



COMBINED ARMS:

Using multiple less-lethal weapons systems during use-of-force encounters

BY TRAVIS NORTON

Tactical dilemmas work by exploiting both space and time. When they involve space, a suspect finds himself in a precarious position where he or she can neither stay nor move, resulting in surrender.¹ One useful tactical dilemma involving space is that of combined arms — specifically, the contemporaneous use of multiple less-lethal weapons systems during a use-of-force incident.

When using multiple less-lethal systems, an adversary is more likely to surrender because the shortcomings of one system are offset by another. The unnecessary use of one system multiple times also increases the likelihood of injury to the suspect. The use of combined arms in a use-of-force incident is a force multiplier; when used correctly, they can significantly increase the probability of success.

Few, if any, attempts have been made to investigate and research the contemporaneous use of multiple less-lethal systems in use-of-force encounters. However, research does indicate that law enforcement officers are using force at a level below that of suspects, which is a likely factor in officer injuries. The same research shows officers who use a lower level of force cause more injuries to suspects due to the repetitive use of force in multiple iterations. In other words, when officers do not subdue a suspect with a lesser form of force, they again must respond to the suspect's resistance, which may cause injury.² The use of multiple less-lethal weapons systems contemporaneously could be one solution to not only end the use of force quickly and decisively,

but also lower the risk of officer and suspect injuries.

THE USE OF COMBINED ARMS IN A USE-OF-FORCE INCIDENT IS A FORCE MULTIPLIER; WHEN USED CORRECTLY, THEY CAN SIGNIFICANTLY INCREASE THE PROBABILITY OF SUCCESS.

DEPLOYMENT CONSIDERATIONS

How many times have you seen or heard about a suspect overcoming the effects of a Taser or other single application of a less-lethal weapons system during a use-of-force encounter? Maybe you have had the unfortunate experience of deploying a less-lethal system, expecting to see the suspect writhe in pain and immediately give up, but instead finding that there was little to no effect. Suddenly, you are left with the obvious question of, what next? In this example, the suspect's immediate surrender upon deployment of a less-lethal system was expected because perhaps you had been told at a training session that this would occur, or you saw it happen in a manufacturer's video. Experience shows this is rarely the case.

In a 2004 study on the deployment of extended range munitions,

out of 316 cases investigated, over 60 percent required a second application.³ While the context of a situation will determine the tactics used, the force used is determined many times by suspects' actions, based on their threat level and willingness to cooperate.⁴ Many of the individuals encountered by law enforcement during use-of-force incidents are under the influence of drugs or prescription medication, intoxicated or in an altered state of mind, or affected by a combination of these. Terrain, type of clothing, weather and lighting also are major factors in the deployment of less-lethal systems. These lend credence to the use of multiple less-lethal weapons systems to subdue a dangerous suspect.

While a lethal weapon attempts to defeat an adversary's *ability* to resist, less-lethal systems attempt to defeat their *will* to resist.⁵ A single application of less-lethal force might not be able to overcome the suspect's will, based on the factors present. During SWAT missions, include the use of combined arms in your team's contingency planning. Less-lethal options to consider for combined arms deployment include the following:

- Flash/sound diversionary devices (flashbangs)
- 40mm extended range impact munitions (including those with a chemical agent payload)
- K9
- Pepperball
- Beanbag shotgun
- Taser (which does not provide as much stand-off distance as the other options)



LEGAL CONSIDERATIONS

When tactical operations are analyzed, the decisions made are always the most conspicuous.⁶ If you are a team commander or team leader, your job is to develop complex problem solvers, which involves providing training in use-of-force decision-making. The foundation of use-of-force decisions rests with knowing your department's use-of-force policy, state laws and *Graham v. Connor*. Readers should be intimately familiar with *Graham v. Connor* (1989), which established the objective reasonableness standard for evaluating an officer's use of force. In *Graham*, reasonableness of an officer's use of force in any given situation is analyzed from the perspective of a reasonable officer coping with the same dynamic circumstances and incident-specific situational factors faced by the officer at the moment force was used. *Graham* factors include the immediate threat to the safety of the officers and others, whether the suspect is actively resisting (passive vs. noncompliant), the pace of events, and the severity of the crime at issue.

While entities such as Police Executive Research Foundation (PERF) have vigorously challenged *Graham v. Connor*, calling for "a higher standard," the bottom line is that this is the standard to which we will be held. There is no legal specification for choosing a specific level of force to apply except the objectively reasonable standard of the Fourth Amendment.⁷

WHEN TACTICAL OPERATIONS ARE ANALYZED, THE DECISIONS MADE ARE ALWAYS THE MOST CONSPICUOUS.

Readers should understand that the application of multiple less-lethal systems during a use-of-force encounter is context dependent. Each situation should be evaluated based on its unique circumstances. There are many factors to consider, including what crime(s) the suspect

has committed, the suspect's physical size, whether the suspect is lucid or under the influence of drugs and/or alcohol, his or her mental state, and the other aforementioned factors you would deem important in your decision. However, the questions you should be asking when evaluating the need for multiple less-lethal weapons systems are, are they reasonable based on the circumstances with which you are dealing, and are they within your department's use-of-force policy? Ultimately, officers can only react to what the suspect does during the use-of-force incident. The suspect drives their response and actions, including the use of non-deadly force. The suspect has a choice and a duty to comply with our lawful orders.

In a study of less-lethal force by researchers Ross Wolf, Charles Mesloh and Mark Henych, a sampling of use-of-force incidents found that 55.6 percent ended with the first iteration of the less-lethal weapon utilized. However, 30 percent ended after the second iteration, and 15 percent after the third.⁸ Forty-five percent of the uses of force required

a second or third application of the same or a different less-lethal weapons system.

DE-ESCALATION

Readers should be familiar with the push nationwide for the use of verbal de-escalation. While the public might misunderstand the use of de-escalation as the silver bullet for all police encounters involving resistance from a citizen, research indicates that the longer an incident goes on, the greater likelihood of injury to the suspect and officers. However, de-escalation is not just about verbal communication, and when less-lethal options are applied in a timely manner, they are pivotal in de-escalating a situation.⁹ The use of decisive force in the early stages of an encounter may end the conflict more quickly, thereby possibly reducing injuries to both officers and suspects.¹⁰

While some situations can be verbally de-escalated, some cannot, and combined arms can bring a decisive and quick end to a dangerous situation. Remember, de-escalation requires cooperation from the suspect,¹¹ and use of force could be your only option. Like any other tactical skill, de-escalation requires training and practical experience to fully develop into something that can be used successfully in the field. Simply telling officers to talk nice is not enough.

POST-INCIDENT CONSIDERATIONS

The deployment of multiple less-lethal weapons systems against a suspect is only one phase of an

event. Problems often arise when proper cuffing techniques aren't used, and the suspect is not given medical attention post incident. Tactical medics can evaluate the subject for injuries and facilitate transporting the suspect for medical evaluation and/or treatment.

LIKE ANY OTHER TACTICAL SKILL, DE-ESCALATION REQUIRES TRAINING AND PRACTICAL EXPERIENCE TO FULLY DEVELOP INTO SOMETHING THAT CAN BE USED SUCCESSFULLY IN THE FIELD. SIMPLY TELLING OFFICERS TO TALK NICE IS NOT ENOUGH.

Many departments conduct use-of-force investigations after each use of force. For SWAT teams, the same use-of-force reporting should be followed; however, ensure your team has discussed who will conduct the use-of-force investigation. Will a SWAT team supervisor conduct the investigation or will a sergeant from a separate unit? While there is no right answer, it is advised to have a supervi-

sor who was not involved in the use of force conduct the investigation.

REPORT WRITING

Law enforcement continues to have issues with post-incident use-of-force report writing. Although this article does not focus on this topic, its importance cannot be understated. Solid report writing means a greater chance for convictions. Additionally, when use-of-force reports are written pertaining to a critical incident, the environmental conditions, other involved parties, emotions, threat, urgency and the specific need for taking an action are often deemphasized or omitted.¹² One often overlooked and important detail that is missing from use-of-force reports is the emotions experienced during the incident. Giving context to the stress experienced by the officers involved in the incident will help clearly describe the totality of the circumstances and the reasonable-officer standard.¹³

When describing the use of combined arms during a use-of-force incident involving SWAT, it is important to document significant events that informed the decision. Describe what led up to the use of force, and do not minimize the reasons you and your team took action. U.S. law clearly allows the police to use force on citizens, but it requires justification.¹⁴

CONCLUSION

The use of multiple less-lethal weapons systems in a use-of-force incident is another tool SWAT teams can use to solve incidents peacefully. Whichever force option your team

chooses, ensure that the decision to use force is sound, the post-incident investigation is thorough, and the reports written are detailed and concise.

Use-of-force events favor training and sound decision-making. All of these will help provide your team with liability protection and increase their level of professionalism. Stay safe.

ENDNOTES

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