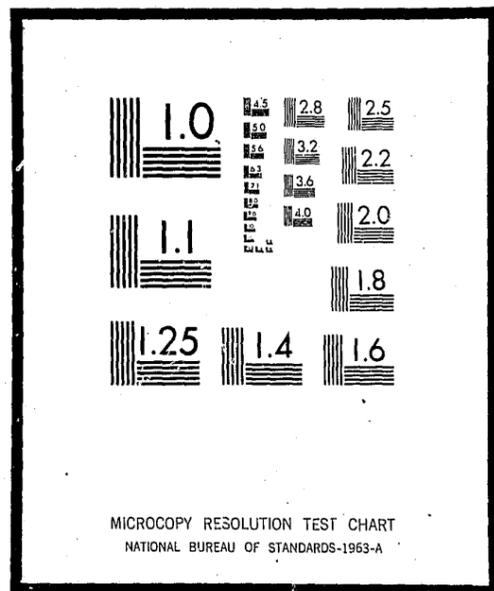


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CITY OF ALBUQUERQUE

CHIEF OF POLICE
BOB V. STOVER



POLICE DEPARTMENT

P. O. BOX 25806

TO: BOB V. STOVER
Chief of Police

SUBJECT: Handgun Ammunition Suitable for Police Use

PROBLEM: To establish policy for the selection and issue of handgun ammunition to Albuquerque Police Department officers, and to satisfactorily resolve the round nose-hollow nose bullet controversy.

ASSUMPTIONS

1. Selection of handgun ammunition is a matter of great concern to both police officers and law enforcement organizations.
2. The use of .38 special caliber handguns as a police service weapon will likely continue, if for no other reason than the expense to the Police Department of replacing the revolvers now being issued to its officers.
3. Police service handguns are primarily defensive weapons, i.e., their lawful use by police officers are restricted to violent felony cases or situations calling for the use of deadly force in defense of themselves or others, and then only as a last resort.
4. In recent years, law enforcement personnel and agencies have expressed growing concern over the desirability of using the standard 158 grain round nose lead bullet in the .38 special caliber, declaring a lack of confidence in its effectiveness as police service ammunition.

5. The use of deadly force by any police officer is deplorable; however, when necessary in defense of self or others, the police officer should have in his possession the weaponry capable of effectively dealing with the dangerous situation.

FACTS BEARING ON THE PROBLEM

1. Commercially available handgun ammunition is now on the public market which offers a broad range of firearms effectiveness in terms of penetrating ability, expansion capability, and "knock-down" or shock power.
2. Civil liberties advocates decry the use of hollow point bullets, declaring their use by police officers to be a violation of Constitutional guarantees.
3. Police officers have, in many cases, expressed a total lack of confidence in the .38 special caliber handgun when loaded with the traditional 158 grain round nose lead bullets.
4. There are no commercially available non-lethal weapons that provide the necessary power to stop a violent attacker, and at the same time be highly portable and capable of instant use by a person defending himself from attack.
5. Dangerous felons do on occasion arm themselves with deadly weapons in the form of handguns, shotguns, rifles, knives, and bludgeons. They do use such deadly weapons against the person of intended victims, including police officers.
6. Handguns, shotguns, rifles, knives, and other deadly weapons are readily available to most persons, regardless of their criminal past, mental state, or possible violent tendencies.

DISCUSSION

1. The issue of police use of hollow nose bullets arose recently when local news media reported that the Albuquerque Police Department had been issuing .38 special caliber 125 grain jacketed hollow point bullets to its officers. The issue accelerated into a controversy when a spokesman for the New Mexico Civil Liberties Union decried such a practice as being cruel and inhumane.
2. The Chief of Police suspended further issuance of the hollow nose ammo until such time that a task force of department personnel appointed by him had studied the matter thoroughly,

submitted its report with recommendations, and he had an opportunity to review the issue personally.

3. The media and civil rights spokesmen continually refer to hollow nose bullets as "dum-dums", and cite a Geneva Convention accord banning their use by military forces. As a point of fact, "dum-dums" are technically bullets of varying caliber with varying projectile designs made in the Durn Dum, India Arsenal. Technically speaking, any expanding bullet is a "dum-dum". The traditional police issue ammo consisting of a 158 grain round nose lead bullet in .38 special caliber is an expanding bullet, hence a "dum-dum".

The Geneva accord concerning the ban of "dum-dums" by military forces should be discounted as a material issue in the instant controversy. That accord was in reaction to British experiments in India, largely with high caliber, high velocity rifle ammunition, using comparatively heavy projectiles of varying design. It is somewhat contradictory to rely on that accord in any event when we realize that so-called civilized nations agreed on rules for war-making, a totally uncivilized way to settle disagreements. One could follow such reasoning to its logical ridiculous conclusion: Claymore mines, napalm, hand grenades, and automatic machine guns are not banned; therefore they are suitable for civil police use.

4. There are some legal implications involved in the use of hollow nose bullets. The NMCLU has raised the issue of the Constitutional guarantee against cruel and inhuman punishment. A lay opinion of this issue is that such is not the case. It is well established at common law, by statute, and case law in the United States the legal right of a police officer to use deadly force under certain conditions, i.e., in defense of self or others or in capture of fleeing felons or escaping prisoners. Deadly force is deadly force. If done under the provisions of the law, the caliber of the weapon, the size or shape of the bullet, or the manner of firing are not legal issues.
5. The use of hollow nose bullets by police officers has become a highly emotional issue. Statements by civil libertarians and police personnel alike have not helped resolve issues, but rather, have clouded legal and factual matters to the point that mutual agreement is practically impossible.
6. Choice of a particular caliber or cartridge by an individual or department depends not only on the wounding effectiveness of the particular ammunition or caliber, but also on: the weapon to be used; the average police officer's tolerance to recoil; the duties to be performed; whether the new ammunition will endanger innocent bystanders; public relations; and the economic question of a changeover in caliber or ammunition.

7. A recent pilot study conducted by police science students at Los Angeles State College indicates sufficient documented cases to give cause for concern about the advisability of restricting police officers to the use of .38 special 158 grain round nose bullets as a duty weapon load. These instances illustrate the lack of stopping or knock-down power of that load, leading to further tragedy. See Annex 1.
8. At the beginning of the century the military abandoned use of the .38 caliber handgun because of repeated incidents in the Philippines where the weapon was found to be ineffective as a personal defense weapon against natives armed with jungle knives.
9. Basically stated, the police handgun must meet three criteria to insure self defense capabilities for police officers: 1) stopping power, 2) proper penetrating power and 3) deceleration after contact. The latter quality obviously reduces the threat to persons who are not involved.
10. To provide "stopping" power, a bullet must have either mass or velocity. To produce the same stopping power as a 125 grain hollow point bullet by utilizing its mass, the bullet would have to weigh 600 grams and be three and one half inches long.
11. While most of the new .38 special ammunition is referred to as high velocity ammunition, in reality, all handgun ammunition is low velocity ammunition and the splintering or "exploding" effect criticized by round nose bullet advocates does not occur until velocities of twice that of the fastest .38 special bullet are attained.
12. Medical authorities who have had extensive autopsy experience indicate that it is virtually impossible to distinguish between wounds inflicted by hollow point ammunition and non hollow point ammunition. See Annex 2.
13. To date, there have been law suits filed by citizens groups against police departments using or preparing to use hollow point ammunition. There has, however, been a suit filed in Denver by police officers against the Chief of Police and codefendants charging negligent and derelict in not providing officers with hollow point bullets and other protective devices. See Annex 3

CONCLUSIONS

1. The lawful use of deadly force by a police officer is strictly prescribed by statute and departmental policy. Its proper use is essentially restricted to situations involving defense of self or others, or in capturing dangerous felons that pose a continuing threat to life; even then, the use of deadly force by a police officer is restricted to its apparent necessity.

2. The .38 special caliber handgun, loaded with the traditional 158 grain round nose lead bullet does not offer sufficient assurance to the police officer who must use it that he will be capable of instantly stopping a deadly attack on himself or others.
3. The .38 special caliber handgun, loaded with the 125 grain jacketed hollow point does provide the police officer with an effective personal defense weapon, provided the officer is properly trained and capable of firing the weapon accurately under stressful conditions. The jacketed hollow nose bullet described provides approximately the same effectiveness as the .357 magnum caliber jacketed hollow point and the 9mm Parabellum jacketed semi-wadcutter cartridges.
4. Until such time that instantly effective non-lethal weapons offering the carrying and handling ease of handguns are available, police officers must be provided weapons and ammunition capable of defending themselves and others.
5. It is of vital importance that once the optimal weapon and ammunition have been decided upon, the officer utilizing this weapon have the best training that is available.

ACTION RECOMMENDED

1. That the Police Department adopt the use of the 125 grain jacketed hollow nose cartridge in .38 special caliber for standard issue to all police officers.
2. That the Training Section be directed to provide quarterly firearms training and re-qualification on duty handguns for all police officers, such training and re-qualification to include firing service weapons under conditions of stress and physical exertion.

CASES

Case #5. Suspect "A" and suspect "B" entered a bar, exhibited a sawed-off shotgun and pistol, and ordered the occupants to line up facing the wall. One of the occupants was an officer in plain clothes, and as he faced the wall he was able to draw his .38 Smith and Wesson Special revolver unnoticed by the suspects. The officer turned and emptied his revolver at the suspect. His shots struck suspect "A" in the left side and the left wrist. The officer's other two shots missed the suspects. Suspect "A" regained his feet and began firing the shotgun. His shots killed the officer, who was trying to reload, and wounded several patrons. Both suspects then fled from the bar on foot. These suspects were arrested the next day while seeking medical aid for their wounds. Suspect "A" died within three days of wounds in the stomach and lung. Suspect "B" recovered and was sentenced to death for his part in the crime. Note that suspect "A", although shot in the stomach and lung, was able to get back up, shoot the officer, run from the bar, exist one day while seeking medical aid, and then live for two more days under medical care.

Case #36. Officers "A" and "B" forced a stolen vehicle to the curb at 1:25 A.M. which contained three suspects. One suspect fled into an alley and was pursued by Officer "A". This suspect drew a .32 caliber automatic pistol, turned and began firing at Officer "A". Officer "A" drew his .38 S & W Special caliber service revolver and fired four shots at the suspect before being struck in the arm, which caused him to drop his weapon. In this exchange the suspect was shot in the left arm, in the right arm, through the right side, and through the flesh at the base of the rib cage. The suspect then fled the scene leaving Officer "A" incapacitated. An immediate search of the area was begun by additional officers. At 2:10 A.M. the fleeing suspect forced a motorist from his vehicle, robbed him, and unsuccessfully attempted to drive off in the car. At 2:30 A.M. a patrol car crew observed the suspect in a field two miles from the location of the shooting and chased him on foot until he was lost in the darkness. At 3:00 A.M. the suspect stole a car and was able to escape from the search area. A state patrolman observed the suspect in the stolen auto at 4:00 A.M. and began pursuit. This high-speed chase lasted until 4:30 A.M. (thirty minutes) when the suspect skidded the stolen car into a ditch. The suspect fled into a field, and the state patrolman continued pursuit on foot. Apparently exhausted and weak, the suspect turned and aimed his .32 automatic at the officer. The officer drew his .357 Magnum and shot the suspect through the head, killing him instantly. Autopsy showed that of the .38 special bullets fired by Officer "A", only one

was a flesh wound; the other shots attained complete penetration. No bones were broken by these bullets, and there was little external bleeding. Note that the suspect was able to engage in three hours and five minutes of strenuous and exhausting activity after being shot four times with the .38 S & W Special.

Case #47. Officer "A" and Officer "B" approached two suspects in a parked car. The suspects were removed from the car for investigation. One suspect drew a 9mm automatic from a hidden holster and commanded the officers to throw up their hands. Which they did. Both officers attempted to reason with the suspect, and failing at this, they leaped at the suspect in an attempt to disarm him. The suspect fired once, fatally wounding Officer "B" through the chest. Officer "A" grasped the suspect's pistol in one hand and held it down while drawing his own service revolver with his free hand. Officer "A" then fired five .38 S & W Special rounds at contact distance into the chest area of the struggling suspect. The suspect fell to the ground still clutching the 9mm pistol. Officer "A" turned to assist Officer "B." The suspect then attempted to regain his feet and point his pistol at Officer "A." Officer "A" dropped his empty service revolver (this department required officers to leave the chamber under the hammer empty) and lunged for the revolver on the belt of Officer "B." With this weapon he shot the suspect through the head, killing him instantly. Autopsy revealed that none of the five .38 S & W Special shots fired into the suspect's body exited. Several ribs were broken, both lungs penetrated, and there was extensive internal bleeding. Note that although the wounds were serious, the shocking effect was not sufficient to prevent the suspect from regaining his feet and attempting to shoot the second officer.

Case #69. Officer "A" and Officer "B" observed a vehicle being driven in a suspicious manner and approached the driver. The driver began firing at the officers while he was sitting in the car, and the officers returned his fire through the doors and windshield at a distance of approximately 15 yards. Both the officers and the suspect were using .38 S & W Special revolvers. Officer "A" fired six rounds through the windshield and reloaded behind another car. Officer "B" fired two shots through the rear window and several into the body of the car. The suspect then ran from the car, firing at Officer "B," who returned his fire. Officer "A" then fired four rounds into the suspect's back and side. At this point the suspect fell to the ground, fatally wounded. Officer "A" then observed that Officer "B" was wounded, and went to his assistance. Officer "B" was struck in the forehead by a .38 S & W Special, which was deflected by the uniform cap brim to the extent that it resulted in only severe flesh laceration. A total of fifteen separate bullet wounds were found in the suspect's body, eleven of which were inflicted while he was concealed in the car. Note that if any one of these eleven rounds had been effective, Officer "B" would not have been later shot in the head.

Case #29. The suspect was surprised by a patrolman while committing robbery in a liquor store. He shot the policeman five times and fled the store. The suspect ran through an alley and in emerging, was cornered by two other officers. In effecting the arrest, the patrolmen shot the suspect through the right leg. The suspect was placed in an ambulance and, while en route to the hospital, disarmed and shot one transportation officer and fled from the vehicle. In this struggle the suspect was shot three times by another officer with a .38 S & W Special in the right hip, in the right leg, and in the neck. The suspect then entered a taxicab which was soon surrounded by officers. In the gunfight which followed the suspect was shot in the left leg, the chest, and in the right arm. The suspect, then unable to fire his weapon, was subdued after a struggle with the officers. The hospital report showed seven separate .38 S & W Special bullet wounds. The suspect lived, and was sentenced to life imprisonment for homicide of a police officer.

Case #X3. (Note that this case is from another collection in which the officer was not shot, but assaulted with a knife). Officer "A" and Officer "B" were attempting to subdue a crazed suspect armed with a knife. Officer "A" finally decided that it was necessary to shoot the suspect as he advanced. The officer began firing at the suspect with his .38 S & W Special at a distance of approximately 20 feet. The first round struck the suspect in the right chest, passing through the lung and lodging next to a rib near the spine. The suspect continued to advance and Officer "A" shot him in the left chest. This shot punctured the lung, and exited through the back. As the suspect continued to advance, Officer "A" shot him in the stomach; the bullet also penetrated the upper right pelvis. The suspect now was directly in front of the officer, continuing to advance, with the knife held high over his head. The officer fired at point-blank range, and this round went through the abdomen, lodged in the tailbone, knocking the suspect to the ground. Had this fourth round not had effect, the officer would most certainly have been assaulted. The suspect revived later and struggled with officers en route to the hospital, but died shortly thereafter.

END