

Winter Edition

Volume 5
Edition 3

2015



The ILEETA Journal



ILEETA

International Law Enforcement
Educators and Trainers Association

Action Always Beats Reaction- Or Does It?

By Chief Roy Taylor and Chief Mel Tucker (Retired)



In a split second, law enforcement officers must recognize a threat, evaluate its seriousness, and instantaneously employ potentially deadly force against criminal suspects to combat apparent dangers to citizens, bystanders, fellow officers, and themselves. Because they must make decisions in a split second, officers can be reasonably expected to maximize their own safety by taking pre-emptive action, however, because officers are trained to think quickly in light of the facts and circumstances confronting them and to respond quickly, rationally and

effectively they should not be relieved of their responsibility to reason and respond rationally.

Pre-emptive action (taking action once a threat has been recognized, but before the threat can be carried out) is authorized under the law.

The law also absolves the officer of liability if he/she makes a mistake when taking pre-emptive action "if a reasonable officer could have believed the conduct at issue was lawful, in light of clearly established law and information the officer involved possessed."

However, before an officer may legally use deadly force as a pre-emptive action to stop what he/she perceives to

be a threat to his/her safety, the perception, that he/she is being presented with a threat of serious bodily harm or death, must be a reasonable perception.

The reasonableness of the officer's threat perception and the reasonableness of the response are analyzed by asking the "objective reasonableness" questions set out by the U.S. Supreme Court in 1989. (1) would other reasonable officers on the date of the incident, considering the same facts and circumstances, have perceived the threat the same way; and (2) would other reasonable officers, on the date of the incident, have responded in the same manner.

Much of the argument for the need for officers to take pre-emptive action is based upon the concept known in the law enforcement profession as the "reactionary gap." Where did this concept called the "reactionary gap" come from?



In 1983, Salt Lake City, Utah Police Lieutenant Dennis Tueller wrote an article titled *How Close is Too Close?* Tueller reported in his article that "it takes an average officer 1.5 to 1.7 seconds to recognize a threat, draw his sidearm and fire two rounds at center mass but an

Action Always Beats Reaction- Or Does It?...con't

average suspect charging at the officer with a knife can cover a distance of 21 feet in less than 1.5 seconds."

That means that an officer attacked without warning by a suspect with a knife is likely to be stabbed if the suspect was within 21 feet of him when he started his attack.

The explanation for the 1.5 to 1.7 second delay in a police officers response to a spontaneous attack was given the acronym PEDa because the officer has to **P**erceive the threat, **E**valuate the threat, **D**ecide on what action to take in response to the threat, and then **A**ct on the threat. This concept has become known in the law enforcement profession as the "reactionary gap" and has been used in officer safety training since 1983. Some officers have erroneously interpreted Tueller's research to mean that a suspect's action will always beat an officer's reaction.

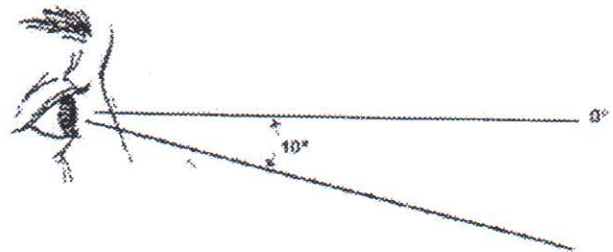
It has almost become "gospel" in the law enforcement profession since Tueller's article was published that "action always beats reaction."

However, a major factor important in Tueller's findings that has been lost in the application of his findings over the past 30 years was that Tueller was only talking about spontaneous attacks. In other words, the officer has



been surprised by the attack.

We decided to test whether action beats reaction when the attack is not spontaneous. We did that by timing how long it takes a person carrying a firearm in his hand extended by his side to raise the weapon and fire at an officer and how long it takes an officer, who already has his weapon aimed at a potential threat, to recognize the threat taking place and respond by firing his weapon. In



Source: U.S. Department of Defense, Human Design Directorate Military Systems, Equipment and Practices, 31 December 1974

other words, an officer's response to the actions of a suspect when not surprised and ready to use deadly force if necessary. Here is what we found.

In conducting the first stage of our experiment we used a shot timer, similar to those used in competition shooting. Upon activating the timer it randomly sounds a buzzer as an indicator to begin the exercise. In this scenario an

Action Always Beats Reaction- Or Does It?...con't

armed subject was holding a pistol in his right hand, down at his side. A responding police officer was approximately 20 feet away using a patrol car as partial cover. The officer is armed with a patrol rifle equipped with a holographic site and is aiming at the subject. Once the buzzer sounds the armed subject attempts to fire a shot at the police officer. Upon detecting movement the officer fires a shot at the subject.

The second stage of our experiment utilized the shot timer to determine the time it takes for an armed subject to raise their pistol and fire a shot at the police officer. In this scenario, when the buzzer sounds the subject raises the weapon and taps it's muzzle on the shot timer to simulate firing a round.

Our experiment was conducted a number of times and we consistently found the officer could respond, to the subject's action of raising their firearm, in approximately .26 seconds, while it took the subject approximately .48 seconds to raise and fire theirs.

The results show that officers who are prepared to use deadly force against an armed subject do not have to use their weapon preemptively based solely on the fact a person is holding a firearm in a non-threatening manner.

More importantly, when two officers are on the scene of an incident involving an armed subject who has not

verbally threatened the officers and who is not pointing a weapon at them (typical suicide call) the officers should consider taking the opportunity to avoid shooting the suspect by one acting as the "cover officer" with firearm trained on the subject while the other attempts to employ de-escalation techniques and less-than-lethal weaponry.

Notes

J. Michael McGuinness and Melvin L. Tucker , Police Use of Force Standards Under Colorado and

Federal Law, *The Colorado Lawyer*, Vol. 36, No. 5, May 2007

People v. Morales, 198 A.D. 2d 129 (N.Y. App. Div. 1993)

Hunter v. Bryant, 502 U.S. 224, 227 (1991)

Graham v. Connor, 490 U.S. 386 109 S. Ct. 1865 (1989)

Roy G. Taylor is the Chief of Police for Capitol Special Police in Raleigh, NC. Chief Taylor has 21 years of experience as a Police Chief in Federal, State, Local and Private agencies. He has a Master of Science degree in Safety from East Carolina University and a Bachelor's degree in Criminal Justice from Mount Olive College. He also has 25 years of experience as a specialized firearms and general instructor in the State of North Carolina.

Melvin L. Tucker served as a police chief for four cities in three states. He completed his active law enforcement service and retired as the Chief of Police for the City of Tallahassee, FL.

He has authored 40 articles, wrote a training manual for the State of Maine titled High-Risk Police Operations, and co-authored a book, published in 2011, titled Investigation and Prevention of Officer Involved Deaths.

Chief Tucker has served as a litigation consultant in over 550 law enforcement cases and has qualified in federal and state courts as a police procedures/use of force expert over 85 times.

ILEETA