

The Evolution from "Non-Lethal" to "Less-Lethal"

by Sid Heal

The controversy surrounding the nomenclature and terminology of the class of weapons referred to at various times as, "less lethal," "less-than-lethal" or "nonlethal" defies precision and acceptance. Other, but less well-known terms which have fallen into disuse are "low lethal," "soft kill," "mission kill," "low level force," "disabling effects," "low collateral damage," "controlled force," and "limited damage" are equally confusing. Currently, there is no adequate description and certainly none that are universally accepted. Even more poignant, there appears to be no acceptable solution forthcoming.

In order to fully understand the issues begetting the controversy, it is necessary to understand the roots of the confusion. First, while a lethal weapon attempts to defeat an adversary's ability to resist, a less lethal device attempts to defeat his will to resist. An adversary's ability to resist is visible, measurable and concrete. For example, the U.S. Military uses algorithms to predict the degree of damage and destruction from artillery rounds, bombs and small-arms fires. Each bomb, naval shell, artillery or mortar round can be rated according to such things as killing radius, wounding radius and shrapnel radius. A person's will, on the other hand, is intangible. It defies measurement. When employing less lethal devices, abundant examples exist of persons who have resisted despite being struck by different devices scores of times. Conversely, persons have surrendered after a nonlethal device was fired and missed!

This concept leads us to the second point of confusion because lethal weapons are defined by their capability, while nonlethal devices are defined by their intent. Until relatively recently, all weapons were rated by such things as the number of people who could be killed at one time, how fast it could be done and the likelihood of persons escaping the effects. Everything from rifle bullets to nuclear bombs were simply a lethal weapon of some sort with varying degrees of effectiveness. In the words of one U.S. Marine officer, "When it comes to force, we go from an M-16 to an F-16."

With the advent of nonlethal options, however, the definitions and ratings no longer fit. For one thing, nonlethal weapons, by definition, are never intended to kill. For another, lethal weapons have never been totally effective so why would we require less lethal options to be? There are ample examples of people who were intended to be killed but who, for one reason or another, survived. Likewise, situations in which less lethal options were employed sometimes resulted

in serious injury and death, or conversely, were completely ineffective. Consequently, even rating a nonlethal device becomes extremely difficult because the conventional standards used to rate lethal devices are not applicable.

The controversy became heated in the mid-1990s after U.S. Marines had proven the concept of nonlethal force in military operations when extracting United Nations personnel from Mogadishu, Somalia in early 1995. The operation was a noteworthy success and captured the imagination of the world. By the late summer, military study groups throughout the western world were organized and tasked with developing concepts, issues, doctrine and training requirements for integrating nonlethal options into military operations. One of the first and most controversial issues was what to call them.

"Nonlethal" was a term already in use but many of the devices could be deadly and sometimes were. "Less-than-lethal" tended to imply that a device couldn't be lethal." "Less lethal" had connotations that a device was lethal but just not as effective. Because much of the expertise in the employment and development of these devices was in the civilian and law enforcement communities, they were also called upon for advice. Law enforcement, universally, rejected the term "nonlethal." The feeling was that juries would be swayed when someone was accidentally killed. They were split between the terms "less lethal" and "less-than-lethal" and are so to this day, although "less lethal" has been gaining more favor.

The controversy continued throughout 1995 and into 1996 when the U.S. Department of Defense required the selection of a term to bring closure to what was really an ancillary issue. The term "nonlethal" was selected and the following definition was provided.

"Nonlethal weapons are defined as weapons that are explicitly designed and primarily employed, at a minimum, to discourage or at most, incapacitate personnel or materiel while minimizing fatalities and undesired damage to property and the environment."

While this brought closure to the dispute in the military community, the controversy remains in law enforcement. One reason is that while the U.S. Department of Defense provides guiding information and regulations for all the uniformed services and defense related industries, there is no such body in U.S. law enforcement. Each region, jurisdiction and agency remains free to use any terminology it chooses. In attempting to develop a common understanding and bring closure to a number of less lethal issues, the National Tactical Officers Association (NTOA) sponsored a study comprised of a group of subject matter experts. The study began in July 1995 and continued almost two years through June of 1997. The findings were published in the organization's professional journal, *The Tactical Edge*. The term "less lethal" was chosen and the definition (in part) is as follows:

Those devices employed (paraphrased) ". . . for the purpose of encouraging

compliance, overcoming resistance or preventing serious injury without posing a significant potential of causing death."

Today, the various opinions remain strong and the controversy will probably never be completely put to rest. You will notice that, to this point, I have used less lethal and nonlethal interchangeably. Because I regularly work on less lethal projects for both the law enforcement and military communities, I am required to be "bilingual." It is difficult to constantly consider in which environment I am working and to whom I am speaking and so, I too, am not exempt from the difficulties in using more than one term to describe the same concept. In this case, I intentionally used both terms to show how trivial the issue really is. Everyone understands that "nonlethal" doesn't mean that it can't be. Everyone understands that "less lethal" means that it might be. Everyone understands that "less-than-lethal" means that it can be. If I could express one hope it would be this. Even if we have to accept the Department of Defense term, let's put the controversy behind us. It detracts from the more important issues of how this technology should be developed, employed and integrated with our law enforcement tasks. If we can't accept a single term, let's at least quit bickering over what is really a trivial aspect of one of the most exciting advancements in modern law enforcement.