And on that note, training of trainers can be accomplished much more cost effectively. Several state and federal agencies have expressed interest in holding training classes at such a facility, not just for their personnel, but also for La Porte P.D. officers and instructors. This type of instruction program will most likely be extended to other local agencies. The interaction between neighboring agencies and the spirit of cooperation gained from this interaction is invaluable.

A cost/benefit analysis of this project should be made in order to give the city's executive staff an idea of how training budgetary guidelines are being met and to demonstrate the cost effectiveness of this proposal.

La Porte P.D. currently employs forty-one (41) officers of Police Officer rank, nine (9) sergeants, three (3) lieutenants and the chief of police. Using the pay rate of a "topped out" officer in each pay grade eligible for overtime, the following figures are determined as being the cost of two hours of training each quarter if officers had to leave town:

Police Officer(41)\$2114 x 4 (quarters) =	8456.00
Sergeant (9)\$ 522 x 4 =	2089.00
Lieutenant (3)\$ 196 x 4 =	<u>784.00</u>
Total	\$ 11,330.00

(NOTE: all figures rounded to nearest dollar).

This entire amount can be saved if training is undertaken during normal duty hours as would be the case if the "hot house" is built.

The cost of construction would not greatly affect the training budget either. Most of the construction costs would be born by the US military under a possible agreement with Joint Task Force Six. Joint Task Force Six (or JTF-6) is a division of Operation Alliance, a multi-service military unit headquartered at Fort Bliss, Texas. During the administration of President George Bush, Operation Alliance was established to provide military assistance to law enforcement agencies in the Southwest. Training and equipment related to counter-narcotics enforcement may be obtained at little or no cost to the local agency.

The estimated cost of materials to La Porte P.D. would be approximately \$1600.00. Virtually no overtime pay would be accrued during construction by La Porte P.D. personnel. Man hours spent would be during regular duty hours. Estimates of construction costs of a similar "hot house" without the assistance of an organization such as JTF-6 have been estimated from \$8000.00 (Ijames, 1992) to over \$100,000.00 by private contractor.

It is readily apparent that tremendous savings can be accomplished in salary and training budgetary expenses if the "hot house" becomes a reality.

CONCLUSION AND RECOMMENDATIONS

The stated purpose of this policy research project was to examine the historic, legal and ethical dimensions of firearms training of the La Porte Police Department. I have found that although great strides have been made in recent years to alleviate the lack of firearms training facilities for La Porte P.D., serious problems still exist. No single person or incident or situation is responsible for these problems. They are the result of a lack of information and foresight at several levels of the department. Research has shown that the courts have held agencies and officials financially liable to both employees and the public for failure to train officers in the most realistic manner possible (Popow v. City of Margate, 476 F.Supp, [1979]) and when deliberate indifference to training and supervision is shown (Owens v. Haas, 601 F2d. 1242 [1979]).

Morale and 'Esprit-de-Corps' among officers will be markedly improved by the type of training proposed. Experienced training officers know that enthusiasm and job satisfaction increase when employees are involved in training **they** feel is relevant. This is known from personal experience as an instructor and is echoed by other instructors as well (Butler, 1994).

The citizens of La Porte and the Bayshore area themselves stand to gain from this project as well. After all, it is they who

have entrusted their police officers with the task of protecting their lives and property. Better trained, better equipped and better motivated police officer will be the result of this project. The citizens of our community deserve no less than the best we can offer them.

It is recommended that the construction of the "hot house" be initiated along with a corresponding increase in the training time devoted by the La Porte Police Department. A major shift in training ideology should also take place, with emphasis on realism and practicality in all aspects of firearms and officer survival skills.

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