

**The Bill Blackwood
Law Enforcement Management Institute of Texas**

**Defensive Tactics in Small Agencies:
Investment vs. Liability**

**An Administrative Research Paper
Submitted in Partial Fulfillment
Required for Graduation from the
Leadership Command College**

**By
James H. Pierson**

**Henderson Police Department
Henderson, Texas
March 2009**

ABSTRACT

Defensive tactics in small agencies and the investment in training verses the liability is relevant to contemporary law enforcement because many more small departments, averaging between three and 40 officers, exist in the United States than those of larger size. While the occurrence of assaults on law enforcement in this country may be more common in urban areas covered primarily by large agencies, the same problems are increasingly faced by officers in rural communities as the demographics change and the urban areas continue to spread. Law enforcement trainers and administrators are rapidly being forced to come to grips with the changing contents in their populations and the changing requirements the officers they employ must face on a daily basis. While budgets do not always keep up with the current trends, law enforcement is expected to provide the same service in rural areas to the citizens that is provided in urban areas, as well as to live up to the same liability concerns.

The purpose of this research is to review the amount of training in defensive tactics currently in use in smaller departments within a set geographic area in order to determine what level of training the officers are receiving. It is also the intent of this research to identify problems faced in the administration of defensive tactics training and implementation smaller law enforcement agencies currently face. With this information, the researcher hopes to develop recommendations for policy and training concerning the area of defensive tactics to be implemented in smaller rural agencies. The method of inquiry used by the researcher included: a review of articles of and literature, a survey conducted by telephone with 16 agencies in the Eastern Texas area,

and further review and interviews with defensive tactics trainers and law enforcement administrators.

The researcher discovered that few agencies have training standards set for defensive tactics beyond the initial certifications required by the basic academies attended by their officers. The primary concern and reason given for lack of continued training was reflected by budget concerns and the resultant manpower shortage caused to the department when officers were in training. Multiple subjects stated, during the survey interviews, that the mandated training now in place by the Texas Commission on Law Enforcement Standards of Education had, in fact, decreased the amount of non-mandated training in place at their departments. Of secondary concern to the administrators was a lack of standardized training available for several defensive tactics options and a lack of even “company mandated” end user training requirements for continued examination of the skills learned. In the words of one agency head in the area, “My council will always fund something if it is required, but will always cut what it can otherwise”.

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INTRODUCTION

The problems facing the small agencies in law enforcement today are numerous. From recruitment and retention issues to equipment and budgetary issues, they share common issues with large agencies without the personnel, equipment and tax base used to address the issues. As more and more recurrent education is required by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) the training time and investment becomes a larger burden on the small agencies throughout the state. As these agencies struggle to keep up with the certification requirements, many agencies have all but eliminated training not required by the state.

The purpose of this research paper is to determine the effect that the changes in training issues have had on the defensive tactics training officers within small agencies. The question addressed by this research is whether the elimination or limiting of defensive tactics training on a recurrent basis within small departments has increased the liability of the departments in non-lethal force situations. Literature will be reviewed concerning the requirements of defensive tactics training and the retention of skills to determine the actual need for recurrent training. A survey will be conducted among agencies with less than 50 sworn officers to determine the level of training that the officers receive in defensive tactics and what recurrent training is required within the departments. It is expected that this research will show an existing gap in the training for defensive tactics at small agencies and will point out a liability issue for those departments concerning the failure to adequately provide such training. It is hoped that the results of this study will provide a conclusive and arguable basis for introduction and implementation of programs to address the needs of officers in smaller agencies, not

only decreasing the agencies liability but increasing the opportunities for the officers to remain safe within their jobs on a daily basis.

REVIEW OF LITERATURE

In 2006, the Federal Bureau of Investigation (FBI) published the Uniform Crime Report, which stated that there were 58,634 police officers assaulted during the preceding year while performing their duties. While the physical assaults of officers have continued to increase over the past years, a conflicting problem has developed in the area of law enforcement training. Media coverage and increased litigation have increased the public's expectation that law enforcement should take advantages of advances in technology while closely managing individual officers use of force. (Ashley, 2000). As this trend has continued, the Texas Commission of Law Enforcement Standards of Education (TCLEOSE) has increased the number of courses required and mandated training time requirement for licensed peace officers in many fields of study. Rural police agencies with generally smaller budgets and fewer personnel are placed in the center of the training dilemma.

With more attention being focused on the use of force by officers and the liability for both the individual officer and the department employing them, allegations of failure to train are becoming more common. In the United States Supreme Court decision in *City of Canton v. Harris*, the court did not set the subject matter for training nor the minimum number of hours an officer must be required to train in a given area of expertise. The standard that must be met under the decision was that training must be afforded an officer to "respond to usual and recurring situations which they must deal" (Ross, 2000).

Failure to meet this standard may show deliberate indifference and place the agency at risk for civil penalty.

Initial certification requirements and recurrent training standards vary widely from one area of defensive tactics to another. In separate interviews conducted by Michael A. Brave, four of the nations leading defensive tactics training were operating under four separate guidelines in the areas of Oleoresin Capsicum (OC) training and the training required for impact weapons such as batons. In the training for OC, the instructors set the initial training at four to eight hours per officer with recurrent training required from one hour per year to four hours bi-annually. Impact weapons required from four to eight hours minimum training, with another four to eight hour update annually (Brave 1994).

Many recurrent training requirements are mere recommendation by the company or instructor providing the training. A primary example can be found in the material used by TASER International to certify officers in the use of their product. Instructor level officers of individuals are required to recertify bi-annually in their training, but there is no set recommendation for the recertification of officers in the field who were certified as end users (TASER International Instructors Guide, 2007). Jerry Staton, the training director for Affordable Realistic Tactical Training, recommended some retraining each year on use of force and updates on the TASER material, but he stated that TASER does not have a recertification program for end users, as there are too many different ideas out there as to what is needed.

In the area of empty hand defensive tactics, the most discrepancy exists between systems and instructors. No one set and mandated program is available that is accepted by all or even most training providers, law enforcement administrators or

government agency licensing bodies. Griffith (2008) stated in March of 2008 that perhaps the most neglected aspect of law enforcement training nationwide is physical unarmed combat or defensive tactics. Differing opinions of what training is needed and a lack of quality instructors in the area of training are two of the main issues leading to confusion on the topic of training.

According to Williams (2007), defensive tactics instructors must provide useful and practical training for the officers on the street. While this statement seems to reflect the Supreme Court decision of *Canton v. Harris*, few defensive tactics instructors agree on a workable definition of what type of training constitutes useful and practical. Williams (2007) expressed in his research that 86-92% of all resisting arrest incidents finish on the ground, indicating that ground defense tactics should be a priority (Williams 2007). Williams states that there has been too much reliance on sport style training systems which are often not modified for the aggressive suspect the law enforcement officer must face.

Blauer (2007), founder and CEO of Blauer Tactical Systems, stated in his material that the majority of training is out of date, sport driven, or based on over-reaction to complaints or litigation. According to Blauer (2007), training must include an element of fear management. Blauer's system, Spontaneous Protection Enabling Accelerated Response (S.P.E.A.R.), is based on behavioral science and the instinctive reacts of the startle flinch response. According to Blauer (2007), the scenario training he employs attempts to create the most realistic fake training possible.

In reviewing material concerning defensive tactics training available, many courses were martial arts based programs. Systems from Krav Maga, karate, taekwon do, and

many eclectic systems are represented on the internet and in businesses nationwide, each claiming to be the most effective for street officers application and each with greatly varied criteria concerning the training. Some programs, such as the widely used Pressure Point Control Tactics (PPCT) require certifications for instructors, but set no recertification guidelines for end users or updates for training.

METHODOLOGY

The research question to be examined considers whether or not defensive tactics training is being provided as an in-service requirement in rural police agencies and whether the training meets the needs of officers in the field and the liability concerns of the agencies themselves. The researcher hypothesizes that the anticipated findings may show a need for allocation of more training time and funds in rural agency budgets for defensive tactics training, as well as demonstrate the need for policies requiring officers to be tested on a recurring basis on their retention of trained skills. The method of inquiry will include review of available literature, court cases, and a survey conducted among rural police agencies to determine the current training programs and policies in use at the time of this research. The instrument that will be used to measure the researcher's findings regarding the subject of defensive tactics training in small agencies will include a survey of training officers in rural agencies conducted by telephone. The size of the survey will consist of five questions, administered to 16 survey participants from rural police agencies in the eastern region of Texas. The information obtained from the survey will be analyzed by the researcher to determine the common practice of these agencies regarding defensive tactics training and the recurrent qualification requirements in these departments.

FINDINGS

The researcher found the following information in response to the survey conducted concerning defensive tactics training in small agencies. The respondents were instructed to answer the questions from an overall defensive tactics perspective, including in their answer all force options available at the department they represented between the verbal only situation and the deadly force option. The departments surveyed ranged in sworn officer employment from twelve to 48 sworn officers. Of these departments, only three surveyed had in-service training requirements in place for defensive tactics encompassing all available force options. Of those three, only two required qualification or re-qualification in physical empty hand defensive tactics on a recurrent basis. Eleven of the departments stated that budget limitations were the biggest limitation on training within the department, while four departments stated the lack of availability of accepted training programs caused the limitation. One department surveyed cited the manpower and time constraints relative to training as the main issue with adding any defensive tactics requirement to their existing policy. When asked what impact the Texas Commission on Law Enforcement Standards of Education (TCLEOSE) mandated training course increases had on their training budget and allocations, all answered that they believed the training to be necessary but that the additional requirements decreased the amount of optional non-required training available to them.

DISCUSSION/CONCLUSIONS

The problem or issue examined by the researcher considered whether or not the defensive tactics training in small law enforcement agencies was current and whether

the investment being made by the agencies was enough to off-set liability concerns from the standard set by the United States Supreme Court in *Canton v. Harris*. The purpose of this research was to determine the current level of defensive tactics training in small law enforcement agencies and to identify whether or not a need exist to increase the investment in this area to avoid civil liability. The research question that was examined focused on rural east Texas agencies employing less than 50 sworn officers. The researcher hypothesized that a gap exists between the training being conducted at these agencies and the standards set by the Supreme Court for officer training in *Canton v. Harris*.

The researcher concluded from the findings that there is a short fall in the area of defensive tactics training within these agencies. The findings of the research did support the hypothesis. The reasons why the findings did support the hypothesis are probably due to budget concerns in the respective agencies and the perceived unavailability of sanctioned training in the area. Limitations that might have hindered this study resulted because the survey was confined to a single area of the state which may or may not reflect accurately for other geographic areas.

The study of defensive tactics training investment at rural agencies is relevant to contemporary law enforcement because all law enforcement is now being held to a higher standard due to increased media awareness and the more active litigation seen nationally. Rural law enforcement agencies stand to be benefited by the results of this research as it may be used to point out shortcomings and liability and used to provide evidence of a need for increased budgets in the training area, thereby allowing for better officer and citizen safety for the communities they serve.

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APPENDIX

Defensive Tactics Training in Small Agencies Telephone Questionnaire

How many sworn officers are in your agency?

Is there any in service training requirement in place for defensive tactics?

Is there a qualification or re-qualification required for hand to hand defensive tactics skills currently followed by your department?

Which of the following do you consider the biggest limitation on training within your department?

Budget _____ Availability of training _____

Manpower / Time Constraints _____

What impact has the TCLEOSE mandated training courses had on your training budget and allocations?
