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Yearly Firearms Qualification is not “Training” for Law Enforcement

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ABSTRACT

Ask many law enforcement firearms agencies today if their agency conducts firearms training or just qualifications. The issue to be discussed in this research considers whether or not police departments perceive that qualifications one time a year fall under firearms training. The research question to be answered will be: Is there is a difference between firearms training and firearms qualifications? The research will also demonstrate that the departments that are conducting firearms training will qualify more than one time a year. There have been several court cases that have shown a need for police departments to adequately train police officers in firearms.

Is there a difference between firearms training and firearms qualifications? The researcher reviewed literature and data publications on the topic of law enforcement firearms training. Additionally, the survey findings will show that the agencies that conduct firearms training will in fact qualify more than once a year. The data illustrated that twenty-seven out of the total forty five police agencies surveyed, conducted separate firearms training from qualifications. The information retrieved from the surveys also showed the number of police agencies that do not conduct firearms training other than the state mandated qualification. Out of the total forty-five surveys received, fifteen of the departments do not conduct firearms training. Instead, they only provide qualifications. Of the surveyed participants, there were three departments who reported that they provide firearms training some of the time. The research question that was examined focused on whether or not there is a difference between firearms training and firearms qualifications. The researcher hypothesized that in Texas there are still some departments that do not conduct any firearms training, only qualifications.

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INTRODUCTION

In today's society with the increase in the amount of lawsuits against police there is an ever-demanding need to properly train and address deadly force issues with police officers. It is the responsibility of the firearms instructors to provide adequate training that includes tactical decision-making skills that fall in line with their department's use of force policy and not just assuring that officers can place the correct number of holes in the center of a target. It is the responsibility of the departments to provide adequate funding to support additional training not just yearly qualifications.

Ask many law enforcement agencies today if their agency conducts firearms training or just qualifications. In law enforcement departments across the state the word "qualification" has been used with the word "training" as if these two are the same. The issue to be discussed in this paper is that police departments perceive that qualifications one time a year fall under firearms training. The research question to be answered will be: Is there is a difference between firearms training and firearms qualifications?

The methods of inquiry will be a review of literature and data publications on the topic of law enforcement firearms training. The review of literature will include current and previous court cases referring to the issue of "failure to train". There will also be a survey of municipal police departments, sheriff's offices, and college police departments across the state of Texas to see if they are conducting training as well as qualifications.

The intended outcome of the research is to show that there are still many departments that perceive yearly qualifications as "training". The research will also show that some of the departments that only conduct qualifications and no training will conduct qualifications twice a year in an attempt to show they are doing more than what is required by the State of Texas. The

research will also show that the departments that are conducting firearms training will qualify more than one time a year. The research will indicate that the size of the department does not impact whether or not the agency does or does not conduct firearms training. The research will benefit the individual officer by providing additional training and resources needed to successfully complete the job. Departments will also benefit with the reduction of liability from officers involved shootings or the lack there of. The research will show that there is a need for the Texas Commission On Law Enforcement Officers Standards and Education (TCLEOSE) to mandate a number of hours a department shall spend on Firearms Training. Departments across the state should be able to take this research and understand that there is a difference between firearms qualifications and training and set up a training program in their department if they do not have one in place.

REVIEW OF LITERATURE

In law enforcement terminology, the word “qualification” has long been used equivalent with the word “training.” (Aveni, 2002). To adequately show the difference between firearms qualifications and firearms training the researcher will start off by defining the two. Webster’s Third New International Dictionary defines training as: the teaching, drill, or discipline by which powers of mind or body are developed. Webster’s Third New International Dictionary defines qualification as: to exhibit a required degree of ability in a preliminary contest. By the mere definition of the two words it is clearly obvious of the difference. But, due to law enforcement terminology and using the terms interchangeable it has caused firearms instructors problems due to many administrators thinking they are providing training while in fact they are only meeting the firearms qualification standard (Aveni, 2002). Hill (2003), points out the distinction between firearms qualifications and firearms training:

The purpose of qualification is to demonstrate and quantify an officer's accuracy and safety. Repetitive practice is encouraged so that basic firearm skills and proficiency can be developed and maintained. Firearms training is intended to provide officer with tactical exercises that conform to both practical skills and the department's use of force policy. Firearms training may include such reality-based exercises as Hogan's Alley, Simunition or interactive video scenarios. While training and qualification differ considerably in application, they are equally important. However, emphasizing one over the other can be costly in more ways than one.

The researcher found that there are similarities in the research when it comes to recognizing that many police agencies do not conduct specific training as it relates to firearms. Ed Nowicki points this out when he said, "Most law enforcement agencies require periodic firearms qualification but many agencies have not provided firearms training to their officer in years" (p.8). Jamie Smith stated "If you were to poll a typical patrol officer in an average American police department and ask how often they trained to fight with there weapons, most would mention something about annual or semi-annual qualification and that would be the end of it" (p. 1).

The researcher also found information that is different from the research listed above as it relates to the term "Qualification" and "Firearms Training". Hall (1993) explains how the two terms "Qualification" can be defined when it is used with firearms training:

"Qualification," as the term is used in the context of firearms training, may refer to an officer demonstrating the ability to handle a firearm safely and fire it with reasonable accuracy on a prescribed course of fire. Likewise, it may refer to an officer's performance during combat and judgmental shooting. To say that an officer is "qualified" conveys the notion that the

officer attained a minimal standard of performance, as demonstrated by successful completion of some test.

There have been several court cases that have showed a need for police departments to adequately train police officers in firearms. According to the National Rifle Association, (Author Unknown) most claims for failure to train against a city will fall under Section 1983: 42 USC. The five key elements a plaintiff will need to show are:

1. Plaintiff must suffer a constitutional injury as a result of the conduct of the officers employed or otherwise under control of the municipality.
2. The officer causing the constitutional injury was inadequately trained.
3. If not for the flaws in the officers training, the injury would not have occurred.
4. The officer received inadequate training as a result of or due to an actual custom or practice on the part of the municipality of providing its officers with inadequate training.
5. The custom or practice exists as a result of or due to the deliberate indifference of the city.

The most well known case dealing with firearms training or lack there of is Popow v. City of Margate, 476 F. Supp. 1237 (D.N.J. 1979), where a citizen, Popow was accidentally shot by a Margate, New Jersey police officer. The police officer was chasing a kidnapping subject through a residential neighborhood and shot at the suspect missing him but killing a bystander who had entered into the street to see about the commotion. The police department did not provide firearms training to the officer in regards to nighttime shooting, shooting at moving targets, or shooting in a residential area. The department only provided semi-annual

marksmanship training. The court held that the facts could be read to constitute grossly negligent failure to train on the part of the city.

Another popular court case, while not involving firearms, that is known as a Supreme Court benchmark case for municipal liability over failure to train is *Canton V. Harris*, 489 U.S. 378 (1989). In this case the Supreme Court held that municipalities could be liable for failure to train, even when the policy itself in question is not unconstitutional. The court noted it may happen that in the light of the duties assigned to specific officers or employees, the need for more or different training is so obvious and the inadequacy so likely to result in the violation of constitutional rights, that the policy makers of the city can reasonably be said to have been deliberately indifferent to the need. In the event, the failure to provide proper training may fairly be said to represent a policy for which the city is responsible, and for which the city may be held liable if it actually causes injury.

METHODOLOGY

Is there is a difference between firearms training and firearms qualifications? That is the research question that will be answered. The researcher will review literature and data publications on the topic of law enforcement firearms training. The researcher will also review several forms of published professional documents, and law enforcement journals. Additionally, the researcher will review current and previous court cases referring to the issue of “failure to train.” The researcher will also conduct a survey and the intended outcome of the survey will show that in Texas there are still some departments that do not conduct any firearms training, only qualifications. The survey will also show that Texas Police agencies that do not provide firearms training are more likely to qualify twice a year in an attempt to show they are doing more than what is mandated by the State of Texas. Additionally, the survey will show that the

agencies that conduct firearms training will in fact qualify more than once a year. The survey will point out that there is no bearing on the size of the department as it relates to the agency either conducting firearms training or just annual qualifications. The survey was conducted on forty-five different Texas Police agencies represented in the Law Enforcement Management Institute of Texas (LEMIT) classes. The survey reached a wide variety of different types of police agencies. The agencies were a mix of large to small municipal police departments. There will also be small to large sheriffs' offices, school district, and college police departments. Out of the Texas Police agencies surveyed the participants were police supervisors and police administrators in their departments ranging from rank of Corporal to Chief of Police. The response rate to the survey was one hundred percent, forty-five issued with forty-five returned. The researcher analyzed all of the information contained in the survey instrument by comparing the agencies responses against one another.

FINDINGS

After the forty-five surveys were returned from the different police agencies all the data from the surveys was collected and organized. See Figure 1 below for complete details. The data showed that twenty-seven out of the total forty-five police agencies surveyed conducted separate firearms training from qualifications. Out of the twenty-seven agencies that conducted separate firearms training from qualifications eight qualified one time a year, twelve qualified two times a year, three of the agencies qualified three times a year and four of the agencies qualified four times a year. The survey also showed that the agencies that conducted separate firearms training from qualifications ranged in size of total sworn personnel from a large department with two hundred and ten to a small department with only fifteen sworn officers.

The information retrieved from the surveys also showed the number of police agencies that do not conduct firearms training only the state mandated qualification. Out of the total forty-five surveys received fifteen of the departments do not conduct firearms training they only provide qualifications. Out of the fifteen departments that do not have firearms training nine of the agencies qualify one time a year and six of the agencies indicated they qualify two times a year. The survey also indicated that police departments that did not conduct separate firearms training from qualifications ranged in size of total sworn personnel from a large agency with one hundred and eighty seven to a small department with only four sworn officers.

The last portion of the remaining participants in the survey was the agencies that indicated they occasionally provided firearms training. Out of the total forty-five surveys three departments said they sometimes provide firearms training. Out of the three departments two qualify one time a year and one stated their department qualifies two times a year. The size of the three agencies ranged from eighty-six sworn personnel to one hundred seventy five officers.

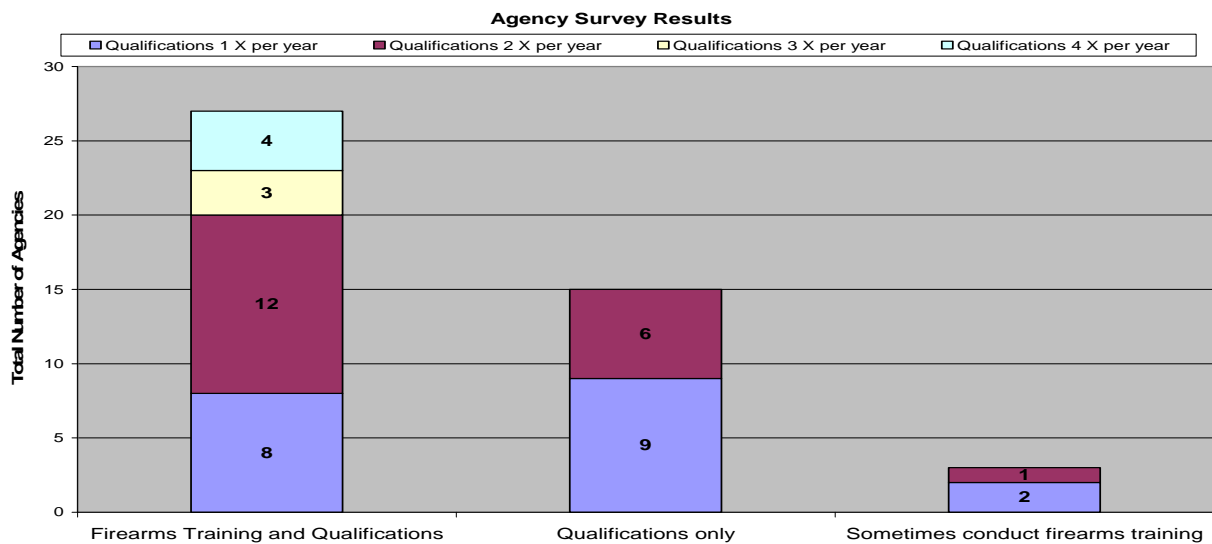


Figure 1.

DISCUSSION/CONCLUSIONS

To restate the objective of this research paper the researcher wanted to show that some law enforcement agencies perceive that yearly firearms qualifications is the same as firearms training. The purpose of this research was to show that there is a difference between firearms training and firearms qualification and the two terms have complete different meanings. The research question that was examined focused on whether or not there is a difference between firearms training and firearms qualifications. The researcher hypothesized that in Texas there are still some departments that do not conduct any qualifications only firearms training. The researcher further hypothesized that those Texas Police agencies that do not provide firearms training are more likely to qualify twice a year in an attempt to show they are doing more than what is mandated by the State of Texas. Additionally, the research hypothesized that the agencies that conduct firearms training will in fact qualify more than once a year and that there is no bearing on the size of the department as it relates to the agency either conducting firearms qualifications or training. The researcher had a difficult time finding research to help prove the hypothesis.

The researcher concluded from the findings that out of forty-five surveys, fifteen do not in fact offer firearms training separate from firearms qualifications as compared to the twenty-seven that do offer firearms training. The researcher also concluded from the findings that of the twenty-seven departments, nineteen of them conducted the firearms training more than one time a year. The research also proved that size of departments did not have any affect on whether or not the agency provided firearms training or qualifications only. However, the research failed to prove that the majority of the departments that only qualify and not train will qualify twice a year to try and show that they are doing more than what is mandated by state law. The survey

actually revealed that out of the fifteen agencies that did not provide firearms training nine only qualified once and six departments qualified twice making it not the majority.

The study of firearms qualifications and firearms training is relevant to contemporary law enforcement because there are still agencies that are only qualifying one time a year and is putting the agency and the officer in danger of being sued if the officer is involved in a use of deadly force encounter. The researcher presents this survey and literature review to law enforcement as a whole to educate policy makers that there is a distinct difference between firearms training and firearms qualifications. This research is intended to be beneficially to the individual officer proving that there is a clear and convincing research to prove that we need to be trained in the use of deadly force. The benefits do not stop with the officer as we know when an officer is involved in a deadly force situation questions are going to be asked of the agency as it relates to both firearms qualifications but more importantly firearms training. If the agency has provided adequate training to its officers it will make it more difficult for someone to sue and prevail. The researcher also feels that the community will benefit, lowering the dollar amount associated with large lawsuits. In today's society with the increase in the amount of lawsuits against police and the costs that affect the tax payers we must properly train and address deadly force issues with police officers and not just provide state mandated firearms qualifications.

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