

Survivability V. Liability – “Talking Yourself to Death”
Are we Training our Officers properly in the use of Deadly Force?

By: Jeff Felts

If someone points a gun at you, what is your first responsibility & reaction as a law enforcement officer?

- Is it to talk to the subject by telling them to “drop the gun”?
- Is it to retreat or move to some sort of cover?
- Or is it to defend yourself and shoot the subject pointing a gun at you?

Unless you have a crystal ball and can predict whether the subject is going to shoot you or someone else, it’s my opinion that you need to protect yourself above all else. ***There is a time to talk and time to shoot.*** If someone is pointing a gun at you regardless of the circumstances, you need to protect yourself.

Yet, time and time again, we see police video showing our brothers being murdered while they talk to subjects pointing a firearm at them. These disturbing videos and circumstances beg for answers. Unfortunately, dead police officers can’t share their thoughts or explain their actions for all of us to learn from. This is where firearms training units need to fill in the blanks. It doesn’t matter if the murder happened to an officer within your organization or a thousand miles away, we still need to review and analyze these incidents to ensure we are providing contemporary instruction in an effort to avoid these needless types of tragedy. Your survivability, and that of your students, is more important than your organizations liability. If your department does not see things as such, do your best to change that view point by educating your bosses, or consider finding employment elsewhere.

This subject, on its face, is simplistic to most of the firearms instructors who come to our schools. They will tell you that if someone points a gun at you, you should shoot them in self defense. However, the disturbing fact that we have found over the last two years while conducting scenario based training at our Patrol Rifle Instructors schools is that the students, many of whom are experienced firearms instructors from around the country, do exactly the opposite when they themselves go through live fire video scenarios using our CAPS firearms simulator. In most cases, unless they are SWAT qualified, they inherently begin talking to subjects who are pointing weapons at them or others. They scream phrases such as “Police, drop the gun” or “Put your hands up” as the perpetrator subsequently shoots at them or others, long before a majority of these firearms instructors fire their first round, which in reality, the instructor or other innocent persons may have been seriously injured or even killed.

After watching this type of scenario play out hundreds of times I noticed that SWAT & Sniper Qualified personal rarely ever wasted time in verbalization when the use of deadly force was clearly eminent. Conversely, I noticed that personal

without those qualifications almost always gave verbal commands before, and even during the time they were firing. For about the last year and a half I have been asking ask these seasoned firearms instructors why they choose to verbalize before they fired their weapon in self defense?

1. In most cases they tell me that was the way they were trained in their police academy and its how their department continues its sustainment or in-service firearms training.
 - Even most of those who said they would shoot first, and talk second if someone is pointing a gun at them, admitted that they unconsciously verbalized instead of concentrating on threat recognition and putting rounds where they needed to go.
2. The second most common answer is that fear of discipline for not attempting a lower form of control subsequently forces them to verbalize first, and then shoot.
 - In all cases a great number of these scenarios had moving targets and accuracy was generally reduced by those who were verbalizing while trying to engage the suspect with gun fire. After being coached the same officers showed improved accuracy when they concentrated only on threat recognition and marksmanship.

In two cases over the years I have actually had students who were already firearms instructors for their agency tell me that they wanted to avoid taking a human life at all costs. As admirable as I truly believe that is, I explained to these officers/instructors that there always exists the real possibility that any police officer may have to kill to protect themselves. Officers must also understand that the citizens they serve and their partners will be depending on their skills and judgment, if and when that moment of truth comes. Therefore, they must be prepared mentally for this possibility before that moment comes to ensure they can react properly in a timely manner.

I believe my good friend Derrick Bartlett of Snipercraft, Inc. explains it best when he tells his police sniper students that as a law enforcement officer you must;

- Understand that the force you apply using a firearm may cause the death of another human being.
- You must know ***right now***, that you are willing to kill if need be, or
- For the sake of all involved, ***You must find another job.***

The most frustrating thing I have seen is when two officers from the same department, who are both firearms instructors, react differently on the same shoot scenario. The Swat qualified instructor will immediately shoot with no verbalization, and the non-SWAT qualified instructor is often screaming “drop the gun” before or while he is firing, putting himself at an extreme disadvantage.

These observations lead me to believe that there is a training problem in many agencies across the country. It’s a correctable training problem if it can be

diagnosed prior to an actual shooting. The only way to diagnose this problem is to conduct scenario based training on a video simulator or during force on force training scenarios using simunition or a like type of product. Probably the quickest way to find out if this problem exists in your organization is to test your firearms instructors first. Don't listen to what they tell you they would do; watch what they actually do in a scenario. It's a good bet that what they actually do is what they're students will probably do.

At the last Patrol Rifle Instructor School we taught prior to the writing of this article I decided to address the issue of verbalization and survivability v. liability on the first day of class to see if it would have any effect on the students later in the week when they started participating in live fire video scenarios. To my amazement it made no difference. These experienced police officers, many who are already certified firearms instructors, were giving verbal commands as suspects were shooting at them. To me this was absolute proof of the problem I perceived and now know exists in many police organizations.

As firearms instructors we have two primary jobs.

1. The first is to train our students to survive a deadly force encounter. That includes not only how to shoot, **but when to shoot.** That means your firearms training programs frequency must at some point always readdress the basics such as the law, your department policy, when you should verbalize and when you don't have to verbalize, static training evolutions such as the fundamentals of marksmanship and safety, dynamic training evolutions such as shoot don't shoot training, and interactive training evolutions where the students must use the appropriate force at the appropriate time and in an accurate manner, including verbalization and situations where verbalization is not required.
2. Secondly, as instructors we must protect our organization from liability by conducting training that is defensible in litigation. That means we must ensure our training is contemporary, realistic, and frequent enough that diminishable skills are not lost. So long as all this training is well documented our odds of fending off civil actions are increased.

To correct the problem of verbalizing at the wrong time during deadly force encounters the subject must be specifically addressed in your training. Use one of the many videos from across the country to illustrate the point. They speak for themselves and drive the point home to your audience. You must then develop and implement interactive scenario based training designed to show officers when verbalization is required, and when it is not required.

A major step towards taking your department's firearms training to the next level is to bring your SWAT Officers into the firearms training unit as cadre. In many departments, for many reasons, SWAT qualified officers are not used as firearms instructors for the department. This is not to say that non-SWAT qualified

firearms instructors are any less of an instructor, but they typically don't have anywhere near the training and experience with weapons and innovative and contemporary training concepts that your SWAT guys will have. It simply limits your departments own weapons and tactical experts in having influence on the type of training provided to your first responders, which in my humble opinion is a mistake. I believe that by combining your SWAT qualified officers as department firearms instructors it will provide continuity between how you could expect a SWAT officer to react given a certain situation, and how you could expect non-SWAT patrolmen to react under similar circumstances. An additional benefit is that your special weapons and tactics investment is then compounded when you use those assets to benefit the entire department.

In closing, there is absolutely no need for another officer to die at the hands of a murderer because we failed to properly train our officers. There is also no need for another officer to die because he was afraid of getting in trouble from his bosses if he failed to first verbalize and tell a subject to drop a gun before he shoots to protect his own life. Most of all, there is no need, or room in this profession, for firearms instructors who are more worried about their own liability, than their student's survivability! If you're that guy, do us all a favor and find another job!